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Guidelines for Serving Students with Specific Learning Disabilities in Educational Settings

Building the Legacy: IDEA 2004

United States Department of Education, Office of Special Education Programs (OSEP)

The Department of Public Instruction appreciates the time and effort spent by the task force members in contributing to the development of this guidance document.

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Special Note

"Unless otherwise specified, citations to "section" or "sec." are citations to federal regulations implementing IDEA found in the Code of Federal Regulations at 34 CFR Part 300, which consists of 34 CFR secs. 300.1 through 300.818 and appendices A through E."

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Introduction and Purpose

While students with specific learning disabilities (SLD) have historically been the largest category receiving special education services under the Individuals with Disabilities Education Act (IDEA), educators and community members alike may be surprised to learn that the SLD category, once the fastest growing category of disability under the IDEA, has been on a steady decline. According to *the 38th Annual Report to Congress on the Implementation of IDEA (2016)*, students with SLD represent 39.2% of all students with disabilities, with the next most common category being speech and language impairments at 17.6%. The number of students identified as SLD has declined by almost 2 percent annually since 2002 (Cortiella & Horowitz, 2014).

Consistent with national trends, the percentage of students (ages 6-21) served under all categories of IDEA in North Dakota declined 8.0% between the years of 2008 and 2014 according to the *38th Annual Report to Congress*. During the same period, the number of students identified as SLD declined by .05%. Currently, about 5% of students enrolled nationwide are identified as having a SLD, the prevalence rate in North Dakota stands at 4.57% (2016 State Performance Plan/Annual Performance Report, ND DPI).

What is behind the decline in identification rates for students with specific learning disabilities? According *to The State of Learning Disabilities, 3rd Edition* (2014) published by the National Center for Learning Disabilities, a number of possible reasons that exist nationally and in North Dakota include:

- Greater access to early childhood education, high quality preschool programs, and improvements in diagnostic screenings to support readiness;
- Improvements in reading instruction that make reading difficulties, common to most students with SLD, less prevalent;
- As of December 2016, data indicates that 81.5% of students with SLD in North Dakota spend greater than 80% of their school day in the regular education environment, as compared to 69.2% nationally; and
- Changes in SLD identification, with greater implementation of Multi-Tiered Systems of Support (MTSS), including Response to Intervention (RTI), may result in greater numbers of students receiving quality early intervention in the regular education environment, and may reduce their need for specialized instruction under IDEA.

These guidelines replace an earlier version, *Guidelines: Identification and Evaluation of Students with Specific Learning Disabilities,* published by the North Dakota Department of Public Instruction in 2007. This revision will provide additional guidance for school personnel who work to improve outcomes for students with SLD across the state.

The purposes of *Guidelines for Serving Students with Specific Learning Disabilities in Educational Settings* are to:

- Update previous guidance on serving students with specific learning disabilities (SLD);
- Provide guidance on the implementation with fidelity of the Response to Intervention (RTI) model~~s~~ as well as the discrepancy model~~s~~ as local options for the identification of students with SLD;
- Promote consistency in evaluation procedures across the State that are culturally sensitive, non-biased, and yield results that assist with determining eligibility, and support the development of effective educational programming for students with SLD;
- Provide guidance to teams on the development of the Individualized Education Plan (IEP) that addresses all student needs identified through the evaluation process through services and supports in the Least Restrictive Environment (LRE);
- Provide resources for school-based practitioners on evidence-based practices and strategies to improve academic and behavioral outcomes for students with SLD;
- Identify state and national resources for educators in support of school-based programming as well as family and community supports that will contribute to improved outcomes for students with SLD.

These guidelines reference the Individuals with Disabilities Education Improvement Act (IDEA) of 2006 and promote consistency in identification and individualization of programming for students with SLD. These guidelines also serve as a tool to assist those who educate students ages 3 – 21 with identified SLD in educational settings.

Additional guidance materials on special education topics can be found on the NDDPI website.

What is a Specific Learning Disability?

Historically, students with specific learning disabilities (SLD) comprise the most populous category of eligibility under the Individuals with Disabilities Education Improvement Act (IDEA). While students with SLD may share categorical eligibility, the category of SLD includes a very diverse, heterogeneous spectrum of learning challenges.

Specific learning disabilities are the result of individual differences in neurological structure and function that affect an individual's ability to receive, process, store, and/or communicate information. Advances in brain imaging have allowed researchers to map characteristic challenges associated with SLD to various regions of the brain. While these advances have shed light on brain function and the location of various cognitive processes, our ability to diagnose SLD, as defined in IDEA, relies on observable behaviors.

For the purpose of these guidelines, the relevant definition of SLD is found at 34 CFR §300.8(10) of the IDEA regulations.

IDEA Definition

34 CFR §300.8(10) Specific Learning Disability
(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, intellectual disabilities, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

A majority of students identified as eligible under IDEA are found to have SLD due to the complexity of the "basic psychological processes involved in understanding or in using language, spoken or written". When manifested as challenges with the ability to listen, think, speak, read, write, spell, and/or do mathematical calculations, the impact on a student's academic performance defines the disability in educational settings.

The literature describes a number of common types of learning disabilities that affect the academic areas of reading, math, and written language. They may occur along with challenges in attention, language, and behavior, which require that school personnel look comprehensively at the needs of the individual when developing an evaluation plan.

Areas of Specific Learning Disability

SLD in North Dakota is defined by deficits in one or more of the following areas:

Eight Areas of Specific Learning Disability in North Dakota:

- Oral Expression
- Listening Comprehension
- Written Expression
- Basic Reading Skills
- Reading Fluency Skills
- Reading Comprehension
- Mathematics Calculation
- Mathematics Problem Solving

Multidisciplinary teams will describe a student's specific learning disability based on deficits in these areas (see Section V: Determining Eligibility).

Definitions and Characteristics

- **Oral Expression** – refers to how a student uses words, including being able to generate words and sentences using appropriate vocabulary, grammar, and conversational rules. Students with oral expression deficits may struggle with:
    - Grammatical processes, such as inflection, tense, and word derivations;
    - Learning new vocabulary;
    - Using complete, properly constructed sentences, either spoken or written;
    - Explaining word associations, such as antonyms and synonyms; and
    - Retelling information, such as making inferences and predictions.

- **Listening Comprehension** – refers to how a student understands the implications and explicit meanings of words and sentences used in spoken language, and often demonstrates difficulties with written language and auditory processing of oral information. Students with listening comprehension deficits may struggle with:
    - Following oral directions;
    - Remembering homework assignments;
    - Understanding oral narratives and text;
    - Being able to answer questions about the content of orally presented information;
    - Critical thinking leading to logical conclusions;
        - Word associations, synonyms/antonyms, categorizing, and classifying; and
        - Note taking and/or dictation.

- **Written Expression** – involves the ability to demonstrate basic writing skills such as handwriting and spelling, as well as composition skills that include capitalization,

punctuation, sentence construction, word and text fluency, planning for writing, and reviewing/revising written work. Students with written expression deficits may struggle with:

- Fine motor skills that impact handwriting fluency and legibility;
- Spelling;
- Generating text, resulting in short and poorly organized compositions at both the sentence and paragraph levels;
- Conventions of written expression (capitalization, punctuation, verb and pronoun use, and subject-verb agreement);
- Word retrieval (lack of specific vocabulary); and
- Reviewing and revising written compositions.

Note: **Dysgraphia** is a term associated with specific learning disabilities in the area of written expression. This term incorporates both the physical act of writing as well as the quality of the written expression.

- **Basic Reading Skills** – includes the critical reading components of phonemic awareness and/or phonics, which involve the ability to identify individual sounds and manipulate them, as well as identifying printed letters and their sounds and decoding written words. Students with deficits in basic reading skills may have challenges with:
  - Mastery of letters and sounds;
  - The ability to manipulate individual sounds (phonemes) in spoken words;
  - Blending sounds to form words;
  - Fluent decoding at upper grade levels; and
  - Use of language in written work that is discrepant from their typical oral vocabulary.

Note: **Dyslexia** is associated with a specific learning disability in the area of basic reading skills.

- **Reading Fluency Skills –** involves the ability to read words accurately and effortlessly at an appropriate pace. Reading fluency skills also include the ability to read with appropriate expression, intonation, or prosody. Therefore, reading fluency includes three important skills: accuracy, rate, and prosody, which refers to the patterns of stress and intonation in language. Students who demonstrate deficits in reading fluency skills may have challenges with:
  - Basic reading skills (phonemic awareness);
  - Rapid naming tasks involving colors, letter names, names of familiar items, etc.;
  - Vocabulary development, given their exposure to significantly fewer words than fluent readers; and
  - Motivation to read.

- **Reading Comprehension –** refers to the ability of a student to understand and derive meaning from text. It is common for students to have basic reading skill deficits combined with comprehension and/or fluency deficits. A student with a reading comprehension deficit may have basic reading skills intact and read fluently without errors. Typically, such students are identified around third or fourth grade, when the shift occurs from *learning to read* to *reading to learn*. Students with deficits in reading comprehension may struggle with:
    - Oral language and vocabulary development;
    - Comprehending oral language;
    - Using more sophisticated, age appropriate language/vocabulary in oral and written work;
    - Forming complete sentences with proper word order;
    - The ability to infer and draw conclusions from text;
    - Checking for understanding during the reading process; and
    - Recognizing and understanding text structure, including implications from titles, paragraph beginnings and endings, headings, bulleted points, and illustrations.

- **Mathematics Calculation** – involves the knowledge and retrieval of facts and the application of procedures when doing calculations. It can be considered the "what" of mathematical learning. Students with deficits in mathematics calculation may struggle with:
    - Number recognition and one-to-one correspondence (number sense);
    - Understanding math operations (addition, subtraction, etc.);
    - Recall of basic facts; and
    - Understanding the procedures of operations and their meaning.

Note: **Dyscalculia** is a term associated with specific learning disabilities in the area of mathematics.

- **Mathematics Problem Solving** – refers to the use of mathematical computation skills, language, reasoning, reading, and visual-spatial skills when solving problems. It is the application of math knowledge and is considered the "doing" of mathematics. Students with deficits in this area may struggle with:
    - The ability to recognize important details and filter out unimportant details;
    - Determining steps in solving a problem;
    - Metacognitive skills, or the ability to evaluate their own efforts to solve a problem; and
    - Math calculation skills.

The North Dakota Department of Public Instruction wishes to acknowledge the Colorado Department of Education (CDE) for their contribution to the information on the eight types of SLD in *Guidelines for Identifying Students with Specific Learning Disabilities, 2011.*

Other Disorders Associated with SLD

A number of disorders that involve specific areas of information processing are commonly associated with SLD. While these associated disorders are not specific subtypes of learning disabilities, they involve weaknesses in the ability of the individual to process information efficiently (i.e., receive, process, associate, retrieve, and express). These challenges with information processing often lead to frustration, poor self-esteem, and social withdrawal for individuals with SLD.

Auditory Processing Disorder – describes a weakness in a student's ability to understand and use auditory information. Individuals with an auditory processing deficit may struggle with:

- Auditory discrimination (the ability to notice, compare, and distinguish distinct and separate sounds, critical for developing reading skills);
- Auditory figure-ground discrimination (the ability to recognize a specific sound from a noisy background);
- Auditory memory (short-term and long-term recall of orally presented information);
- Auditory sequencing (the ability to understand and recall sound and word order); and
- Spelling, reading, and written expression.

Visual Processing Disorder – describes a weakness in the individual's ability to understand and use visual information. Students with deficits in visual processing may have challenges with:

- Visual discrimination (noticing and comparing visual features to distinguish one item from another);
- Visual figure-ground discrimination (the ability to distinguish a shape or printed character from a background);
- Visual sequencing (being able to see and distinguish the order of symbols, images, or words);
- Visual memory (the short-term and long-term recall of visually received information);
- Visual closure (the ability to recognize an object when not all of it is visible); and
- Spatial relationships (the ability to understand the positioning of objects in space).

Nonverbal Learning Disabilities – These individuals may have unique learning and behavioral profiles that include elements of the subtypes of learning disabilities but differ in significant ways. Students with nonverbal learning disabilities may have pronounced strengths in verbal expression skills, vocabulary, reading, comprehension, and auditory memory. Often, they will struggle with:

- Math computation and problem solving;
- Visual spatial tasks and motor coordination; and
- Understanding the concept of "body language' and social cues, which may cause struggles in social and academic contexts.

SLD and Comorbid Conditions

School teams must be alert to the fact that a number of conditions may occur together with a learning disability and should consider all areas of need when developing a plan for assessment. In some instances, these comorbid conditions present challenges to school teams with respect to the determination of the student's primary disability.

Comorbid conditions may include but are not limited to:

Attention Deficit Hyperactivity Disorder (ADHD) – students with ADHD struggle with inattention, hyperactivity, and/or distractibility in varying degrees. According to *The State of Learning Disabilities, 3rd Edition* (2014), as many as one-third of students identified as having SLD may also have ADHD, which—like SLD—is linked to heredity, brain structure and function. Unlike learning disabilities, ADHD is attributable to neurochemical imbalances in the brain, and has been treated effectively with individually developed intervention plans that may include a combination of behavioral and pharmacological therapies.

Sensory Processing Disorder- some students with SLD may have sensory processing issues resulting in oversensitivity to sights, sounds, textures, flavors, smells as well as other sensory input.

Speech and Language Impairment – given that the definition of SLD refers to a disorder in the basic psychological processes associated with understanding and using language, both spoken and written, it is not uncommon for students with SLD to also meet the criteria for speech and language impairment. Poor academic performance may be the result of challenges with language processing, and may require supports for overall improvement.

Emotional Disturbance – students with SLD may have emotional and behavioral concerns resulting from deficits in social skills, social information processing, and self-concept. However, these emotional and behavioral issues cannot be the primary cause of the student's learning difficulties. When these issues have existed over a long period of time, and to a marked degree that adversely affects the student's performance, the team may want to consider eligibility as a student with an emotional disturbance.

Giftedness –students who possess above-average intellectual ability in the range of giftedness may also have some areas of pronounced weakness in their ability to process information. Therefore, teams need to recognize the possibility that a student with high intellectual abilities may also have a SLD.

Summary: What is SLD?

The complexities of brain structure and function are reflected in the complexities of individual students with specific learning disabilities. While genetics and heredity have been found to have a close association with the existence of SLD, schools must diligently describe the skills and challenges present in each individual student. Multidisciplinary teams in North Dakota will focus on observable deficits in eight areas of SLD, recognize the potential existence of comorbid

conditions, and make the determination of eligibility based on meeting the federal criteria and the degree to which a SLD adversely affects the child's educational performance.

Screening and Early Intervention

Early intervention for students with learning and behavioral challenges reduces the number of students who would ultimately qualify for special education services based on their deficits. Such services can establish a foundation for learning and increase the probability of later academic success. For students who may be at risk of having a specific learning disability, proactive and preventative practices can alter the course of their academic careers.

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

In its 2001 report to Congress, the President's Commission on Excellence in Special Education recognized the consequences of failing to intervene early. Without effective early intervention, struggling first grade students are more likely to exhibit those struggles over the course of their academic careers and into adulthood. Longitudinal data has shown that over 70% of children who are poor readers at age nine or older will continue to experience reading difficulties into adulthood (Lyon, 2002). In recognition of data like this, the commission made several recommendations to Congress:

- Emphasize early identification of academic and behavioral problems through a school-wide screening process;
- Eliminate the "wait to fail" model, where students would demonstrate failure for up to three years before becoming eligible for special education; and
- Develop an eligibility model for learning disabilities that focuses on prevention based on response to intervention with evidence-based strategies and progress monitoring.

With these recommendations, the concept of Response to Intervention (RTI) was born and included in the 2004 reauthorization of IDEA as an alternative to the traditional discrepancy model for SLD identification. While specific to the identification of students with SLD, RTI is incorporated into the more comprehensive approach to screening and early intervention, known as Multi-Tiered Systems of Support (MTSS). RTI can be a critical component of schools choosing to implement a MTSS, which is about creating learning environments that are effective and lead to improved outcomes for all students. MTSS systems provide evidence-based supports to students who experience academic and/or behavioral challenges as soon as they occur and shifts away from identifying and diagnosing characteristics that are internal to the student and moves to identifying effective interventions. This timely access to supports improves outcomes for these students while limiting unnecessary identification as disabled under IDEA.

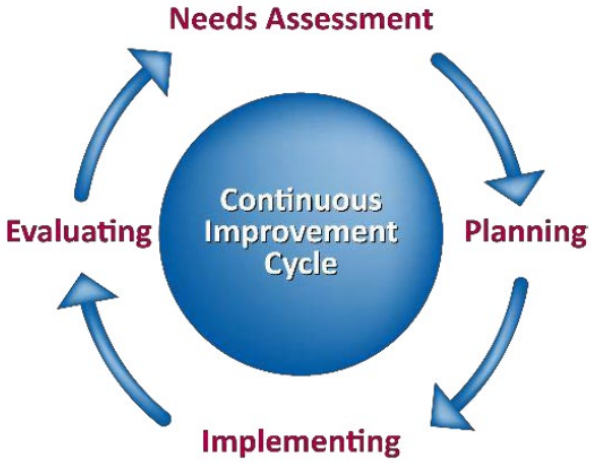
North Dakota's MTSS

North Dakota's Multi-tiered System of Supports (NDMTSS) is a framework that provides all students with the best opportunity to succeed in school, both academically and behaviorally. It focuses on providing high quality instruction and interventions that address individual student needs, and it includes frequent progress monitoring to inform decisions about changes in instruction or goals. NDMTSS is data-driven, promoting the allocation of resources to improve student learning and support staff in the implementation of effective, evidence-based practices.

Continuous Improvement

NDMTSS model recognizes that providing all students with optimal opportunities for success academically and behaviorally requires a constant focus on improvement. As with any school improvement process, it conducts needs assessments, plans, implements, and evaluates in a continuous cycle. Data drives everything on the school level, just as it does when intervening to support an individual student.

North Dakota's MTSS Continuous Improvement Process



Essential Components of MTSS

The NDMTSS model has a number of components that are integral to the mission of identifying and intervening early for students who may be at risk for SLD or other disability categories under IDEA. These essential components include:

- **Assessment** – the process of collecting, reviewing, and using information to make educational decisions about student learning. The type of information collected is determined by the intended use of the results or type of decision that is needed. The four purposes for assessment include:
    - Universal screening of all students to determine which students may need additional supports, high or low, and the effectiveness of the core curriculum;
    - Diagnostic assessment to identify skill deficits and inform instructional match at all tiers;
    - Frequent progress monitoring to determine if students are making adequate progress toward a specific preset goal; and
    - Outcome measures of the educational system (e.g., NDSA and ACT).

- **Databased Decision Making** – the optimal use of data for the purpose of informing individual student instruction, identifying strengths and weaknesses in a classroom, and studying trends and gaps across a district.

- **Multi-Tiered Instruction** – an approach to efficiently differentiate instruction for all students. It incorporates increasing intensities of instruction and assessments and offers specific, research-based interventions matched to student needs driven by data.
    - Tier 1: All students—general education classroom (small and large group);
    - Tier 2: Students identified as at risk of performing below or significantly above expected outcomes-general education and/or optimal setting for the need of students (small and large group);
    - Tier 3: Intensive intervention for individual students who present with exceptionally high academic or very low academic or who have not responded to Tier 1 and Tier 2 instruction, or student with disabilities who do not meet their IEP goals; additional layer to Tier 1 and Tier 2—general or special education depending on the needs of the student.

- **Infrastructure and Support Mechanisms** – the knowledge, resources, and organizational structure needed to operationalize the components of NDMTSS in a unified system to meet established goals, including, but not limited to:
    - Shared vision, preventative focus, culture, leadership, professional development, schedules, resources, communication, and leadership teams.

- **Fidelity and Evaluation** – Fidelity refers to the degree of exactness with which something is implemented or conducted; and Evaluation is a measure of the effectiveness of individual resource and practices.
    - Fidelity happens across multiple points within the NDMTSS framework, system process, and multi-tiered instruction. Did you do what you said you

would do? Evaluation occurs frequently and helps to determine the effectiveness of the system, process, or multi-tiered instruction. Did it work? How can it be improved?

Additional NDMTSS information and resources are available on the NDDPI website.

QUESTION: Can a school district delay or deny a parent's request to have their student evaluated because the student is in an intervention process as part of MTSS?

34 CFR §300.301(b) of IDEA allows a parent to request an initial evaluation at any time to determine if their child has a disability.

> Identification as a child with a disability must occur in a timely manner and no procedures or practices may result in a delay or denial of an initial evaluation for a student who is suspected of having a disability. This includes a student who may be involved in an intervention process as part of a school's support system, such as RTI, which may be included under the MTSS framework.
>
> If a local education agency (LEA) agrees with a parent request, it must evaluate the student in a timely manner following the receipt of parental consent, regardless of involvement in an intervention process.
>
> If an LEA disagrees with the parental request, it must provide written notice (per 34 CFR §300.503) to the parents explaining why it is refusing to conduct the evaluation and what information it used in reaching this decision. It is inconsistent with IDEA to have this explanation reject or delay a referral for an initial evaluation based on a student not having participated in the RTI process through an MTSS framework.
>
> See OSEP Memo 11-07: A Response to Intervention (RTI) Process Cannot Be Used to Delay/Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA).

The Center on Response to Intervention at American Institutes for Research created a screening tools chart that can be used to assist educators with selecting screening tools that can be used to screen all students or targeted groups of students. The screening tools chart can be found on the Center on Response to Intervention website.

More information on screening tools for both academics and behavior, as well as evidence-based interventions to assist students in need of additional support, are available in subsequent sections of these guidelines:

- Evidence-Based Intervention and Instructional Strategies (p. 53)
- Resources for Educators, Administrators, and Families (p. 69)

Referral and Evaluation Planning for Students, Ages 3-*21*

When a student is unable to make satisfactory progress, in spite of individualized, evidence-based classroom interventions implemented with fidelity, the building-level team overseeing the intervention process will need to use the written referral process to pursue a comprehensive evaluation for determining eligibility as a student with a specific learning disability. The written referral will contain the necessary information to assist the multidisciplinary team (MDT) in the development of an assessment plan.

Complete information on the referral and evaluation process is available in the document "*Guidelines: Evaluation Process"* found on the NDDPI website.

Parents are critical members of both the intervention team process and the MDT that will conduct the student evaluation. Encouraging parent involvement early helps establish a foundation for a trusting, collaborative, and respectful relationship with the school team.

What is an Appropriate Referral for Evaluation?

Before the comprehensive evaluation, the intervention support team must analyze the appropriateness of the proposed referral. A number of questions may be considered regarding the student's involvement in the intervention process, such as:

- Has the student been involved in general classroom instruction and curriculum?
- Is there evidence that suggests the student's achievement differs significantly from that of his/her same age peers?
- What types of strategies and interventions have been used to instruct and support the student? Were these strategies successful? Why or why not?
- Were the attempted interventions evidence-based, carried out with fidelity, and implemented for an adequate length of time?
- Were the interventions adjusted based on the results of ongoing progress monitoring?
- Does the achievement gap with grade-level peers appear to be closing?
- Does the student appear to need ongoing supports and services that cannot be maintained through general education alone in order to benefit from the general education program?
- Is it possible that the student's learning problems are the result of a visual, hearing, or motor impairment, or of a disability other than a specific learning disability?
- Have the student's socio-economic and cultural backgrounds been considered?
- Has the student been observed in his/her learning environment (including the regular classroom setting) in the areas of difficulty?

(Questions adapted from "Guidelines for Identifying Students with Specific Learning Disabilities," Colorado Department of Education-CDE, 2011; "Guidelines for Identifying Children with Learning Disabilities," Connecticut State Department of Education-CSDE, 2010.)

If data from a minimum of two or three evidence-based interventions (that were implemented with fidelity over time) demonstrates that a student is not progressing adequately for his/her age and grade-level standards, then the appropriateness of the referral has been established.

The MDT and the Evaluation Planning Process

When a referral for a comprehensive evaluation is generated, the evaluation planning process begins, including these key components:

- The identification of the MDT;
- The development of the student profile (evaluation);
- The formulation of assessment questions on the assessment plan;
- The completion of individualized assessments; and
- The preparation of the Integrated Written Assessment Report (IWAR).

The members of the MDT may represent the same roles as members of the IEP team. Required membership of the IEP team can be found at 300.321 of the IDEA regulations. The text of the regulation is found in the IEP Development section of these guidelines on p. 42.

When the MDT is considering a student as SLD, the IDEA regulations require that the qualified team of professionals include the following:

34 CFR §300.308 Additional Group Members
The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.8, must be made by the child's parents and a team of qualified professionals that must include: (a) (1) The child's regular teacher; (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or (3) for a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

The Student Profile: Evaluation

Once the membership of the MDT is identified, it should then develop a Student Profile: Evaluation that documents the reason(s) for the proposed evaluation, based on information from the referral. The Student Profile: Evaluation is beneficial for both initial evaluations and reevaluations of eligible students with specific learning disabilities.

The Student Profile: Evaluation:

- Provides a comprehensive picture of the student;

- Identifies patterns of current functioning; and
- Indicates areas where further information is required.

Complete information regarding the development of the Student Profile: Evaluation is available in "*Guidelines: Evaluation Process*" found on the NDDPI website.

Assessment Plan

The assessment plan details how additional information will be obtained and who will be involved in the process. In developing the assessment plan, the MDT considers all needs identified from the referral, which are included in the student profile, thus ensuring a full and individual evaluation.

Eligibility Determination Options for SLD

The IDEA regulations provide states and districts with an option for identifying a student as having a specific learning disability:

34 CFR §300.307 Specific learning disabilities
(a) General. A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8(c)(10). In addition, the criteria adopted by the state- (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in §300.8(c)(10); (2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and (3) May permit the use of other alternative research-based procedures for determining whether a child has a learning disability, as defined in §300.8(c)(10). (b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

North Dakota Administrative Rules, Chapter 67-23-06-05 governs the use of response to intervention (RTI) within a multi-tiered system of supports (MTSS).

The district's chosen eligibility determination option will factor into the development of the assessment plan. The district may elect to pursue eligibility through a RTI process that is part of a MTSS, or utilize a discrepancy model.

Appendix A provides a comparison of the two models.

When using RTI for special education eligibility, the following questions are asked:

- Is the student's rate of progress significantly less and/or significantly discrepant from the rate of typical peers and/or the standard?
- Does the student's performance remain significantly different from that of peers after interventions are implemented?
- Does the student continue to need curriculum and instruction that is significantly different than what is provided in the general education classroom?

Data is gathered from multiple sources to support data driven decision making and can provide the information necessary for:

- Determining a student's performance discrepancy from the peer group;
- Establishing a pattern of education progress over time; and
- Identifying the education circumstances under which the student performs his or her best.

With respect to the development of the assessment plan, the RTI process for SLD identification places an increased emphasis on using information regarding how a student responds to scientific-research based instruction and intervention to support eligibility and decreases the emphasis on the use of standardized, norm-referenced assessments of achievement, cognitive ability and cognitive processing. With the discrepancy model, the MDT may choose to include more formalized assessments to determine if there is a severe discrepancy between achievement and ability. The district's process will affect what is included in the assessment plan by the MDT.

Sources of Information for Assessment Planning

Whether the district is employing a RTI model within a MTSS or choosing to utilize the discrepancy model, the MDT still must include multiple sources of information when developing the assessment plan. The goal of the assessment plan should be to provide an accurate, current description of a student's achievement levels as compared with same age peers and academic content standards.

These sources may include, but are not limited to:

- **Classroom performance**
  - Work samples
  - Attendance records
  - Curriculum-based measurement
  - Unit tests
  - Diagnostic probes
  - Rating scales
  - Progress monitoring data

- **Classroom observation** (minimum of one required for each suspected disability, where appropriate.)
  - Observation may have occurred during intervention process

- **Input from parents** (via interview)
  - Strengths and challenges

- **Developmental history**
  - Ability to follow directions
  - Attention skills
  - Academic skills
  - Social and behavioral skills
  - Relevant medical or psychological information
  - Family and culture
  - Economic and environmental impacts

- **Input from teachers** (via interview)
  - Student's areas of interest
  - Participation in class
  - Ability to attend to task
  - Academic, social, and behavioral strengths
  - Preferred learning styles
  - Work initiation and completion
  - Academic, social, and behavioral concerns

- **Data from evidence-based interventions**
  - Progress monitoring data

- **Data from other programs (EL, low-socioeconomic)**
  - EL intervention data
  - Proficiency rates in first language and English
  - Verification of dominant language
  - Consider need for bilingual services
  - Dominant language assessments
  - Dynamic Learning Assessments

- **Standardized assessments**
  - Criterion referenced tests (e.g., NWEA or MAP)
  - State, district, and school assessments (e.g., NDSA)
  - Achievement assessments (e.g., Key Math, Woodcock Reading)
  - Intellectual assessments (e.g., Weschler, Stanford Binet)
  - Curriculum-based measurement (CBM)

Note: The U.S. Department of Education (USDE) does not believe an assessment of psychological or cognitive process should be required when determining whether a child has a SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD. Further, in many cases, these assessments have not been used to make appropriate intervention decisions (Federal Register, vol. 71, no. 156, p. 46,651).

Special Considerations in Assessment Planning

The MDT will want to give special consideration to a number of other categories of students when developing an assessment plan for SLD eligibility.

English Learners (EL)

The identification of a student who is EL as having a SLD poses a number of challenges for the MDT to consider. The primary question is whether the student's academic difficulties are caused by a SLD, second-language acquisition, or both (Burr, Haas & Ferriere, 2015).

When considering the needs of a student who is identified as EL, it is important to involve parents early in the intervention process, making translation services available in the parent's first language if necessary. This is an important step in learning about the student's history and language development from the parents (National Association for Bilingual Education & ILIAD Project, 2002).

The MDT may want to consider the following as they develop the assessment plan for an EL student:

- Include a team member, such as an EL teacher, with expertise on second language acquisition;
- Reviewing existing data for proficiency levels in the student's first language as well as in English;
- Review efforts for both EL instruction and intervention;
- Consider the need for bilingual evaluators;
- Consider assessments normed on English learners;
- Consider assessments that appropriately assess performance in both the student's first language as well as English; and
- Consider appropriate adaptations to the assessment process, if necessary.

(Ortiz & Yates, 2001)

For more information on the assessment of students who are EL, please refer to Appendix B and Appendix C, as well as the Resource section (p. 69) of these guidelines.

Preschool/Young Children

Given that the obligation to provide special education services under Part B begins at age 3, the MDT will want to consider some important assessment planning issues for younger students. Once again, parent involvement in this process is critical, as they possess key information regarding early development as well as learning opportunities and experiences.

The MDT should keep in mind that young children's early learning and development are multidimensional, and that developmental, functional, and behavioral skills are interrelated (CSDE, 2010). Development for younger children occurs across all domains (physical, social, emotional, cognitive, and oral) simultaneously; however, it may not occur equally (CDE, 2008).

Individual development, skills, and competencies may be quite varied. Therefore, attributing whether a young child's early learning challenges are the result of a SLD is a difficult task.

Learning and behavioral challenges in younger students may be the result of the individual child's maturational growth and development as well as biological or environmental factors in families from all socioeconomic backgrounds (CSDE, 2010). Delays in developmental, functional, and/or pre-academic skills may often be the result of limited exposure to early learning environments. Some researchers therefore suggest that SLD not be considered for the preschool age child (Fletcher, et al., 2007).

It is important for the MDT to be aware that certain "delays" may be predictive of SLDs, such as:

- Delays in comprehension and/or oral language expression may lead to difficulties with learning to read, including:
    - Limited receptive vocabulary;
    - Difficulty understanding simple directions;
    - Reduced intelligibility; and/or
    - Immature syntax.

- Delays in emergent literacy skills, including:
    - Slow speed in naming objects and colors;
    - Limited phonological awareness (rhyming, blending); and/or
    - Lack of interest in print.

- Challenges with counting skills, number concepts, and number recognition.
- Behavioral challenges that are resistant to supports.

In North Dakota, children ages 3-9 may be determined eligible for special education due to experiencing a non-categorical delay (NCD). The use of this category is restricted for children whose primary disability is not accurately described by other existing categories under IDEA. Complete information on NCD is available in "*Guidelines: Identification and Evaluation of Students with Non-Categorical Delay for Ages 3 through 9*" found on the NDDPI website.

Grade Retention and Late School Entry

Students who have been retained or entered school later than most other students their age will typically be older than their grade-level peers. In assessment planning, the MDT must be aware that scores on standardized assessments may be significantly different depending on whether age or grade norms are used. Thus, a student who appears to fall within the average range on grade-level norms may be significantly below average on age norms. The MDT should not rely solely on grade-level norms.

IDEA requires that a range of information be included in the consideration of eligibility for SLD, and achievement may be measured in terms of either age or grade-level norms. The data

available on the student's response to evidence-based interventions may have a key role in the assessment plan and subsequent eligibility determination.

Twice Exceptional

A "twice exceptional" student is one who may have very high ability in some cognitive or academic areas, but also struggles with some academic tasks expected at his/her grade level. Specific learning disabilities occur across the range of intellectual functioning; therefore, the MDT must be alert to the possibility of a "twice exceptional" student.

Often, these students are older students who, despite having been referred and perhaps evaluated in the earlier grades, were not considered to have a SLD because of their above average skills and abilities in some areas. Records of earlier interventions and assessments will be important in assessment planning.

In assessment planning and eligibility determinations, the MDT must be alert to the possibility that a student's considerable strengths may be masking a SLD. It is important to study a student's pattern of strengths and weakness when high abilities are paired with underperformance in certain academic areas (CSDE, 2010).

Secondary-Level Students

When planning assessments for secondary-level students, the MDT must once again consider a range of information. Information from parents may play an important role in identifying a student's current and past patterns of difficulties. The MDT should be alert to:

- A history of language impairment or language difficulties, even if that ability is currently in the average range;
- A history of supplemental interventions for the student's areas of difficulty at earlier grade levels;
- Difficulties in linguistic, cognitive, or processing areas that relate to a student's area of academic difficulty (e.g., phonological skills, processing speed, working memory, executive functioning, or conceptual reasoning); and
- A pattern of similar academic or language challenges in other family members.

(CSDE, 2010)

A key consideration for secondary-level students is whether they have been exposed to evidence-based interventions. Intervention programs at this level may pose challenges for delivery; however, the evaluation process should consider skills in areas such as basic reading, reading comprehension, listening comprehension, and written expression in order to assess their impact on content area performance.

Speech-Language Impairment vs. SLD

When developing the assessment plan, the MDT will need to consider whether students are demonstrating delays in language development. Challenges with oral language and listening

comprehension in younger students may ultimately manifest themselves as a SLD as the student ages and the content demands increase.

> Where referral concerns indicate the existence of such challenges, the MDT may want to include the expertise of a speech-language pathologist and assessments that examine the impact of language development in the determination of SLD.

Other Important Considerations in Assessment Planning

There are a number of other important considerations for school districts and MDTs as identified in the IDEA regulations. They include:

Review of Existing Data

Whether the evaluation to be conducted is an initial evaluation or a reevaluation for continuing eligibility for special education services, the MDT must review existing data as part of its assessment planning procedures. Data collected through screening, assessment, progress monitoring, etc., should be readily available for review. IDEA regulations (34 CFR §300.305) identify additional requirements for initial evaluations (if appropriate) and reevaluations, such as:

- Evaluations and information provided by parents;
- Current classroom-based, local, or state assessments; and
- Observations by teachers and related service providers.

Screening data collected, assessment data (e.g., curriculum-based evaluation) and progress monitoring data neither require nor triggers procedural safeguards associated with comprehensive evaluations. Use of data as a component of a comprehensive evaluation is permitted and expected, as evidenced by the regulations at 34 CFR 300.305.

34 CFR §300.305 Additional requirements for evaluations and reevaluations

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

(1) Review existing data on the child, including-

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

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

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

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

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

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

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

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

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

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

(b) *Conduct of review.* The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.

(d) *Requirements if additional data are not needed*. (1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of-

(i) That determination and the reasons for the determination; and

(ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's education needs.

(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(e) *Evaluations before a change in eligibility.* (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§300.304 through 300.311 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to the graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.

(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

Consideration of Nonbiased Assessment

It is important that the MDT consider all factors that may interfere with obtaining a true picture of a student's functioning, including culture and language. The following IDEA regulation specifies this requirement:

34 CFR §300.304 (c)(1)(i)(ii) Additional requirements for evaluations and reevaluations
(c) *Other evaluation procedures.* Each public agency must ensure- (1) Assessments and other evaluation materials used to assess a child under this part- (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

When developing the assessment plan for a student suspected of having a SLD, the MDT must consider this regulation to prevent the disproportionate representation of culturally or linguistically diverse students in special education. Concern is growing nationally over disproportionality, with certain subgroups of culturally and linguistically diverse populations having been overrepresented in a number of IDEA categories. The MDT must understand that cultural influences and linguistic differences may affect assessment results, notably regarding English Learners (EL), who are often overrepresented in special education.

A complete description of the considerations in the development of the assessment plan is available in "*Guidelines: Evaluation Process*" found on the NDDPI website.

Evaluation Procedures

With the completion of the assessment plan, the MDT is ready to move forward with the full and individual evaluation of the student. Once completed, the data gathered will allow the MDT to consider SLD eligibility. **Prior to beginning any assessment, a parent or guardian must provide informed, written consent for the proposed evaluation.**

Please refer to the NDDPI document, "*Guidelines: Evaluation Process*", for specific information on parental consent and the timeline for an initial evaluation.

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

When the assessment plan has given careful consideration to all needs identified through the intervention process (as documented on the referral), the resulting evaluation will be comprehensive and identify all special education and related service needs.

34 CFR §300.304 (c)(4) Evaluation procedures
The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, academic performance, communicative status, and motor abilities.

Steps in the Evaluation Process: RTI/MTSS

For the initial evaluation of a student suspected of having a SLD, the MDT through its assessment plan must:

1. Validate the impact of the child's progress in the general curriculum by reviewing data from the intervention team process, including at least one classroom observation. Three observations are recommended to verify patterns of learning and behavior, and should be completed by someone other than the classroom teacher. The observations may have been completed during the intervention process, prior to the referral for evaluation.

    - If an observation was conducted prior to referral for special education evaluation, parental consent is not required, but an observation conducted after the student has been referred for an evaluation must have parental consent.
    - The focus of the observation must be tied directly to relevant academic performance in one or more of the eight areas inclusive of SLD and the functional relationship of behavior to that academic performance. The observation(s) should assist in the documentation that appropriate instruction was provided and also serve to inform the decisions about recommended instructional changes. Observations, across instructional settings are especially valuable, as are observations by different team members.

2. Determine that the child is not achieving adequately for their age and the child is not making sufficient progress toward age or academic content standards when using a process based on the child's response to scientific, evidence-based interventions.

3. Determine that the deficit is not primarily the result of a cognitive disability, sensory deficit, emotional disturbance, cultural factors, English proficiency, environment, or economic disadvantage.

4. After considering the information compiled in the IWAR-SLD/RTI, determine the primary disability.

A *Frequently Asked Questions on Response to Intervention* document is available in Appendix D.

Steps in the Evaluation Process: Discrepancy Model

For initial evaluation of a student suspected of having SLD, the MDT through its assessment plan must:

1. Validate the impact of the child's progress in the general curriculum by reviewing data from the intervention team process, including at least one required classroom observation. Three observations are recommended to verify patterns of learning and behavior. The observations may have been completed during the intervention process, prior to the referral for evaluation.

2. Determine that the child is not achieving adequately for their age or meeting academic content standards.

3. Determine the child's ability level using a valid and reliable standardized measure of intellectual or cognitive ability, administered by trained personnel **or**, in the case of students who are not represented in the normed sample of the standardized test, using an alternative method.

4. Determine the discrepancy between ability and achievement.

5. Determine that the deficit is not primarily the result of cognitive disability, sensory deficit, emotional disturbance, cultural factors, English proficiency, environment, or economic disadvantage.

6. After considering the information compiled in the IWAR, determine the primary disability.

More information on the IWAR, is available in "*Guidelines: Evaluation Process"* found on the NDDPI website.

Reevaluation Procedures

The reevaluation of a student with a SLD seeks to confirm that the student continues to have a disability and demonstrates a need for specialized instruction and other supports available through special education. The student's IEP team will begin the planning process for the reevaluation and may expand the team to include other members based on questions they have regarding the student.

A reevaluation must occur at least once every three years. The IDEA 2004, however, provides for the option that a reevaluation does not have to occur at least once every three years if the parents and public agency agree that a revaluation is not necessary. If there is a decision to conduct a reevaluation, the IEP Team and other qualified professionals must review existing evaluation data, which includes conducting at least one classroom-based observation and observations by teachers and related service providers. Based on that review, the team will

identify what additional data, if any, are needed to determine whether the child continues to have a disability, and to identify the educational needs of the child.

A reevaluation may occur not more than once a year unless the parent and the public agency agree otherwise. If a parent requests more than one reevaluation in a year and the public agency does not believe a reevaluation is needed, the public agency must provide the parents with a Prior Written Notice of the agency's refusal to conduct a reevaluation. The Prior Written Notice must explain why the agency refuses to conduct the reevaluation and the parent's right to contest the agency's decision through mediation or a due process hearing. In situations where a public agency believes a reevaluation is necessary, but the parent disagrees and refuses consent for a reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures (Due Process Hearing).

34 CFR §300.303 Reevaluation
(a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§300.304 through 300.311- (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or (2) If the child's parent requests a reevaluation. (b) *Limitation.* A reevaluation conducted under paragraph (a) of this section- (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and (2) Must occur at least once every 3 years, unless the parent and public agency agree that a reevaluation is unnecessary.

Review of Existing Data

As with the initial evaluation, the reevaluation process must begin with the review of existing data, per 34 CFR §300.305.

The IEP team and other necessary, qualified professionals will review existing data to determine what, if any, data is necessary for the purpose of deciding:

- Whether the student continues to have a disability;
- The educational needs of the child;
- The present levels of academic achievement, functional performance and related developmental needs of the child;
- Whether the child still needs special education and related services; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP and participate, as appropriate, in the general education curriculum (34 CFR §300.305 (a)(2)(iv).

The review of existing data need not be accomplished through a formal meeting; however, given the importance of the parent's role in this process, it may be advisable to do so.

The use of existing evaluation data is a part of the comprehensive evaluation. The IEP team which includes the student's parents, is allowed to use their discretion to determine if further data are required or if the data already collected are sufficient to determine special education eligibility.

The IEP team must document the decision regarding the review of existing data and the need for additional data as part of the reevaluation process in the student profile. The decisions regarding the reevaluation may include:

1. Parents and the district agreed that no additional information is necessary through a reevaluation; parents were informed of their right to request additional assessments.
2. The IEP team determined, through its review of existing data, that additional information is necessary. The IEP team informed the parents regarding the need for additional data and will seek parental consent for the evaluation.

34 CFR §300.300 Parent consent

(c) Parental consent for reevaluation.

(1) Subject to paragraph (c)(2) of this section, each public agency-

(i) Must obtain informed parental consent, in accordance with §300.300 (a) (1), prior to conducting any reevaluation of a child with a disability.

(ii) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph (a)(3) of this section.

(iii) The public agency does not violate its obligation under §300.311 and §§300l.301 through 300.311 if it declines to pursue the evaluation or reevaluation.

(2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that-

(i) It made reasonable efforts to obtain such consent; and

(ii) The child's parent has failed to respond.

If the IEP team determines that new information is necessary, it will develop an assessment plan for the reevaluation. Thorough assessment planning, including the review of existing data, eliminates the need for unnecessary testing. If an additional disability is suspected for the student, the assessment plan must attend to all aspects of functioning necessary for making that determination (as with an initial evaluation), including: behavior, health, vision, hearing, social and emotional status, academic performance, communicative status, and motor abilities.

Complete information regarding the reevaluation process is available in "*Guidelines: Evaluation Process*" found on the NDDPI website.

Whether a district chooses to pursue SLD eligibility through RTI as part of its MTSS or utilize the discrepancy model, the development of the assessment plan is vital when conducting an appropriate evaluation into all aspects of the student's functioning.

Preparing the Integrated Written Assessment Report

The MDT prepares the IWAR by integrating findings from all sources. It should be written in a way that is understandable to parents and other professionals and should not simply be a reiteration of test scores. A copy of the IWAR and the eligibility determination must be provided to parents.

The IWAR for a student with a specific learning disability must include:

- A statement of whether the student has a specific learning disability.
- A description of the basis for the determination that the student has a SLD.
- A statement about any relevant behavior noted during the observation and the relationship of that behavior to the student's academic functioning.
- A description of any educationally relevant medical information.
- A statement about the student not achieving adequately for their age or meeting State-approved, grade-level standards.
- A statement about the student not making sufficient progress to meet age or grade-level standards, OR a statement of whether there is a discrepancy between ability and achievement that is not correctable without special education and related services.
- The determination of the group concerning the effects of visual, hearing, or motor disability; intellectual impairment; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level.
- If the student has participated in a process that assesses their response to scientific, research-based intervention:

    - The instructional strategies used and the student data collected; and
    - Documentation that the student's parents were notified about
        - The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided,
        - Strategies for increasing the student's learning rate, and
        - The parents' right to request an evaluation.

- The Parent/legal guardian Signature(s)/or adult student 18 years or older unless parents obtain legal guardianship stating the agreement of findings.

Appendix E contains, "*Specific Learning Disability Sample Checklist: Determining Eligibility*," which guides the MDT through the questions that should be addressed at the meeting.

Determining SLD and Eligibility for Special Education

When the MDT has completed its full and comprehensive assessment of a student suspected of having a specific learning disability, the MDT will prepare an Integrated Written Assessment Report (IWAR or IWAR-SLD/RTI). An IWAR will summarize all relevant data gathered through observation and assessment for use in determining, as a team, if the student has a SLD that adversely affects his/her education.

Federal Requirements

In North Dakota, for a student to be eligible in the category of SLD**, all of the following criteria must be met.**

- The student does not achieve adequately for their age or meet academic content standards in one or more of the following areas when provided with appropriate learning experiences and instruction, including:

    - Oral expression;
    - Listening comprehension;
    - Written expression;
    - Basic reading skills;
    - Reading fluency skills;
    - Reading comprehension;
    - Mathematics calculation; and/or
    - Mathematics problem solving.

    (34 CFR §300.309(a)(1))

- The student does not make sufficient progress to meet age or academic content standards in one or more of the areas identified above when using a process based on the child's response to scientific, research-based intervention (34 CFR §300.309(a)(2)(i)); ***or***

    The student demonstrates a pattern of strengths and weaknesses in performance, achievement, or both that is related to age; academic content standards; or intellectual development. The MDT must determine that this pattern is relevant to the identification of a SLD when using appropriate assessments, as required by 34 CFR §§300.304 & 300.305 (34 CFR§300.309(a)(2)(ii)).

- The MDT determines *(by ruling out)* that its findings are not primarily the result of any of the following:

    - Sensory impairments (vision and hearing);
    - Motor impairments;
    - Intellectual disability;
    - Emotional disturbance;
    - Cultural factors;

- Environmental or economic disadvantage; or
- Limited English proficiency.

- To ensure that the underachievement of the student suspected of having a SLD is not due to a lack of appropriate instruction in reading or mathematics, the MDT must consider (as part of the evaluation) the following data:

    - Evidence that prior to, or as part of the referral process, the student was provided with adequate instruction delivered by qualified personnel in regular classroom settings;
        - Within an RTI system, the explicit requirement is that the school/district must have some type of student data collection system that shows how the student has responded to appropriate instruction as measured by repeated assessments. The responsibility rests with the school district to ensure that low achievement is not a function of curriculum mismatch and/or lack of effective instruction.
        - Low achievement is not evidence of a SLD if appropriate curriculum choice and the delivery of effective instruction cannot be demonstrated. These features should be put in place for the student to determine whether they will result in improved academic performance.
        - IEP teams considering students for SLD eligibility must document the school's efforts to provide the student with evidence-based instruction in the essential components of reading and mathematics.
        - It is important that the team document the extent to which the student has been provided with an appropriate core instructional program. If the core instructional program is not appropriate, it should be addressed prior to considering a student for SLD.
        - Documentation is also needed for interventions that were provided during the early intervening period.

    - Data-based documentation of repeated assessments of achievement at reasonable intervals reflecting formal assessment of student progress during instruction that was provided to the child's parents (34 CFR §300.309(b)).
        - The IEP team will need to provide evidence of universal screening/benchmark data and timely progress monitoring.

- The student **must not be determined to have a SLD** if the determining factor is (34 CFR §300.306(b)(1)):

    - Lack of appropriate instruction (systematic and explicit) in reading, including the essential components of reading instruction;
        1. Phonemic awareness;
        2. Phonics;
        3. Vocabulary development;
        4. Reading fluency, including oral reading skills; and
        5. Reading comprehension strategies.

- Lack of appropriate instruction in mathematics; or
- Limited English proficiency.

Determining Achievement Levels

Regardless of whether the MDT plans to pursue eligibility using the discrepancy model or the student's response to research-based interventions (RTI/MTSS), the MDT must establish the achievement level of the student. Definition of the current achievement level serves two primary purposes:

1. Determining eligibility for placement; and
2. Planning a program of services.

Achievement Levels	
Response to Intervention	To determine eligibility for special education, the MDT must establish ***that the student is not achieving adequately for the child's age or meeting (or making sufficient progress toward meeting) academic content standards.***
Discrepancy Model	To determine eligibility for special education, the MDT must establish ***that a discrepancy exists between a student's ability and their achievement level.***

Interpreting Achievement Information

The achievement information gathered through the assessment process seeks to establish that a student is not achieving adequately for the student's age or meeting academic content standards.

Achievement Information	
Response to Intervention	1. Describe a student's achievement level as a range (average or above/below average) rather than a specific score, grade level, or percentile. 2. Analyze the relationship of the student's achievement level with that of his/her peers in relation to academic content standards. • Is the student's rate of progress less than that of typical peers and/or the standard? • Does the student's performance remain significantly different from that of their peers? • Does the student continue to need curriculum and instruction that is significantly different from what is provided in the general education classroom?

Discrepancy Model	1. Describe a student's achievement level as a range (average or above/below average) rather than a specific score, grade level, or percentile. The estimated range of achievement is then compared with the estimated range of ability. 2. Determine that a student's cognitive ability and achievement results are a valid and accurate representation of the student's functioning. 3. Determine whether a discrepancy exists by asking: • Is there a significant gap between the student's performance on measures of intellectual or cognitive ability and measures of achievement? • Is there a significant gap between the student's performance on achievement measures and the average performance of classroom peers? • Do formal measures (standardized assessments) contradict or agree with informal measures (curriculum-based measures)? Where a contradiction exists, the MDT will need to consider whether additional information is needed and utilize professional judgement in determining a discrepancy.

Whether employing RTI within a school's MTSS or using the discrepancy model, the MDT will need to decide if the assessment data gathered leads to a consistent and accurate description of a student's achievement and ability levels. Data that is contradictory will be cause for concern, and may prompt the MDT to consider whether additional information is necessary.

When using RTI to determine eligibility, the following must be considered:

- Is the student's rate of progress significantly less than the rate of typical peers and/or standards (usually referred to as "gap" analysis)?

  When answering the question regarding the discrepancy between a student's performance and the performance of his/her peer group and/or standards, the IEP team must determine that, given equal or enhanced opportunities, the student's current level of performance and/or rate of improvement is significantly lower than grade-level peers or academic content standards. The question is answered based on student progress monitoring data compared to benchmark peer or standards-based data. The team must have at least two current assessments with converging data that include curriculum based measures.

- Does the student's performance remain significantly different than that of peers?

  When examining educational progress, the IEP team must determine whether previous interventions have been successful with significantly improving the student's rate of

learning. If not, are additional resources needed to enhance student learning? Or, are the interventions that have sufficiently improved the student's rate of learning, of such intensity that they cannot continue to be implemented without supplementary aids and services via special education resources? The team uses data from student progress monitoring to answer this question.

The determination of rate of improvement presupposes that the student's progress has been monitored frequently and with fidelity during the early intervening period. Progress monitoring features brief and frequent measurements of academic variables that are based on state standards and are highly predictive of performance on statewide tests. The National Center on Student Progress Monitoring has indicated that progress monitoring measures should include the following characteristics:

- Acceptable psychometric characteristics (including reliability and validity);
- A number of alternate forms;
- Sensitivity to the improvements in skill acquisition;
- Ability to create linkages to instructional design; and
- Efficient administration.

The frequency of progress monitoring is determined by the level of intensity of interventions. Progress should be monitored frequently, at least monthly, but ideally weekly or biweekly (Fuchs & Fuchs, 2006).

Most progress monitoring metrics allow for two types of data displays, both of which are useful for guiding instruction and for determining the extent to which the student's rate of progress is inadequate as compared to other students. First, progress monitoring data may be graphed with various conventions (e.g., aim-lines, trend-lines) used to create a visual display of the student's response to intervention. In addition, a quantitative index of the student's rate of improvement can be determined through the student's slope of progress.

In an RTI framework, to be determined eligible for special education, students must exhibit significant deficiencies in their rate of learning based on progress monitoring data. A student's progress is compared to his or her performance during baseline data collection, to the normative rate of progress displayed by peers, and to the rate of learning required to close his or her performance gap with typical peers. Accordingly, the IEP team reviews:

- Results of progress monitoring data that are directly linked to the area of deficit and are completed over a period of time to assure reliability;
- Evidence that interventions provided to address the skill deficit were evidence-based and of sufficient intensity;
- Evidence that interventions were delivered with fidelity;
- Evidence that interventions were implemented for a sufficient amount of time to allow changes to occur in the student's skill level. The length of time that is appropriate for students to receive early intervening services at Tiers 2 and 3

before referral for special education evaluation will vary depending on the following factors: the student's initial or baseline performance level, the student's prior history of effective interventions, the stability of the student in the current school and instructional environment, and the intensity of the interventions.

- Evidence that an intervention has been identified that results in a positive rate of improvement and/or evidence that changes were made to an intervention when data suggested the student was not making adequate progress.

- Does the student continue to need curriculum and instruction that is significantly different than what is provided in the general education classrooms?

  In addressing the question of instructional needs, the IEP team must determine that instructional needs have been identified that are beyond what can be met with general education resources alone. This is evident when curriculum, instruction, and/or environmental conditions need to be very different for the student as compared to the needs of other students in the general education environment. Specifically, the team considers the following evidence:

  - Based on student outcome data, the factors of the intervention program that are responsible for the student making progress; and
  - Characteristics of the educational program needed in order for the student to make educational progress, including the following: intensity of instruction (e.g., amount and rate of practice and feedback, how explicit the instruction is), time delivered (e.g., amount of time the intervention is delivered weekly), and size of group (e.g., individualized or small group).

In an RTI framework, it is important that the IEP team consider all three questions (Level/Extent of Discrepancy or Gap, Educational Progress, and Instructional Needs) in determining whether the student is entitled to special education and related services, which include specific interventions that have already proven effective for that student. Thus, in order to be eligible for special education services, a student must:

- Demonstrate performance that is significantly below the performance of peers or expected standards (*Discrepancy*);
- Exhibit significant deficiencies in his or her rate of learning based on progress monitoring data (*Educational Progress*);
- Demonstrate that his or her needs in the areas of curriculum, instruction, and/or environmental conditions are significantly different than that of his or her general education peers (*Instructional Needs*) and, in order to make educational progress, require interventions of an intensity or type that exceeds general education resources.

If a student is demonstrating adequate *Educational Progress* and is reducing the *Discrepancy* between his or her performance and the performance of his or her peers or expected standards because the student has been provided and continues to need curriculum, instruction, and/or environmental conditions (*Instructional Needs*) that are significantly different from general peers and of an intensity or type that exceed general education resources, then the student may still be eligible for special education services in an RTI framework.

Patterns of Strengths and Weaknesses

According to federal regulations (34 CFR §300.304(b)(1)), "Conduct of Evaluation," any public agency is required to use a "variety of assessment tools and strategies to gather relevant functional, developmental, and academic information" about a student for the purpose of determining eligibility for special education under 34 CFR 300.8. When developing the assessment plan, the MDT follows this regulation to determine the patterns of strength and weaknesses and data sources necessary to consider a student's eligibility as SLD.

While varied methods of implementation may exist, the essential steps in the process (Schultz, et al., 2013) include:

- Identifying an academic need in one or more of the eight areas of SLD;
- Determining if there is an area (or areas) of cognitive weakness that have a research-based link to problems in the identified academic area(s);
- Establishing whether there are other cognitive areas that are average or above average; and
- Analyzing these patterns for evidence that either rules out or confirms the presence of a SLD.

Exclusionary Factors

The regulations defining SLD include a number of exclusionary factors that are ruled out prior to the MDT determining a student's eligibility. However, a student for whom one of these factors applies may also be appropriately identified as having a SLD. The main issue is for the MDT to determine if any of these exclusionary factors are the primary cause of the student's learning challenges.

SLD Exclusionary Factors

Vision, Hearing, and Motor (Physical) Disabilities – These disabilities may co-exist with SLD and the needs they present must be addressed in the student's IEP. Thus, a student with a SLD who presents with physical disabilities must have the IEP address those related needs. If one of these factors represents the primary cause of the student's learning challenges, the student is not eligible in the category of SLD.

- Areas to consider: Review of health records to check any history of passed routine vision, hearing, and motor (e.g., from physical education class) screenings.

Intellectual Disability – This factor should not coexist with SLD, as the student's academic/behavioral challenges would most likely be attributed to their limited intellectual abilities. If suspected, the MDT should consider a measure of adaptive behavior, which is essential to the criteria for intellectual disability. Adaptive behavior found to be within normal limits would rule out intellectual disability as an exclusionary factor.

- Areas to consider: Review of cognitive ability (developmental history and intellectual functioning), review of adaptive behavior history, and review of performance across academic areas.

Emotional Disturbance – It is not uncommon for SLD to occur in students who also experience emotional, behavioral, and attention issues (Fletcher et al., 2007). When these coexist, it may be very challenging to determine which disability is the primary disability. Social and emotional issues may be the result of underachievement in school, mental illness, or a diagnosis such as ADHD. If the MDT determines the primary disability to be emotional disturbance, SLD is ruled out. A student properly identified as having a SLD as the primary cause must have needs associated with social, emotional, and/or attentional issues that are appropriately addressed by the IEP team.

- Areas to consider: Review of results of behavior screening data collected on all students (e.g., attendance records, discipline referrals), behavior checklists, and/or behavior rating scales.

Cultural Factors – Cultural factors may influence the development of cognitive and linguistic skills, and may coexist for a student identified as having a SLD. The MDT should partner with parents to assess this factor through interviews and observations to determine if instruction is "culturally responsive." Comparisons with other students of the same racial or ethnic group may be helpful in ruling out this factor.

- Areas to consider: Review of results of achievement data that compare the performance of subgroups (e.g., race/ethnicity, gender) in the district.

Environmental or Economic Disadvantage – The MDT must determine that these factors are not the primary cause of the student's learning challenges. Collaborating with parents, student interviews and observations may provide important information. Situations such as homelessness, child abuse, poor nutrition, and other factors may adversely impact a student's ability to learn.

- Areas to consider: Review of results of achievement data that compare the performance of students of similar socioeconomic status in the district, interviews with the family, developmental histories, chronic medical conditions, frequent absences, and sleep disruptions.

Limited English Proficiency – When ruling out the impact of English proficiency for a student suspected of having a SLD, the MDT will want to look at a number of important questions, including:

- Has the student's English proficiency been assessed?
- Is the student receiving or has the student already received instruction in English language acquisition?
- Have there been interventions for this student to address English language intervention?
- Has the student's progress been monitored and compared with other students who are English Learners? Comparisons should be made with other members of the same culture, language, age, etc.
- Has the student's progress been markedly slower than that of other English Learners in the same demographic group?
- Have English language acquisition services been provided to the student for a sufficient length of time to allow growth to be measured?

Appendix B provides a *Flow Chart for Considering Limited English Proficiency*. Appendix C provides *Considerations for English Learners within an RTI/MTSS System*.

Implications for Instruction

The MDT uses the IWAR process as well as team discussion at the eligibility meeting to translate the assessment data into specific implications for instruction to be considered when developing the IEP. Areas of strength and weakness regarding academic skills and cognitive abilities (if assessed) are essential when planning an appropriate program of services for the student with a SLD. This information should guide goal development, special education and related service supports, and appropriate classroom accommodations. Everything in a student's IEP should be connected to a need identified through the assessment process. This paves the way for the provision of an appropriate program for the student.

IEP Development and Educational Programming

Once the MDT has found a student who is eligible under SLD, the IEP team must meet to develop a plan to address all needs identified through the assessment process. IDEA requires that the IEP be developed and implemented within thirty calendar days of the eligibility determination. The student's IEP will provide a description of the student's needs and detail the special education and related services and other supports necessary to address those needs.

Complete information on the IEP process is available in North Dakota's DPI document, "*Guidelines: Individual Education Program Planning Process"* found on the NDDPI website.

The membership of the IEP team is outlined in the IDEA regulations (34 CFR §300.321).

34 CFR §300.321 IEP Team

(a) *General.* The public agency must ensure that the IEP team for each child with a disability includes-

(1) The parents of the child;

(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

(4) A representative of the public agency who-

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general education curriculum; and

(iii) Is knowledgeable about the availability of resources of the public agency.

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;

(6) At the discretion of the parents or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) Whenever appropriate, the child with a disability.

(b) *Transition services participants*.

(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b).

(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3) To the extent appropriate, with the consent of parents or the child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for provide or paying for transition services.

(c*) Determination of knowledge and special expertise*. The determination of knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP team.

(d) Designating a public agency representative. A public agency may designated a public agency member to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section is satisfied.

(e) *IEP Team attendance.*

(1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because of the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves modification to or discussion of the member's area pf the curriculum or related services, if-

(i) The parent, in writing, and the public agency consent to the excusal; and

(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

(f) *Initial IEP Team meeting for the child under Part C*. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

Parent/Guardian Participation in the IEP

An important provision in this regulation suggests, at the discretion of the parents and the school district, those individuals who have "special expertise regarding the child, including related service personnel as appropriate," be included on the team. Students with SLD may have complex learning needs with academic, sensory, and/or psychological factors, and professionals with expertise in those or other areas should be invited to contribute to the IEP process. Parents are always welcome to invite other individuals with special expertise who may be able to contribute to this team effort.

The participation of parents is critical to the IEP process for all students with disabilities. The input of parents regarding observations of the student outside the school setting, the student's developmental milestones, or the student's motivations and interests can be an integral part of developing an effective IEP. The opportunity for parental input builds a foundation of trust and collaboration between parents and school staff that supports positive outcomes for the student. The IEP process is a vehicle for communication between parents and the school, and the IEP team should always be sensitive to a parent's need for support in the challenging role of parenting a student with a SLD.

For a complete review of IDEA regulations regarding parent participation, please see 34 CFR §300.322 and DPI's "*Guidelines: Individual Education Program Planning Process"* found on the NDDPI website.

34 CFR §300.322 Parent participation

(a) *Public agency responsibility- general*. Each public agency must take steps to ensure that one or both parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity of participating, including-

(1) Notifying parent of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(b) *Information provided to parents*.

(1) The notice required under paragraph (a)(1) of this section must-

(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

(ii) Inform the parents of the provisions in §300.321(a)(6) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and §300.321(f) (relating to the participation of Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act.

(2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice must-

(i) Indicate-

(A) The purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and

(B) That the agency will invite the student; and

(ii) Identify any other agency that will be invited to send a representative.

(c) *Other methods to ensure parent participation*. If neither parent can attend the IEP Team meeting, the public agency must use other methods to ensure parent participations, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of participation).

(d) *Conducting an IEP Team meeting without a parent in attendance*. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as-

(1) Detailed records of telephone calls made or attempted and the results of those calls;

(2) Copies of correspondence sent to the parents and any response received; and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(e) *Use of interpreters or other action, as appropriate*. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

(f) *Parent copy of the child's IEP.* The public agency must give the parent a copy of the child's IEP at no cost to the parent.

Key Components of the IEP for Students with SLD

A number of key components must be addressed in the IEP in order to tell the complete story of the student with a SLD. These key components include:

1. Present Levels of Academic and Functional Performance (PLAAFP)

The IEP team's consideration of the student's PLAAFP is an essential ingredient in providing a free and appropriate public education (FAPE). The PLAAFP will include the student's strengths, needs, preferences, and interests, as well as how the student's disability affects his/her ability to make progress in the general education curriculum. The IEP team will need to discuss the standards or expectations of the general curriculum and the student's performance as measured against those standards. When gaps between a student's PLAAFP differ significantly from his/her grade/age-level expectations, the IEP team will identify skills that are critical to closing that gap.

The PLAAFP should reference parental input in the process, including how they see their student's strengths and areas of concern. The IEP team should recognize and value this input from parents, generally elicited as the first step in the meeting, and support their role as equal partners in the IEP process.

Additional information on the PLAAFP is available on page 34 in the "*Guidelines: Individualized Education Program Planning Process"* found on the NDDPI website.

2. Consideration of Special Factors

The IEP team will review the "Consideration of Special Factors" section of the North Dakota IEP form. This review is required by IDEA regulations (34 CFR §300.324(2)).

34 CFR §300.324(2) Development of the IEP
Consideration of special factors. The IEP team must- (i) **In the case of a child whose behavior impedes the child's learning or that of others**, consider the use of positive behavioral interventions and supports, and other strategies that address behavior; (ii) **In the case of a child with limited English proficiency**, consider the language needs of the child as those needs relate to the IEP; (iii) **In the case of a child who is blind or visually impaired**, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille, or the use of Braille), that instruction in Braille is not appropriate for the child; (iv) **Consider the communication needs of the child,** and in the case of a child who is deaf or hard of hearing, consider the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (v) **Consider whether the child needs assistive technology devices and services.***

*Note: Assistive technology devices and services are defined in the IDEA regulations at 300.5 and 300.6. For more information on this topic, please refer to the NDDPI guidance document, *Guidelines for the Provision of Assistive Technology to Students with Disabilities under IDEA Part B*, found on the NDDPI website.

The Consideration of Special Factors section of the IEP builds on the PLAAFP discussion and requires that these special factors be considered for all students with disabilities. For any special factor identified for a student with a SLD, the IEP should contain supports in the form of one or more of the following:

- Annual goals and specialized instruction;
- Related services that support annual goals and development of new skills; and/or
- Supplementary aids and services that are provided in general education settings as well as extracurricular and nonacademic settings.

Special factors may not always require specialized instruction; however, when a special factor is identified as relevant for a given student, the IEP must show evidence of how that special factor is being addressed in services and supports. This is also true for all needs identified in the PLAAFP some of those needs may require direct services and measurable annual goals, while others may be addressed through classroom accommodations. The resulting IEP is unique and individualized based on the needs of the student.

A complete discussion of special factors is available in "*Guidelines: Individual Education Program Planning Process*" found on the NDDPI website.

3. Measurable Annual Goals

The next step in the process involves the development of measurable annual goals that require specialized instruction. Keep in mind that all areas of need will not require specialized instruction (i.e., slow processing speed may require classroom accommodations that allow for additional time to complete assignments). Where specialized instruction is required to close the gap between actual and expected achievement, measurable annual goals are required.

34 CFR §300.320 (2)(i) Definition of individualized education program
(2)(i) A statement of measurable annual goals, including academic and functional goals designed to A. Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and B. Meet each of the child's other educational needs that result from the child's disability.

Measurable annual goals are related to the unique needs of the student, and therefore should not be applicable to all the same age/grade-level students and should lead to placement in the LRE. They should be revised annually with progress regularly monitored. Measurable annual goals represent a blueprint for how a student's progress will be measured.

Periodic Review of Progress

Parents must receive periodic updates on their student's progress in the general education curriculum, especially regarding the measurable annual goals established by the IEP team. This review of progress (progress monitoring) is conducted at regular intervals and reported to parents at the same interval as progress updates are provided for all students. Progress monitoring of IEP goals should be frequent, and must be analyzed for the purpose of adjusting instruction.

Periodic reviews of progress should:

- Include a description of the student's progress toward each annual goal;
- Utilize the same measurement criteria as specified in the annual goal;
- Clearly specify how the student's performance at the time of the review differs from performance at the time the IEP was written (baseline); and
- Address any lack of expected progress toward an annual goal.

Note: It is important to remember that no meeting is required for a periodic review. However, when data indicates that a student is not making expected progress**,** the IEP team must reconvene to discuss the lack of progress and make any necessary adjustments to the IEP. Failure to do so may result in a violation of a student's right to FAPE.

4. Identification of Special Education and Related Services

Following the development of measurable annual goals, the IEP team will determine what special education and related services are necessary to support the student in attaining those goals.

More information can be found on page 11 of these guidelines under "SLD and Comorbid Conditions".

5. Consideration of Supplementary Aids and Services

Adaptations of services include supplementary aids and services that are critical for supporting students with SLD in regular classes as well as other school activities.

34 CFR §300.42 Supplementary Aids and Services.
Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extra-curricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled peers to the maximum extent appropriate in accordance with §§ 300.114 through 300.116.

Supplementary aids and services may include such things as, but are not limited to:

- Direct supports to the student;
- Support and training for staff who work with the student;
- Classroom accommodations and modifications to the curriculum;

- Functional behavior assessments and behavior intervention plans;
- Assistive technology services and supports;
- Adaptive Equipment; and
- Special education consultation with general education providers.

Supplementary aids and services are geared toward maintaining a student's ability to participate, to the maximum extent appropriate, in the general education classroom with peers without disabilities.

Modifications and Accommodations

Supplementary aids and services include modifications and accommodations. The terms accommodation and modification are often used interchangeably; however, they are very different in meaning. Modifications and accommodations must be specified for each individual student.

Modifications are changes to practices in schools that alter, lower, or reduce expectations to compensate for a disability. Modifications change the standard for a given student.

Examples of curricular modifications:

- Alternate curriculum goals and/or achievement standards
- Partial completion of general education curriculum (students learning needs are different from the general education curriculum)

Accommodations are changes in procedures or materials to mediate the impact of the disability. Accommodations increase equitable access to the general education curriculum and hold the student to the same standards as students without disabilities.

Examples of accommodations include:

- Preferential seating
- Extended time on assignments
- Reduce assignments
- Frequent breaks
- Text-to-speech/speech-to-text
- Illustrate rules with clear examples and specific rewards
- Picture schedules/agendas
- Graphic organizers
- Check in and check out system

It is important to remember that accommodations and modifications should not be "as needed" or "at the discretion of the student/teacher". The IEP team identifies the appropriate accommodations and modifications, and they should be implemented as written. Progress monitoring of the impact of accommodations and modifications on student outcomes will assist with the justification of their use.

6. Participation in State and District-Wide Assessments

The IEP team must consider the student's participation in State and district assessments. The IEP team will analyze the instructional accommodations determined necessary for the student and discuss the application of those accommodations to testing situations. Various State and district assessments will have their own protocols regarding accommodations for students with disabilities.

7. Transition Planning

Transition planning in North Dakota must begin with the IEP that comes before a student turns 16 years of age, or earlier, if determined necessary by the IEP team.

34 CFR §300.320(b) Transition services.
Beginning no later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include- (1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals.

Transition services are defined in the regulations as follows:

34 CFR §300.43 Transition services.
(a)Transition services means a coordinated set of activities for a child with a disability that- (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests, and includes- (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. (b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

When transition planning is added to the IEP for a student with a SLD, it becomes the driving force in the development of the overall IEP. The IEP team should include information regarding a student's preferences, interests, and measurable postsecondary goals in the PLAAFP. Also noted should be the results of an age-appropriate transition assessment, on which the measurable postsecondary goals are based. Measurable postsecondary goals are required in the areas of education/training, and employment. A measurable postsecondary goal in the area of independent living skills is optional based upon the student's individual needs. Measurable postsecondary goals represent results-oriented outcomes from the IEP process and reflect the student's vision and goals for life after high school.

Transition planning is driven by the following:

- The transition IEP represents and supports the vision of the student and the student's family.
- Transition drives the IEP process to prepare the student for life after high school.
- Transition is an ongoing and results-oriented process that includes commitment of resources, collaboration between people and agencies, and decision making to develop an IEP for the student.
- Transition allows the entire community, especially the family, school, and adult service agencies, to share responsibility in the transition of the student.
- Transition planning promotes relevant, ongoing, results-oriented instructional experiences in the LRE, including community-based experiences.

Keys to successful transition include:

- Early planning and involvement;
- Continuous assessment to analyze strengths, interests, needs, and goals;
- Student participation in IEP meetings;
- Knowledge of self and disability;
- Academic infusion into the community;
- Networking with agency and community personnel; and
- Creative planning.

More detailed information on the transition planning process and additional transition resources can be found on the NDDPI website.

8. Placement in the Least Restrictive Environment

The actual decision on where services will be provided will be the last consideration by the IEP team. Specifics about placement of the eligible student in the LRE are discussed in the next section of these guidelines.

Placement in the Least Restrictive Environment: LRE

From its inception in 1975, IDEA has required that all students with disabilities be educated in the least restrictive environment (LRE)—i.e., students with disabilities, including preschool-aged students, must be educated with students who are nondisabled to the maximum extent appropriate. The requirements, found in 34 CFR §300.114(a) and North Dakota Administrative Rule 67-23-01-01(3), are known as the "LRE Mandate."

34 CFR §300.114(a) LRE Mandate
Each school district or public agency must ensure that: 1. To the maximum extent appropriate, children with disabilities—including children in public and private institutions or other care facilities—are educated with children who are nondisabled; and 2. Special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only if the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

To accomplish the requirements of the LRE Mandate, each school district or public agency must provide a continuum of alternative placements to meet the needs of students with disabilities. LRE is considered to be the most inclusive point on the continuum where the IEP of a student with a SLD can be satisfactorily implemented with the provision of supplementary aids and services.

34 CFR§ 300.115 Continuum of alternative placements.
(a) Each public agency shall ensure that a continuum of alternative placements is available for special education and related services. (b) The continuum required in this paragraph (a) of this section must- 1. Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and 2. Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

The Placement Determination

As indicated in the previous section discussing IEP development, placement in the LRE is the final decision in a series of decisions that take place during the IEP meeting. It comes after the team has developed goals and objectives and has identified what instructional accommodations and modifications are required to maximize the student's inclusion with his/her nondisabled peers.

It is very important for the IEP team to keep in mind that ***special education is not a place,*** but rather a set of services (and the type of environment/location for those services) that will allow the student to progress in the general education curriculum.

Note: Placement decisions cannot be based on:

- Category of disability;
- Severity of disability;
- Language and communication needs;
- Needed modifications to the curriculum;
- Configuration of the school's service delivery system;
- Availability of space or educational and related services; and
- Administrative convenience.

(Placement in the LRE, NM PED, 2003)

Consideration of LRE always begins with the general education classroom, and the IEP team should consider the following factors.

1. **Decide whether the student can be educated satisfactorily in the general education classroom with one or more of the following**:

    - Supplementary aids and services/supports;
    - Program and/or curriculum accommodations/modifications;
    - Provision of an itinerant special education provider;
    - Assistance from a paraeducator;
    - Special training for the general education teacher(s);
    - Assistive technology; and
    - The development and implementation of a functional behavior assessment (FBA) and behavior intervention plan (BIP), if necessary, to meet challenging classroom behaviors.

2. **Compare the benefits provided in the general education classroom with those that would be available in a special education classroom or segregated setting.**

    - Consider the student's social and communication skills, as well as academic benefits.
    - Compare the relative benefits to the student's needs.
    - Keep in mind that placement in the general education classroom does not depend on the student's ability to learn things in the same way as his/her general education peers.

3. **Consider the potentially beneficial or harmful effect that placement in the general education classroom may have on the student with a SLD or other students in the class.**

    - Positive benefits may include opportunities for social interaction with nondisabled peers, appropriate peer models, high expectations, and acceptance by other students.
    - Harmful effects for the student with a SLD may include a lack of appropriate, specialized instruction on specific skill gaps that cannot be delivered in the general education setting.

The LRE Justification

The final step in the placement process requires that the IEP team justify the individual placement. If there is a reasonable likelihood that the student with a SLD can be educated in the general education classroom with appropriate supplementary aids and services, then that placement should be utilized to the maximum extent appropriate.

Whenever the IEP team determines that the student should receive all or part of his/her special education services outside of the general education setting, it must also consider opportunities for the student to participate in the general education program for academic, nonacademic, and/or extracurricular activities to the maximum extent appropriate.

Should the IEP team determine that the student's IEP cannot be implemented satisfactorily in the general education classroom, even with the provision of supplementary aids and services, it must "justify" the student's removal from the general education setting. This justification should note the efforts made to support the student in general education (interventions, supports, etc.) that were not successful. Once the IEP team has identified what aids and services were provided to the student, including earlier interventions without satisfactory outcomes, then the team members have justified their decision regarding a continuum of alternative placements as close to the general education classroom as possible.

Finally, the IEP team's placement decision should occur in the same school the student would attend if not identified as a student with a SLD. Only when the implementation of the IEP requires special arrangements—which are unable to be made at the neighborhood school—should other settings be considered. If an alternate setting is agreed upon, the student with a SLD must be afforded opportunities to participate in nonacademic and extracurricular activities with his/her nondisabled peers in the general education program.

Evidence-Based Intervention and Instructional Strategies

Evidence-based practices have been defined by researchers as "strategies, processes, and curricula for which information exists to support adoption and sustained use" (VA DOE, 2011). For a strategy or practice to be evidence-based, it must be evaluated using scientifically-based research.

Evidence-based practices typically involve the use of data-based decision making to monitor progress on the effectiveness of the practice on student outcomes. Teachers of students with SLD, who may also play a role in the design of interventions in a MTSS model, must be knowledgeable about such instructional practices.

The practices that follow are current, promising practices in the area of evidence-based instruction. New evidence-based practices are emerging from the research. Reference in these guidelines to any specific strategy, curriculum or website is for information and convenience of the reader and does not constitute endorsement, recommendation or favoring by the NDDPI.

Reading Strategies

The majority of students found to be eligible as a student with a SLD will experience challenges with the reading process. Learning to read is one of the most significant achievements for all students and often stigmatizes students with a SLD.

The National Reading Panel (2000) identified five areas critical to effective reading instruction and the development of literacy skills. They include:

- Phonemic awareness- the ability to hear, identify, and manipulate individual sounds (phonemes) in spoken words;
- Phonics- methodology for teaching reading and writing through developing phonemic awareness (letter-sound correspondence), enabling beginning readers to decode words;
- Fluency- the ability to read quickly, smoothly, and with expression in a way that replicates spoken language;
- Vocabulary- the understanding of word meaning necessary for communication (listening, speaking, reading, and writing); and
- Text comprehension- reading, processing, connecting to what the reader already knows and understanding meaning.

The Importance of Systematic and Explicit Instruction

Explicit instruction is systematic, direct, engaging, and success-oriented (Archer & Hughes, 2011). Explicit instruction can be summed up in the phrase, "I do it; we do it; you do it". It has been validated in the research involving both general and special education students. Effective instruction is fundamentally explicit instruction.

With regard to reading, explicit instruction finds teachers: (VA DOE, 2011)

- Telling students specifically what strategies they will be learning;
- Telling students why it is important to learn the strategies;
- Modeling the use of strategies by thinking aloud with a text;
- Providing guided practice with feedback allowing students to have practice using the strategies;
- Providing for independent practice using the strategies;
- Discussing with students when and where they should apply the strategies during their reading; and
- Sharing with the students, the importance of having the will to use a strategy, along with the skill (Kamil, et al., 2008).

For more information on explicit instruction, see *Explicit Instruction: Effective and Efficient Teaching*, Archer and Hughes, 2011.

Basic Reading Skills

Phonological processing skills (decoding and word recognition) may be a primary area of deficit among struggling readers, and can be improved with direct, explicit instruction (Lyon, Shaywitz, & Shaywitz, 2003).

What follows is an example of an instructional sequence for intervention in phonological awareness training: (VA DOE, 2011)

1. Rhyming tasks;
2. Syllable identification tasks;
3. Segmenting and blending; and
4. Phoneme manipulation (e.g., adding or deleting sounds, such as in spit and split).

Students must also have knowledge of letter-sound correspondence (phonics), which is very important in learning to read and spell in alphabetic languages. While research has yet to identify the "best" phonics instructional program, there are a number of recommendations based on evidence (Berninger & Wolf, 2009; O'Connors, 2007):

- Avoid alphabetical order and separate the most confusable pairs (e.g., b and d);
- Teach the short vowel sounds first before long vowels to reduce confusion and demonstrate the rule based nature of long vowels (e.g., sit- site – sight);
- Start teaching letter sounds as soon as possible;
- Teach students to blend letter sounds to decode words; and
- Use the following sequence organized by the level of difficulty in teaching decoding: CVC (cat), CVCC (hand), CCVC (clap), CCVCC (craft) CCCVC (splat).

An example of a sequence of instruction is to move from:

1. Simple, short vowel words, to phonograms (a speech sound or syllable); to
2. Dipthongs (two vowels = one new sound e.g., oi in coin, ou in loud); to
3. Vowel diagraphs (two vowels = sound corresponds to one vowel in the letter combination, e.g., ai in rain, oa in boat); to
4. Two consonant digraphs (such as th, and ch); to
5. Two syllable words with two consonants in the middle (kitten, button); and
6. Two syllable words with one consonant in the middle (water, seven).

Practice with decoding should move from working on the previously listed examples to decoding lists of words with similarities and finally to text, allowing students to work on transferring these skills learned.

Reading Fluency

Students with SLD may struggle with reading fluency, which is the ability to recognize most words in a text automatically, and read with accuracy, and with appropriate expression (i.e., intonation, stress, pauses). When fluency is impacted, the student reads more slowly, and

expends effort on decoding of words. Comprehension is generally impacted by struggles with reading fluency, as the student places more effort on the decoding of words rather than on word meanings and the ability to draw conclusions from the text.

Fluency is the bridge between word recognition and comprehension; as a student spends less cognitive energy on decoding text, they are able to focus more on the meaning of text.

Fluency is measured as the rate of words read correctly per minute (e.g., 150 words per minute). Frequent progress monitoring is a critical component to fluency instruction; providing the teacher with feedback on instructional strategies, and the student with motivation as they observe gains in the number of words read correctly per minute.

Berninger & Wolf, (2009) found the most effective method for increasing reading fluency to be repeated readings. Evidence-based strategies for fluency include:

- Repeated readings of the same passage- Repeated readings may be timed to monitor fluency development, and utilize same or other familiar instructional texts.
- Vocabulary instruction- Focusing on words that are useful to know and likely to appear in a wide variety of contexts.
- Choral reading- Reading aloud with a group of students or an entire class. Choral reading helps build self-confidence and motivates students who may be self-conscious about reading aloud as it has support built in.
- Paired or Partner Reading- Students read aloud to one another, in pairs, where a more fluent reader is paired with a less fluent reader. Fluent reading is modeled for the less fluent reader in a non-threatening setting.
- Audio-Assisted Reading- May be utilized as an individual or group activity, where students read along as they hear a fluent reader reading a book or passage.
- Reader's Theatre- This strategy involves students reading parts in scripts. Parts are read multiple times (repeated reading) developing fluency and expression in the process.

Reading Comprehension

Comprehension has been defined as "intentional thinking during which meaning is constructed through interactions between the text and the reader (Harris & Hodges, 1995). It is the purpose for reading. To comprehend text efficiently requires prior knowledge and a reader's connection with the text.

Comprehension is enhanced when readers relate the ideas they find in print to their own knowledge and experience, allowing them to construct mental representations in memory. It is a complex process that involves a range of language and cognitive processes, along with skills. Comprehension skills can be improved through the explicit instruction of skills and cognitive strategies. Fluent readers may acquire these skills naturally, but explicit instruction in the application of comprehension strategies has been shown to be effective in enhancing understanding. The explicit instruction generally finds the teacher demonstrating/modeling the use of strategies for students, eventually leading to independent use by the students.

The following have been determined to be scientifically-based strategies for improving reading comprehension: (VA DOE, 2011)

- **Direct Instruction of Background Knowledge**- Activating students' prior knowledge assists with making connections between what he/she already knows and what he/she is reading. Previewing headings and key concepts in the text guides the student in making these connections.

- **Graphic Organizers**- Visual and spatial displays are considered to be types of graphic organizers that assist with the teaching and learning of key concepts. Students can create an organized schema that assists with connecting their prior knowledge to a text. They include such things as semantic and concept maps, Venn diagrams, and story maps.

    - Concept Maps- used to represent concepts or lines that show the semantic relationship of concepts.
    - Venn Diagrams- are helpful in understanding independent and interrelated aspects of concepts. They are widely used for comparing and contrasting; an important comprehension skill. Differences are recorded in outer circles, while similarities are found in sections that overlap.
    - Story Mapping- a graphic organizer that represents story headings and helps students to understand the "who, what, when, where, and why" of a story.

- **Text Structure**- There are a number of common text structures used in textbooks. Guiding students through recognition of how a text is organized will aid in their ability to comprehend and retrieve information. Some common structures include:

    - Comparing and Contrasting- examines similarities and differences between people, events, concepts, and ideas.
    - Cause-Effect- presents the causal relationship between a specific event, idea, or concept, and the events, concepts and ideas that follow.
    - Sequence- this structure provides a chronological listing of events or steps in a procedure.
    - Problem-Solution- identifies a problem, explains the solution, and then discusses the effects of the solution.
    - Descriptive- features detailed descriptions to allow a reader to develop a mental picture.
    - Question/Answer- starts by posing a question and then moves on to provide and discuss an answer.

    (Excerpted from the WVDE Strategy Bank- Text Structure)

- **Finding the Main Idea**- Main idea is the "gist" of the text; the central point the author is looking to make with the reader. When able to identify the main idea, students are more likely to be able to draw inferences, be critical readers, summarize what they have read, and have better recall (Watson et al., 2012). One evidence-based strategy for developing the skill of recognizing the main idea of text is the

Paraphrasing Strategy (Deshler, Shumaker, & Denton, 1994). In this strategy, students are required to use their own words to translate the main idea.

More information on the *Strategic Instruction Model* (SIM) is available on the University of Kansas Strategic Instruction Model website.

- **Summarization-** This refers to the ability of the students to tell what a text is about in a concise way. Summarization includes making inferences and synthesizing information. Summarization is the ability to restate the main points of what has been read.

The National Institute for Literacy (2007) identifies four steps in a summarizing strategy:

1. Identify and/or formulate main ideas;
2. Connect the main ideas;
3. Identify and delete redundancies; and
4. Restate the main ideas and connection using different words.

Additional strategies to address the development of reading comprehension skills include:

- **Question-Answer Relationship (QAR),** (Raphael, 1986)
  This strategy helps students understand the different types of questions that they may encounter in a text, such as:

  - Right There Questions- Literal questions whose answers can be found in the text, often using the same words as in the question.
  - Think and Search Questions- Answers are gathered from several parts of the text and assembled.
  - Author and You Questions- Based on information provided in the text, it requires the reader to relate it to their own experience. The answer may not be directly from the text, but requires students to read the text to be able to answer the question.
  - On My Own Questions- Do not require that the student reads a passage of text; however, they must use background knowledge to answer a question.

  More information on this strategy is available on the *Reading Rockets* website.

- **Self-Questioning Strategy** (Shumaker, Deshler, Nolan, & Alley, 1994)
  This strategy teaches students to stop and question themselves before, during and after reading. Students are taught to ask seven types of questions, including who, what, when, where, why, which, and how.

  More information on this strategy is available on the *Strategic Instruction Manual* website.

- **Reciprocal Teaching** (Palinscar & Brown, 1984)

This strategy involves teaching students four important skills: summarizing, questioning, predicting, and clarifying. Reciprocal Teaching is an instructional activity where students are placed into small groups. Teachers model the strategies (summarizing, questioning, predicting, and clarifying), and once students have gained experience with the strategies, they take turns assuming the role of the teacher in small group dialogue about what they have read.

More information on this strategy is available on the *Reading Rockets* website.

- **Collaborative Strategic Reading (CSR**) (Vaughn & Bos, 2012)
  A multi-component strategy where students learn how to use four separate strategies:

  - Previewing (brainstorming and predicting);
  - Click and Clunk (i.e., comprehension monitoring and clarifying);
  - Getting the Gist (i.e., summarization); and
  - Wrap-Up (i.e., self-questioning and summarization).

Topical Resources: Reading Instruction

- **Read Naturally**

  Read Naturally has research-based reading interventions and programs for use in schools to support students who are struggling to read. In addition to information on their products and service, the website offers information on reading research.

- **Six Minute Solutions**

  Six Minute Solutions is a reading fluency program available through Voyage Sopris Learning.

- **ReadingVine**

  A website that provides access to free materials for use by educators and families. The site offers a variety of resources for use with students of all ages with resources devoted to personalized learning, grade levels, and specific reading skills.

Math Strategies

Students may be identified as SLD in mathematics in Math Calculation (Computation) and/or Math Problem Solving.

The National Council of Teachers of Mathematics have identified instructional strategies that are effective in helping students who have difficulties in math. They include:

- The use of structured, peer-assisted learning activities;
- Systematic and explicit instruction using visual representations;
- Modifying instruction based on data from formative assessment of students (such as quizzes, etc.);
- Providing opportunities for students to think aloud while they work.

What follows are some evidence-based strategies for explicit instruction in math.

Concrete-Representational-Abstract (CRA)
This strategy can be useful in teaching almost all topics in mathematics. It involves students moving from concrete (hands on materials, manipulatives) for modeling and solving math problems, to the representational phase (transform the concrete model to a representational phase using pictures, drawings, etc.), to the abstract level, where symbols (numbers, etc.) represent the numerical concepts.

- Concrete- The teacher begins instruction by modeling each math concept by using concrete materials (e.g., colored chips, unifix cubes, pattern blocks, fraction bars, etc.). Students then manipulate the concrete objects to model the math skill/concept being learned.
- Representational- The teacher then transforms the concrete model into a representation (semi-concrete), which may involve drawing pictures, using circles, dots, or tallies; using stamps to imprint pictures for counting. Students draw pictures to represent what they constructed in the concrete phase.
- Abstract- The teacher models the concept at a symbolic level, using only numbers, notation, and mathematical symbols to represent the problem from concrete and representational phases. Symbols are now used to indicate operations, such as addition, subtraction, multiplication, and division.

Students may not have to progress through the concrete and representational phases to get to the abstract phase of understanding, but may work at any of these phases simultaneously. During instruction at the concrete and representational levels, teachers should include symbols to make the connection with those phases.

More information on this strategy is available on the EBI Network Mathematics and the University of Kansas Center for Research on Learning websites.

Touch Math

This strategy utilizes a multisensory approach to learning computational skills that involve students counting "touch points" on numbers that when counted, correspond to the number value. For numbers beyond five, students are taught to "double touch" some points, which are represented differently. *Touch math* also includes strategies for calculations.

For more on this strategy, visit the *Touch Math* website.

One-Minute Probes

Students with SLD can enhance their automaticity with basic math calculations doing one-minute probes. The probes are sheets containing problems of the same skill level, and the student does as many as they can in the allotted time.

More information on this strategy is available on the *Intervention Central* website.

Math Problem Solving

The following examples include cognitive strategies for teaching students how to solve word problems.

RIDE (Mercer, Mercer, & Pullen, 2011)

The *RIDE* strategy assists students who struggle with solving word problems. The steps of the strategy are taught through demonstration and many opportunities for practice, prior to expecting students to use the strategy independently.

Visually displaying the steps in the strategy will serve as a reminder to students:

- R- Remember the problem correctly;
- I- Identify the relevant information;
- D- Determine the operations and unit for expressing the answer; and
- E- Enter the correct numbers, calculate and check the answer.

Fast Draw (Harris, Miller,& Mercer, 1995)

Fast Draw may be used as a strategy to assist students with solving word problems. Steps in the sequence should be explicitly taught, prior to students using it independently. The visual display of the Fast Draw strategy includes:

- F- Find what you are solving for.
- A- Ask yourself, "What are the parts of the problem"?
- S- Set up the numbers.
- T- Tie down the sign.
- D- Discover the sign.

- R- Read the problem.
- A- Answer, or draw and check.
- W- Write the answer.

TINS Strategy (Owens, 2003)

The *TINS strategy* involves different steps for analyzing and solving word problems. The visual includes the following:

T- Thought	Think about what you need to do to solve this problem and circle the key words.
I- Information	Circle and write the information needed to solve this problem; draw a picture; cross out unneeded information.
N- Number Sequence	Write a number sentence to represent the problem.
S- Solution	Write a solution sentence that explains your answer.

Topical Resources: Math Instruction

- **LD Online**

  LD Online maintains resources and recommended links for learning disabilities in the area of mathematics and dyscalculia.

- **LD@School**

  This website, like the previous, maintains a wealth of resources on the education of students with learning disabilities. The link below provides information on *LDs in Mathematics: Evidence-Based Interventions, Strategies and Resources,* which provides links to literature and resources on a number of math topics.

- **Center on Instruction**

  The Center on Instruction provides a guide for teachers entitled *Mathematics Instruction for Students with Learning Disabilities or Difficulty Learning Mathematics.* The guide provides information on seven effective instructional practices for teaching math, K-12 to students with SLD.

Written Expression Strategies

Students with SLD who qualify in the area of written expression may need specialized instruction in one or more of the following areas. They include:

- Written Expression
- Spelling
- Handwriting

These skills are interconnected. A student may exhibit difficulties, however, in only one of these areas.

While challenges with spelling and handwriting may impact a student's ability to perform in the area of written expression, deficits in these areas are not qualifying criteria for SLD.

Written Expression

Writing is another complex task that may prove very challenging for the student with a SLD. It requires the use of several cognitive processes (planning, organizing, working memory) as well as the necessary skills of reading, spelling, vocabulary and the use of syntax. Once again, explicit instruction in composition will be necessary for the student with a SLD.

The following strategies may prove beneficial in teaching writing:

Sentence Writing Strategy

Writing complete sentences is a prerequisite to composing stories or reports. The *Sentence Writing Strategy* uses specific formulas for writing four types of sentences: simple, compound, complex, and compound-complex.

More information on this and other strategies that are part of the *Strategic Instruction Model* (SIM) is available on the University of Kansas website.

Sentence-Combining Strategy

This strategy provides students with practice in manipulating and rewriting simple sentences. Students are provided with sentences, such as:

The ice cream was delicious.
The ice cream was vanilla.
The combined sentence would read: The vanilla ice cream was delicious.

The girl fell off the chair.
She lost her balance.
The combined sentence would be: The girl fell off the chair because she lost her balance.

Use this strategy to help students develop more complex sentences in their writing.

The Self-Regulated Strategy Development Model (SRSD)

SRSD is considered a cognitive writing model designed to improve the cognitive skills of students (Graham & Harris, 2005). As with other strategies include in these guidelines, SRSD involves explicit instruction regarding planning and revising strategies, as well as procedures to regulate the use of the strategies. Teachers will discuss and model the strategies when instructing students. Ultimately, students will memorize the strategies, utilizing mnemonics as an aid. Student should engage in practice with the teacher before moving onto independent use of the strategies.

More information on SRSD and other strategies for written expression is available on the *IRIS Center* and *CEEDAR Center* websites.

COPS Strategy

The *COPS strategy* focuses on editing and improving student writing. COPS is a mnemonic for:

- Capitalization- Focus on proper capitalization during the first read.
- Overall- On the second read, focus on making sure of readability, does it make sense?
- Punctuation- On the third read through, focus on making sure punctuation is correct.
- Spelling- On the final read through, look for any spelling mistakes.

More information on this strategy is available on the *LD@School* and the *Reading Rockets* websites.

Effective Strategies for Adolescent Writing

A report published by the Carnegie Corporation, *Writing Next* (2007) identifies effective strategies to improve the writing of adolescent students. The report identifies recommendations supported in the research and includes:

- Writing strategies- Actively teaching students strategies for planning, revising and editing compositions.
- Summarization- Explicit, systematic instruction on summarizing texts.
- Collaborative writing- The use of instructional arrangements where students work together to plan, draft, revise and edit compositions.
- Specific product goals- Assigning students specific, achievable goals for their writing tasks.
- Word processing- The use of computer technology as an instructional support for writing.
- Sentence combining- Involves teaching students to construct more complex, sophisticated sentences.
- Prewriting- Engages students in activities to help them generate or organize ideas prior to writing.

- Inquiry activities- Engages students in analyzing concrete data to develop ideas for a writing assignment.
- Process writing approach- Weaves a number of writing instructional activities into a workshop environment, stressing extending writing opportunities, writing for audiences, personalized instruction, and cycles of writing.
- Study of models- Stresses providing students with the opportunity to read, analyze, and emulate good models of writing.
- Writing for content learning- Focuses on the use of writing as a tool for learning content.

Spelling

Graham and Herbert (2010) found that teaching spelling had a strong effect on reading fluency among students in grades one through seven. Proficiency in spelling has been found to support reading (Moats, 2005). Given the complexity of the English writing system, this can be a very difficult task for some students who may struggle to read. When spelling and reading instruction are integrated (decoding and encoding), it leads to significant gains in phonemic awareness, word, reading, spelling, fluency, and comprehension (Weiser & Mathis, 2011).

The following are examples of strategies for teaching spelling:

The Five-Step Word Study Strategy

Students must learn and rehearse the steps of this strategy following explicit instruction by the teacher. The steps include:

1. Say the word.
2. Write and say the word.
3. Check the word.
4. Trace and say the word.
5. Write the word from memory and check.

Gillingham and Stillman Approach

A multisensory approach that utilizes these procedures:

1. Echo speech: The teacher says the word very slowly and distinctly and students repeat the word after the teacher.
2. Oral spelling: Students are asked what sound is heard first, and continues through the other letters of the word.
3. Written spelling: Students are asked to locate a letter card that corresponds to the first letter/sound in the word, and then write the letter. They continue to find letters, placing them in correct order sequence to spell the word.

Word Study

Word study is a comprehensive approach to spelling that addresses word recognition, vocabulary, and phonics, as well as spelling (Zutell, 1992). It provides students with the opportunity to investigate and understand patterns in words. Knowledge of the patterns helps students spell other words.

For example, to examine the difference between the hard /c/ sound as in "cat" and the soft /c/ sound, as in "cell", students would compile a list of words that begin with the letter /c/. Then students would examine what letter comes after the /c/, discovering that the hard /c/ sound is usually followed by consonants, (as in clue or crayon), and the vowels /a/, /o/, and /u/ (as in cat, cot, cut). In contrast, the soft /c/ sound is usually followed by an /i/, /e/, or /y/ as in the words circus, celery, or cycle.

While exceptions exist to the rules, students learn patterns and the patterns help them with spelling, reading, and writing words.

More information on this strategy is available on the *Reading Rockets* website.

Handwriting

Vander Hart, et al. (2010) identified eight of the most effective handwriting instructional practices from a review of the research. They include:

- Frequent/daily lessons.
- Direct and explicit instruction- Teacher instructs students on how to form letters in a specific order so that similarities and differences are observed.
- Modeling- The teacher demonstrates proper pencil grip, paper position and letter formation.
- Guided Practice- Students trace, copy, use visual cues to learn how to form letters, then work to produce them from memory.
- Use of Feedback- Teacher encourages students to correct/rewrite poorly formed letters and praises them for correctly formed letters, while monitoring students during the process of writing.
- Independent Practice- Students should be given many opportunities for practicing and reviewing handwriting. Self-evaluation is an effective strategy.
- Integrated Lessons- Teacher incorporates an integrated method of teaching letter names and letter formation. Teaching handwriting in the context of writing task helps with fluency and legibility.
- Writing Materials- It is recommend that several kinds of paper and writing utensils be available when first learning to handwrite. Offer students choices.

Handwriting may be a real struggle for the student with a SLD. Automaticity in handwriting is the single best predictor of fluency and length of written expression in younger students (Graham, Harris, & Fink, 2000). It is an important skill and is linked to the development of reading skills.

Social Skills and Behavior Supports

Students with SLD may demonstrate social skill deficits, as well as behavior challenges related to their academic struggles. Processing deficits and self-esteem issues may impact social interactions, both in and out of the classroom.

Where possible, a MTSS system, which includes the use of Positive Behavior Interventions and Supports (PBIS) that provides school-wide as well as individual supports, may be very helpful to address individual student needs. When behavior impacts learning, it should be addressed in the student's IEP.

Depending on the nature of the behavioral challenge, it may be necessary to conduct a functional behavior assessment (FBA) leading to the development of a behavior intervention plan (BIP) for an individual student.

More information on NDMTSS and PBIS is available on the NDDPI website.

The NDDPI document, *Guidelines for Serving Students with Emotional Disturbance in Educational Settings,* provides a more in-depth discussion and resources on the FBA-BIP process. It is available on the NDDPI website.

Social Skills Interventions

A number of effective social skills training programs are available that may be beneficial for addressing deficits in these important skills. Examples include:

- **Skillstreaming** (McGinnis & Goldstein, 1997) - Employs a four part training approach that includes modeling, role-playing, performance feedback, and generalization to teach prosocial skills to children and adolescents.

- **I Can Problem Solve** (Shure, 2001) - A school-based program that focuses on enhancing the interpersonal cognitive processes and problem solving skills of students, aged 4-12.

- **FAST** (McIntosh, Vaughn, & Bennerson, (1995) - A strategy that prompts students to:

    - F- Freeze and think about the problem.
    - A- Alternatives to resolve the problem.
    - S- Solution; choose the best alternative to resolve the problem.
    - T- Try it!

More information on PBIS as well as social skills interventions is available on the PBIS website.

Prevent-Teach-Reinforce (PTR)

PTR is a model of behavior support that utilizes a team-based, systematic, structured process for supporting students with challenging behaviors that have not been resolved through classroom and school-based management strategies. PTR is a team-based functional behavior assessment (FBA) process that involves five steps:

1. Teaming
2. Goal setting
3. Assessment
4. Intervention
5. Evaluation

More information on this strategy available on the NDDPI website.

Nurtured Heart Approach

The *Nurtured Heart Approach* is a set of relationship-focused methodologies developed for working with the most difficult children. The approach focuses on inner strength in children, an essential part of the ability to build successful relationships. A key aspect of the approach is to help challenging students use their intensity successfully.

More information on this strategy is available on the *Children's Success Foundation* website.

Zones of Regulation

The *Zones of Regulation* is a curriculum that assists students in gaining skills to consciously regulate their own behavior, which leads to greater control and enhanced problem solving skills. The curriculum teaches students to recognize when they are in different "zones", and explores skills and strategies to stay in a zone, or move to another. Strategies include but are not limited to, calming techniques, cognitive strategies, and sensory supports.

More information on this strategy is available on the *Zones of Regulation* website.

Additional Resources: Evidence Based Strategies

Evidence Based Intervention Network- University of Missouri

Website dedicated to providing guidance on the selection and implementation of evidence-based interventions for classroom settings. Includes information on reading, math, behavior, assessment, RTI and ELL.

More information on this strategy is available on the University of Missouri website.

Best Evidence Encyclopedia- Johns Hopkins University, School of Education

Created by the Johns Hopkins University School of Education's Center for Data-Driven Reform in Education (CDDRE), with funding from the U.S. Department of Education, Institute of Education Sciences. The site provides summaries of scientific reviews regarding programs available for students, K-12.

More information on this strategy is available on the *Best Evidence Encyclopedia* website.

What Works Clearinghouse- Institute of Education Sciences, USDOE

The *What Works Clearinghouse* reviews research on existing programs, products and practices to provide educators with the information necessary to make evidence-based decisions. The site provides information on a wide variety of topics, including math and reading instruction, and behavior.

More information on this strategy is available on the *Institute of Education Sciences* website.

Evidence-Based Practices in Instruction- *IDEAs that Work*

The US Department of Education maintains this site and is dedicated to providing information to teachers on selecting and implementing evidence-based practices. It includes multiple links, including the *IRIS Center* at Vanderbilt University, which offers an evidence-based module series.

More information is available on *IDEAs that Work* and the *IRIS Center* websites.

Resources for Educators, Administrators and Families

This section of the guidelines provides educators and families with examples of sources of information.

North Dakota Resources

- **North Dakota Department of Public Instruction (NDDPI)**

  The NDDPI maintains excellent technical assistance resources on its website that provide guidance for serving students with disabilities, including such topics as *Laws, Regulations and Guidance; Secondary Transition; and Tips for Writing Standards Based IEP Goals*. North Dakota educators are encouraged to become familiar with the available resources.

- **North Dakota Multi-Tier System of Supports (NDMTSS)**

  A project of the North Dakota Department of Public Instruction, the NDMTSS supports schools throughout the state with training and technical assistance to promote implementation of Response to Intervention, Positive Behavior Intervention and Supports, and Multi-Tier System of Supports.

- **North Dakota Department of Human Services (NDDHS)**

  The NDDHS provides a number of services for educators and families of students with disabilities. The Division of Vocational Rehabilitation provides assistance to eligible students for training and employment and successful transition to life beyond high school.

- **The North Dakota Statewide Longitudinal Data System (SLDS)**

  The North Dakota Statewide Longitudinal Data System is a series of secured data warehouses of historical educational and workforce data, as well as information on the State's institutions of higher education. The SLDS provides support to school districts looking to use data to drive instruction and employ best practices in instruction.

- **North Dakota *KIDS COUNT***

  The North Dakota *KIDS COUNT* project promotes the well-being of children around the state. Sponsored by the Annie E. Casey Foundation, the *KIDS COUNT* program addresses a wide variety of topics, including resources on early care and education, economic well-being, and family and community.

- ***ASPIRE* North Dakota**

  North Dakota is a member of a six state consortium known as *ASPIRE* (Achieving Success by Promotion Readiness for Education and Employment). A project of the Office of Special Education Programs (OSEP), *ASPIRE* strives to promote the independence of youth with disabilities in North Dakota in transitioning to work and advancing in their educational opportunities.

National Resources and Organizations

- **National Center for Learning Disabilities (NCLD)**

  The NCLD exists to improve the lives of the one in five students nationally impacted by learning and attention issues. The website maintains a wealth of resources for parents, young adults, professionals, and educators, including the *RTI Action Network*, a resource guide for educators in the effective implementation of RTI/MTSS.

- **Learning Disabilities Association of America (LDA)**

  The LDA provides resources and support for families and educators to improve the lives and achievement of students with specific learning disabilities. Interested persons can find information on SLD topics such as auditory processing disorder, language processing disorder, dyslexia, as well as non-verbal learning disabilities, and many others.

- **Council for Exception Children (CEC), Division for Learning Disabilities**

  The *CEC Division for Learning Disabilities* provides educators and families with significant resources on a range of SLD topics, including strategies for teaching students with learning disabilities and types of interventions.

- **Teaching LD**

  The *Council for Exceptional Children* has a professional organization dedicated to the education of students with learning disabilities. Their website provides information and resources on teaching students with learning disabilities. Memberships in the organization are available.

- **Institute of Education Sciences (IES)**

  Maintained by the US Department of Education, the website of the IES is the statistics, research, and evaluation arm of the US Department of Education. The site offers a variety of resources for educators, parents, and policy makers.

- **National Center on Intensive Intervention (NCII)**

  Maintained at the *American Institutes for Research*, the NCII website provides access to information on a variety of academic, behavioral and other intervention topics.

- **Center for Parent Information and Resources (CPIR)**

  CPIR serves a central resource of information and products to the community of Parent Training and Information Centers (PTI), providing information for families and educators on a range of special education topics.

List of Appendices

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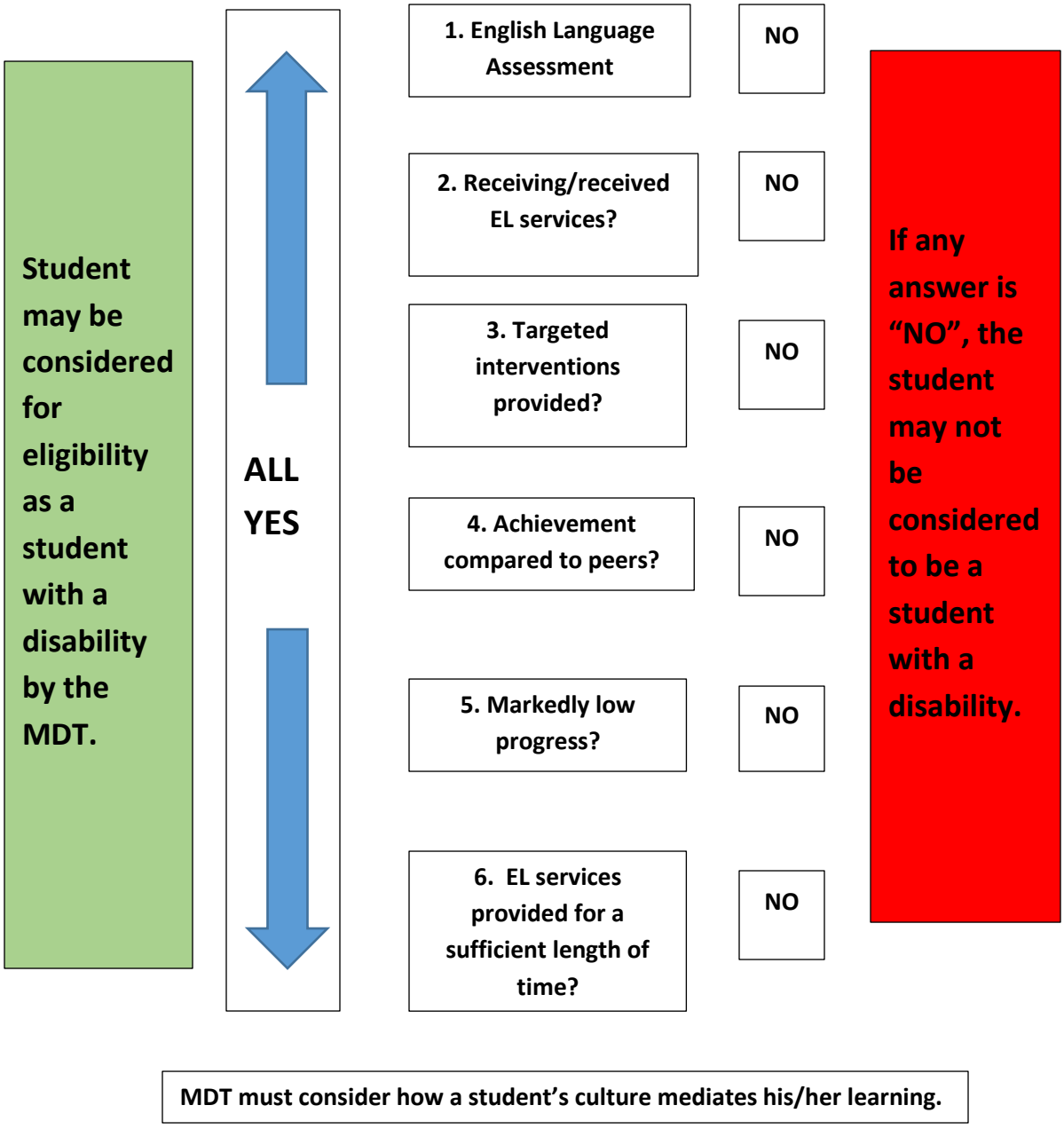
Appendix A-Similarities & Differences in Eligibility Determination of Discrepancy and RTI within a Multi-Tiered System of Supports

Component	Discrepancy Model	RTI within a MTSS
SLD Eligibility Criteria	Focuses on the existence of a discrepancy between ability and achievement and consideration of SLD exclusionary factors.	Examines whether a significant difference exists in performance when compared to peers, low rate of progress even with evidence-based interventions implemented with fidelity, special education need, and consideration of SLD exclusionary factors.
Type of Tests Used	Global- ability and achievement tests; usually published.	Specific- generally direct measures of specific skills needed for success in the classroom; may be published or unpublished.
Comparison Standards	Typically national norms.	Typically regional, district, school or classroom standards; nationally normed tests used sparingly.
Frequency of Assessment	Typically administered in one or two sittings with the student.	Functional academic and/or behavioral data collected over time.
Nature of Assessment Targets	Presumed hypothetical constructs that have indirect or general relationships with classroom academic or behavioral problems (e.g., IQ, visual-motor processing, psychological processing, IQ-achievement discrepancy); assessment targets most often intrinsic to the individual student.	Very specific skills are measured (e.g., phonemic awareness, reading fluency, monitoring meaning while reading, math computation); assessment targets most often related to what a student does (skills and performance).
Relationship of Assessments to the General Curriculum	Usually minimal.	Direct relationship to curriculum.
Relationship between Eligibility Assessments and Intervention	Often little demonstrable relationship between assessments and effective interventions.	Usually a direct link between assessed performance and instructional interventions.
Use of Information by Parents and Teachers	Typically supplemental to the eligibility decision.	Typically central to the eligibility decision.

Excerpted from: *Response to Intervention: Policy Considerations and Implementation*, NASDSE, 2005.

Appendix B- Flow Chart for Considering English Proficiency



Adapted from SLD Guidelines/Colorado Department of Education, 2008

Appendix C-Considerations for English Learners within an RTI/MTSS System

Introduction

With regard to English Learners (ELs), when implementing the data collection requirements and procedures discussed below, it is important that data be collected and analyzed in several areas that impact academic achievement, language, and literacy development of ELs, as well as their response to intervention. These areas of data collection and analysis include the learning environment, personal and family background, physical and psychological functioning, previous schooling in the U.S. and elsewhere, oral language and literacy in English and the student's native language, academic achievement in the U.S. and elsewhere, and cross-cultural factors.

Effective Curriculum

- In examining evidence that ELs have had access to effective curricula, it is important to determine if the curriculum is aligned with all standards adopted by the state of North Dakota, including the WIDA English Language Development (ELD) Standards. This should be reflected in all programs designed for ELs, including: Sheltered Instruction, Pull-Out EL and Push-In EL. Further, when evaluating effective reading programs for ELs, the team should consider the findings of the National Literacy Panel on Language Minority Children and Youth (2006), which include the following:

    - Language minority students clearly benefit from instruction that provides substantial coverage in the key components of reading identified by National Reading Panel, which are phonemic awareness, phonics, fluency, vocabulary, and comprehension.
    - ELs benefit from instruction in the five areas of literacy identified by the National Reading Panel, but they require additional oral language instruction connected to their literacy instruction.
    - ELs also benefit when instruction in the native language, both oral and in literacy, is used to support English literacy development.

- It is also necessary to look for demographic information about the population on which the curriculum was validated and ask questions such as the following:

    - Was the linguistic and cultural appropriateness of the curriculum considered for local EL subgroups?
    - Did the research include a significant number of ELs and were the results disaggregated for the subgroups? Curriculum should be validated with like peers, i.e., students from the same linguistic and socio-cultural background with similar exposure to the curriculum.
    - If evidence of scientifically-based research is not available, does the district have local data as evidence that the curriculum is effective for the EL subgroup (e.g., action research)?

- Based on your data and research in the field, are the curriculum material adequate and appropriate for ELs across the developmental spectrum of language acquisition and academic achievement?

- Additionally, when identifying those students who have English Learning needs and exceptionalities, it is essential that the learning environment be responsive to ELs both linguistically and culturally. That is, it needs to take into consideration the fact that ELs are gradually learning a new language while simultaneously learning new content. Therefore, there is a need for curricular information that is linguistically accessible, grade level appropriate, and culturally relevant.

<u>Implementation Integrity</u>

- The implementation of the curriculum and delivery of instruction is congruent with EL pedagogy, including first and second language literacy instruction.

- The teacher demonstrates knowledge of second language acquisition and competence to effectively and appropriately deliver and differentiate instruction for ELs.

- ELs are provided an adequate opportunity to learn,

    - e.g., a curriculum within a language assistance instructional educational program such as Sheltered Instruction or Pull-Out/ Push-In is of sufficient length and intensity to support the child's development stage of language acquisition (the least proficient should be getting more support) while imparting grade level appropriate content instruction.
    - The student's progress may be hindered by the lack of consistency in the instructional program, e.g., limited access to EL services, multiple changes in EL programming.

- Individuals completing observations to determine implementation integrity include persons knowledgeable of first and second language academic instruction as well as second language acquisition.

- The classroom environment is conducive to ELs' learning, e.g., extensive use of visuals, explicit oral language instructions and teaching of vocabulary and background knowledge, multiple response opportunities, interaction with non-EL peers, incorporation of language and content objectives, comprehensible input, frequent opportunities for practice and application.

- It is also important to keep in mind that a language assistance instructional educational program such as Sheltered Instruction or Pull-Out/ Push-In is a core instructional program and should not be considered an "intervention." Any additional intervention and

support within RTI should be supplemental to the core curriculum and should consist of research-based instructional materials and approaches from the bilingual/English as a Second Language education field.

Student Outcomes

- For all assessments, it is important that students be compared to their like peers (as described previously) and that the assessment occurs in the child's primary language to the degree appropriate or possible and in English.

- When examining state assessment data for ELs, such data should include results from student performance on the ACCESS 2.0 for ELs, which is the English language proficiency assessment used in North Dakota. Further, it is important to remember that in accordance with Century Code Chapter 15.1-38 Section 15.1-38-01.1 the State Superintendent of Public Instruction establishes North Dakota's uniform definition of English language proficiency. Currently, a student is identified as an EL until such student obtains a minimum Overall Composite Proficiency Level Score of 5.0 and a minimum Proficiency Level Score or Reading, Writing, Listening and Speaking of at least 3.5 on ACCESS 2.0. Thus, districts must continue to provide ELs with appropriate services until they achieve these cut scores on ACCESS 2.0. Prior to attainment of proficiency, care should be taken to appropriately interpret ELs' scores on any district-wide assessment being used.

- Districts must continue to monitor the educational progress of former EL students for a minimum of two years after exiting. When a district's monitoring suggests that a former EL student may be struggling academically due to a language barrier, and general education and remediation services have proven inadequate as documented by a body of evidence, the district shall retest the student with the WIDA Screener to determine if the student qualifies as EL again and needs additional services.

- In terms of universal screening and benchmarking, mobility may affect the comparison group, in that at a given point in time, it may not be possible to compare the student to the current group of like peers. When considering universal screening and progress monitoring data, teams are cautioned about applying normative data for native English speakers to ELs. If such normative measures are used, it is recommended that the data be interpreted in conjunction with a variety of other measures that are culturally and linguistically appropriate.

Adequate Achievement

- In determining whether an EL is achieving adequately for his/her age or to meet state-approved grade level standards, the considerations and cautions discussed in previous sections of this document are applicable to the IEP team's decision making process. For example, if an EL's performance is compared to a peer group in order to determine adequate progress, that group should consist of the student's like peers. Also, the

standards to which the student's performance is compared may need to include both the ELP standards as well as grade level content standards adopted by the state of North Dakota.

Data Demonstrating the Student was Provided Appropriate Instruction from Qualified Personnel

- For ELs, instruction should follow best practice based on research specific to the EL population. Further, personnel providing instruction must include individuals who are qualified in their subject matter but also those who are qualified in the instruction of ELs.

Data Based Documentation of Repeated Assessments of Achievement

- For ELs, the focus of data collection typically needs to be on closing the gap between the target student and similar, nondisabled peers, not on reaching benchmarks intended for native English speakers. As students reach English proficiency (i.e., currently defined by the State Superintendent as a minimum Overall Composite Proficiency Level Score of 5.0 and a Minimum Proficiency Level Score in Reading, Writing, Listening and Speaking of 3.5 on the ACCESS for ELs 2.0), the focus begins to include comparison with native English speakers in addition to like peers.

Instructional Needs

- If an EL is found eligible for and entitled to special education and related services, it is important to remember that the provision of special education services does not supplant a language assistance instructional Educational program such as Sheltered Instruction or Pull-Out/ Push-In, which still must be provided as needed to help students overcome language barriers and meet the IEP goals as determined by the IEP team. Transitional Bilingual Education (TBE)/Transitional Program of Instruction (TPI) support and instruction is not a related service. It is part of the core curriculum for ELs.

Appendix D-FAQ on Response to Intervention - NDDPI

This "Frequently Asked Questions" (FAQ) document provides additional detail and examples connected to information related to using RTI/MTSS systems to support special education eligibility decision making. It is important to note that the FAQ is intended to provide technical assistance and should not be a substitute for appropriate professional and/or legal advice on specific matters.

The questions and answers are grouped by topic and are listed below.

Data Collection

1. How long must an intervention be implemented before eligibility can be considered?
2. What are the best ways to establish and document the implementation integrity of instruction and/or intervention?
3. What are evidence-based screening/benchmarking tools and progress monitoring tools for reading, math, and writing?
4. I have heard the terms CBA, CBM, and CBE. How are they different?
5. What are structured, classroom-based observations?
6. How frequently should progress be monitored?
7. What is significantly discrepant? What is inadequate progress?
8. Should we compare a student's performance to that of age level peers or to grade level standards when determining discrepancy/gap and rate of progress? What about a student who has been retained?
9. When implementing an RTI model, how is the criterion for "repeated assessments of achievement at reasonable intervals" established for a student who has recently moved into the district and is suspected of having a SLD?
10. How can we ensure that assessments we use are appropriate for ELs?

Evidence Based Instruction

11. What is "evidence-based" as defined under the Every Student Succeeds Act (ESSA)?
12. How does a school/district determine if core (Tier I) instruction is working?
13. How is a "'sufficient provision' of standards-aligned curriculum" determined? What standards exist to define this and what data would support the finding?
14. What are some additional considerations that may be unique to ELs in terms of their "opportunity to learn"?
15. In the context of implementation integrity of the curriculum, what does the term "limited access to EL services" mean?
16. A large portion of students in our district is not making academic progress on the North Dakota State Assessment. How do we use RTI to determine eligibility in our district?
17. Is it permissible to use a "standard protocol" intervention approach rather than a problem solving approach?
18. What are resources for identifying evidence based instruction and interventions?
19. Is Tier 3 ONLY special education?
20. What is the difference between RTI and a Multi-Tiered System of Supports (MTSS)?

Special Education Evaluation

21. When is a special education evaluation initiated in an RTI process?
22. How can the requirement for a full and individual evaluation be met in an RTI model?
23. What constitutes a "sufficiently comprehensive evaluation"?
24. When are additional data necessary beyond the use of existing data when using RTI in determining eligibility?
25. Can the team review existing data and determine eligibility at the same time?
26. Can parents request an evaluation while their child is involved in an RTI process?
27. If a parent requests an "immediate" evaluation during or prior to the RTI process, how does the school fulfill its obligation to complete the evaluation within the 60 school-day timeline? What if the parent requests a "traditional" evaluation using the ability/achievement discrepancy model?
28. When is informed parental consent sought for evaluation when RTI is used?
29. Who should make up the multi-disciplinary team when an RTI process is used as part of the evaluation procedures to determine special education eligibility?
30. How will we determine the existence of a SLD in the areas of oral expression, listening comprehension, and written expression where no formal RTI is being done? What data collection, research-based curriculum and interventions, benchmarking, etc., are supposed to be used for these areas?
31. Do I have to do an IQ test or other standardized test as part of an evaluation for SLD?
32. Does cognitive processing need to be assessed as part of an SLD eligibility evaluation?
33. When ruling out limited English proficiency, what about ELs who may have had limited access to language assistance instructional programs?
34. Can the results of independent evaluations be used to determine eligibility for SLD in the RTI evaluation process?
35. How is RTI used when conducting evaluations of parentally-placed private school students or students who are home schooled?
36. How are reevaluations conducted when using RTI?
37. Can a student's eligibility for SLD be determined by establishing a pattern of strengths and weaknesses in performance, achievement, or both, as allowed under 34 CFR 300.309(2)(ii)?
38. Can a student with a nonverbal learning disability qualify for/continue to receive special education services under the SLD category?
39. What happens if the school team has made changes to the intervention(s) based on student data but has not been able to identify an intervention that results in a positive rate of improvement for a student? Does that mean the student is eligible for special education services?

Data Collection

1. ***How long must an intervention be implemented before eligibility can be considered?***

   In general, decisions about the duration, type(s), and number of interventions must be based on an individual student's performance data; therefore, there is no prescribed length of time for intervention implementation. Sufficient time must be provided to: a) determine if the intervention is working and b) "close the gap" between the performance of the target student and peers or benchmark expectations when effective interventions have been documented. The greater the gap, the more time that may be needed to bring the target student into the range of expected performance. Accordingly, it is important that the team consider each individual student's needs and use data from frequent progress monitoring and other sources to determine the length of time to implement interventions and plan revisions to interventions accordingly. Other factors to consider include:

   - The student's baseline performance level;
   - The student's prior history of effective interventions;
   - The stability of the student in the current school and instructional environment (e.g., length of time the student has been enrolled, regular school attendance); and
   - The intensity of the interventions.

   Students who are determined eligible for special education services will continue to receive the recommended amount and intensity of supports articulated through the Individualized Education Program (IEP) process, which includes the measurement of student growth towards achievement of identified goals.

   It is important to note that in the case of students who have or are suspected of having a specific learning disability (SLD), rules governing special education prohibit a district from using a student's participation in the RTI process that determines how he or she responds to evidence-based interventions as a basis for denying a parent's request for an evaluation. Accordingly, the team must consider a parent's request and follow the required procedures for determining whether a special education evaluation is necessary (see Question 26).

2. ***What are the best ways to establish and document the implementation integrity of instruction and/or intervention?***

   There are a number of ways to ensure implementation integrity of an intervention including, but not limited to, professional development, guided practice and feedback, and integrity checks. Effective RTI systems require that schools establish and maintain consistently high levels of fidelity in the implementation of instruction, interventions, and progress monitoring. This means that instruction is delivered and intervention plans are carried out consistently and as intended.

A detailed discussion on this topic along with suggested tools can be found in Kovaleski, J.F., Marco-Fries, C.M. & Boneshefski, M.J. (n.d.). *Treatment Integrity: Ensuring the "I" in RtI*. Retrieved from RTI Action Network website.

The following are examples of instruction and intervention integrity tools:

- Planning and Evaluation Tool for Effective School wide Reading Programs
- Treatment Integrity Protocols

3. *What are evidence-based screening/benchmarking tools and progress monitoring tools for reading, math, and writing?*

Because each district is responsible for selecting screening/benchmarking and progress monitoring tools, specific tools will not be identified here. Rather, the response focuses on the purposes of universal screening and progress monitoring, as well as resources available for evaluating tools to determine if they are evidence-based.

Universal screening generally refers to the systematic assessment of all students within a given class, grade, school building, or school district, on critical academic, behavioral and/or social-emotional indicators. Universal screening provides data that help school teams determine if the core curriculum is meeting the needs of the majority of students in a school district and whether enhancements are needed in the core curriculum, instruction, and/or educational environments. Universal screening also guides decisions about which students may require additional assessment and/or supplemental or intensive intervention and instruction beyond what is provided through core programming.

The Center on Response to Intervention created the Screening Tools Chart Rating System, which established a standard process to evaluate the technical rigor of commercially available screening tools. The reviews are conducted by a Technical Review Committee that is made up of national experts who together have developed rigorous evidence standards to guide the review process. The Technical Review Committee has identified the following criteria upon which to judge the technical rigor of universal screening/benchmarking tools:

- *Classification Accuracy*: The screening tool is able to accurately classify students into "at risk for reading/math disability" and "not at risk for reading/math disability" categories.
- *Generalizability*: Results generated from one population can be applied to another population. A tool is considered more generalizable if studies have been conducted on larger, more representative samples.
- *Reliability*: The tool consistently classifies students from one administration to the next. It produces the same results when administering the test under different conditions, at different times, or using different forms of the test.
- *Validity*: The tool accurately measures the underlying construct that it is intended to measure.

- *Disaggregated Reliability, Validity, and Classification Data for Diverse Populations*: Data are calculated and reported separately for specific sub-populations.

Progress monitoring generally refers to the frequent assessment of student performance over time. Progress monitoring allows teams to determine how students are progressing toward established goals in a timely manner. The collection of ongoing and frequent data on student performance is essential in helping determine a student's response to intervention. It is critical that schools and districts utilize evidence-based progress monitoring tools when making instructional decisions.

The Center on Response to Intervention created The Progress Monitoring Tool Chart that established a standard process to evaluate the technical rigor of commercially available progress monitoring tools. The following criteria was identified to judge the technical rigor of progress monitoring tools:

- *Reliability of the Performance Level Score*: The screening score (or average/median of 2-3 scores) is accurate and consistent.
- *Reliability of the Slope*: The slope of improvement accurately represents the rate of improvement.
- *Validity of the Performance Level Score*: The screening score (or average/median of 2-3 scores) represents the underlying construct it was intended to measure.
- *Predictive Validity for the Slope of Improvement*: The slope of improvement predicts end-level performance on highly valued outcomes.
- *Disaggregated Reliability and Validity Data:* The reliability and/or validity data are disaggregated by subgroup (e.g., race/ethnicity, gender, socioeconomic status, students with disabilities, English learners).
- *Alternate Forms*: Parallel versions of the measure are available within a grade level and are of comparable difficulty (or with Item Response Theory (IRT) based, item or ability invariance).
- *Rates of Improvement:* Specifies the slopes of improvement or average weekly increases, based on a line of best fit through the student's scores.
- *End-of-Year Benchmarks:* Specifies the level of performance expected at the end of the grade, by grade level.
- *Sensitive to Student Improvement*: Reveals improvement over time, when improvement actually occurs.
- *Decision Rules for Changing Instruction:* Provides guidance indicating to a teacher when s/he should make a change to instruction.
- *Decision Rules for Increasing Goals*: Provides guidance indicating to a teacher when s/he should increase the goal.
- *Improved Student Achievement:* The relationship between use of the tool and increases in student performance on external measures of achievement.
- *Improved Teacher Planning:* The tool's ability to help a teacher in planning for and adjusting his/her instruction to meet student needs.

Schools and districts are encouraged to visit the website of the National Center on Response to Intervention when selecting or reviewing screening and progress monitoring tools.

Websites provide detailed instructions and calculation aides for determining slope of progress. Two of these include:

- RTI Action Network
- Vanderbilt University's IRIS Center

4. ***I have heard the terms CBA, CBM, and CBE. How are they different****?*

CBA stands for "curriculum-based assessment" and is an umbrella term used to refer to an assessment process or tool utilized to determine a student's status on skills that are taught in a curriculum. CBM (curriculum-based measurement) is one type of CBA. CBM is a set of standardized and validated short duration tests (i.e., 1-5 minutes) used to measure student progress in basic skill areas (e.g., reading, spelling, written expression, math, early literacy, and early numeracy). CBE (curriculum-based evaluation) is also under the umbrella of CBA and is a process of evaluation and decision making that may use CBM or other assessment tools to help inform that decision making process. CBE is most useful when problem solving about the academic or social problems of students and determining student skill strengths and weaknesses.

5. ***What are structured, classroom-based observations?***

The purpose of observation in the context of RTI is to describe and quantify behavior under specific conditions in order to facilitate the selection of appropriate interventions and to monitor the effectiveness of those interventions. When conducting classroom-based observations, the focus of the observation should be on the interaction between a student and the environment and the alterable variables specific to that particular environment (e.g., the frequency of positive reinforcement from the teacher, strategies the student uses for gaining teacher attention) and not on identifying underlying traits of the student that are presumed to be constant across environments (e.g., student lacks self-control). Observations should take place across multiple settings and over time (before, during, and after intervention).

Systematic and structured classroom-based observations are distinguished by five characteristics. "First, the goal of observation is to measure specific behaviors. Second, the behaviors being observed have been operationally defined in a precise manner. Third, observations are conducted under standardized procedures and are highly objective in nature. Fourth, the times and places for observation are carefully selected and specified. Fifth, scoring and summarizing of data are standardized and do not vary from one observer to another" (Hintze, J. M., Volpe, R. J., & Shapiro, E. S. *Best Practices in the Systematic Direct Observation of Student Behavior*).

When defining target behaviors, the definition should be "a) objective, referring only to observable characteristics of the behavior and environment, b) readable and unambiguous, such that an experienced observer could read it and readily paraphrase it accurately, and c) complete, delineating the boundaries of what is to be included as an instance of the behavior and what is to be considered not an instance of the behavior" (Hintze, J. M., Volpe, R. J., & Shapiro, E. S. *Best Practices in the Systematic Direct Observation of Student Behavior*).

The data collected as part of a systematic and structured observation are intended to quantify the behaviors of concern. There are many types of data that are used to quantify behavior, but the most common include:

- Frequency/event recording – the number of times a specific behavior occurred during a specific time period.
- Duration recording – how long a specific behavior occurred.
- Latency recording – the length of time between a signal (e.g., the bell ringing) and the onset of the target behavior (e.g., the student arriving in class).
- Interval recording – whether a behavior was present or not present during a certain period of time or interval of time. The recording schedule can either be whole-, partial-, or momentary-time-sampling recordings.

The data collected as part of a systematic observation can be used to establish a baseline level of a particular behavior, to monitor a target behavior over time, and/or to identify the circumstances that surround a target behavior in order to develop or confirm hypotheses about why that behavior is occurring. Observation is equally important for academic and behavioral concerns. Academic problems do not occur in a vacuum, and the problem and the solution do not solely rest within the student. There are always variables in the environment that can help to alleviate academic difficulties or exacerbate them. The systematic classroom observation is essential in helping to identify these variables.

6. *How frequently should progress be monitored?*

The frequency of progress monitoring is determined by the level of intensity of interventions. Progress should be monitored frequently, at least monthly, but ideally weekly or biweekly (Fuchs & Fuchs, 2006). In general, students receiving supplemental (strategic) interventions (Tier 2) should be monitored at least twice per month. Students receiving intensive interventions (Tier 3) should be monitored at least weekly.

7. *What is significantly discrepant? What is inadequate progress?*

It is the responsibility of each school district to establish and consistently apply specific criteria and data-based decision making rules regarding what constitutes a significant discrepancy or inadequate progress in terms of students' skill performance. In order to do this, it is recommended that district personnel analyze district, school, and student level data and consider any additional pertinent information (e.g., characteristics of the school environment).

Within the context of RTI, there are three key factors involved when determining significant discrepancy and inadequate progress:

- The student has one or more significant academic skill deficits compared to age level peers or grade level standards:
    - Grade level norms and universal screening (e.g. student is below or near the 10th percentile of a universal screening instrument that can scientifically predict performance on high stakes testing).
    - And a minimum of one or more of the following assessments; NWEA, STAR, NDSA, classroom formative assessments, etc.

- The student is making insufficient progress in response to research/evidence-based interventions or is making adequate progress but that progress is only possible when the student has been provided and continues to need curriculum, instruction, and environmental interventions that are significantly different from general education peers and of an intensity or type that exceed general education resources. Inadequate progress can be determined through analysis of typical, targeted and attained rate of improvement.
    - Typical Rate of Improvement – Expected rate of progress of students from benchmark to benchmark
    - Targeted Rate of Improvement – Rate of improvement from the starting point of the student's benchmark to the next benchmark point
    - Attained Rate of Improvement – Rate of improvement (slope) actually attained by the student in progress monitoring

    For more information on determining ROI, see the Rate of Improvement website.

- The learning difficulties are not primarily the result of lack of appropriate instruction in reading and math or limited English proficiency, and additionally for SLD, are not primarily the result of a visual, hearing, or motor disability; an intellectual disability; an emotional disability; cultural factors; or economic disadvantage.

By applying the established district criteria and decision making rules, a school team may describe a student's academic performance as significantly discrepant when he or she does not achieve adequately for his or her age or to meet a state approved grade level standard and fails to make sufficient progress when using a process based on the response to evidence-based interventions. Inadequate progress is tied directly to this second component and is present when supplemental/intensive interventions fail to result in the student demonstrating improved academic performance as measured via frequent progress monitoring, resulting in a learning trajectory that will lead to the student meeting the peer and/or grade level standard. Whenever interventions are not successful, whether that occurs before or after special education eligibility, teams are expected to use the RTI/problem

solving process to refine, modify, and/or change intervention programs until a successful intervention is found. In the case of students who are already eligible for special education, it is important to keep in mind that changes in interventions being delivered in accordance with the student's IEP must be made in accordance with procedural safeguard requirements.

8. ***Should we compare a student's performance to that of age level peers or to grade level standards when determining discrepancy/gap and rate of progress? What about a student who has been retained?***

Ultimately, it is each district's decision whether to compare a student's performance to age level peers or to grade level standards to determine discrepancy/gap and rate of progress within an RTI framework. Because grade level standards are typically connected to state academic content standards, it is more common for districts to use grade level standards. A possible exception to using grade level standards involves implementation of an RTI framework in early childhood settings. Due to the significant variability in academic and behavioral development at early ages, early childhood research and best practice would support the use of age-based norms, including benchmarking scores.

In terms of grade retention, it is first recommended that districts and schools review the research on the effectiveness of grade retention in addressing the needs of students whose skills are below the age-appropriate grade level benchmark(s). In particular, research does not support grade retention as being an effective "intervention" for closing the gap between a student's skill level and the expected benchmark. Therefore, schools and districts are strongly encouraged to utilize more effective alternatives to grade retention (i.e., evidence-based instructional and intervention strategies) to address the skill needs of students. In those instances when a student has been retained, school teams should consider the fact that he/she has not been exposed to the same instruction as his/her age level peers and will take the state assessment for the grade level in which he/she is currently enrolled. Therefore, it is recommended that grade level standards be used to determine the student's discrepancy/gap and rate of progress.

9. ***When implementing an RTI model, how is the criterion for "repeated assessments of achievement at reasonable intervals" established for a student who has recently moved into the district and is suspected of having a SLD?***

When a student moves into a district, it is recommended that universal screening (as discussed in the response to Question 3) be conducted to assist in determining the student's current level of performance and educational needs. These data should be shared with the student's parents. If universal screening is administered to all students in the district (including students who move into the district) and these data are utilized for provision of tiered early intervening services with results reported to all parents on a regular basis, the criterion for "repeated assessments at regular intervals" is established.

If a team determines that, based on the universal screening data, the performance level of a student who has recently moved into the district is significantly discrepant (as defined by

locally-established criteria; see Question 7) in comparison with age level peers or grade level standards, and the team suspects that student may be a student with a disability, the team should initiate an evaluation. The evaluation process would be no different for this student than for any other student, except that the early intervening period (i.e., where supplemental instruction and interventions with regular progress monitoring occurs) might be concurrent with the evaluation. As part of the evaluation, the new district should make efforts to obtain information regarding instructional history and assessment results from the student's previous district(s). This process is applicable when an IEP team is implementing an RTI process to meet the requirement for using such a process as part of the evaluation procedures for determining SLD eligibility.

10. ***How can we ensure that assessments we use are appropriate for ELs?***

Any assessment procedure for ELs should: a) reflect authentic language and literacy use; b) provide scaffolds for oral or written language input through visuals, diagrams, manipulatives, or other supports; and c) be situated in meaningful contexts. Further, English assessments should be aligned to the student's English language proficiency level as determined by ACCESS 2.0 for ELs or at a minimum, allow for differentiation according to language proficiency levels. It is essential that the assessment tool is able to clearly distinguish between measurement of language proficiency and measurement of content area skill and concept attainment. Generally, the language of assessment should correlate with the language of instruction, and in the case of two-language learners/emerging bilingual students, assessment would incorporate all of their languages to the extent possible. Additionally, the norm group should be checked to be sure that it consisted of ELs similar to the EL(s) being assessed. If the assessment does not meet these standards of appropriateness and is used nonetheless, the resulting scores should be presented in the context of their reduced and compromised validity and reliability.

Evidence-Based Curriculum and Instruction

11. ***What is "evidence-based" as defined under the Every Student Succeeds Act (ESSA)?***

ESSA defines evidence-based as an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes. Other relative outcomes do not necessarily take place at the student level and may consist of things like: principal skills, professional development, school climate, etc. ESSA offers guidance for selecting activities, strategies and/or interventions that will lead to improvement with the final goal being to increase performance while closing gaps (Lam, L. et al., 2016)

ESSA breaks evidence-based into the following four tiers:

- Tier I (strong evidence) from at least 1 well-designed and well implemented experimental study;
- Tier II (moderate evidence) from at least 1 well-designed and well-implemented quasi-experimental study; or

- Tier III (promising evidence) from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias; or
- Tier IV (demonstrates a rationale) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

Tiers I thru II describe various levels of evidence to support activities, strategies or interventions that lead to an improvement in outcomes, but Tier IV does not provide direct evidence of impact. Instead, Level IV relies on research-based rationale with the belief that the intervention will lead to the desired effect. Ongoing evaluation of the intervention is crucial in building evidence on the impact of Level IV interventions (Herman, S. et al., 2016).

Below is a short, non-exhaustive list of national databases and resources that offer information related to evidence-based programs under ESSA:

- The What Works Clearinghouse, developed by the Institute of Education Sciences(IES);
- Best Evidence Encyclopedia, developed by the Center for Data-Driven Reform in Education at Johns Hopkins University;
- Results First Clearinghouse Database, developed by the Pew Charitable Trust;
- *Evidence for ESSA* has developed a list of evidence-based programs for both math and reading at the elementary, middle and high school levels;
- *RAND report on school leadership interventions under ESSA;*

12. How does a school/district determine if core (Tier I) instruction is working?

If a building core instruction is not effective, it should be adjusted and intensified because buildings will not have the resources to intervene with a large number of students who are not finding success at the core level, and buildings cannot "intervene" their way out of ineffective core instruction.

When screening students at the core level, it is critical to choose reliable and valid screening measures. Some buildings may choose to use curriculum-based measures (CBM), and others may choose to use norm-referenced criteria. Still others may choose to use a combination of both. The challenge is to find the right students and match them to right interventions as early as possible (Metcalf, T., *Michigan's Integrated Behavior and Learning Support Initiative*). If screening is working correctly, it can assist in determining whether or not performance is steadily increasing or if changes need to be made to the core.

Data obtained from the screening tools must be accurate. In order to ensure accuracy, it is recommended fidelity checks are completed and the following questions are answered (Metcalf, T. MIBLSI):

- Are assessors given a checklist of standard administration and scoring rules?

- Are the checklist administration and scoring rules reviewed with the team before each screening period? Is the data entry process checked for clerical errors?
- Do the assessors have adequate training and coaching?
- Does the building have an efficient schedule to collect screening data in a timely manner?

Metcalf adds:

An additional tool for Tier 1 analysis is to inventory practices by surveying teachers on the following questions and having them provide a score and sequence of their day-to-day instruction in a subject area.

- *What instructional routines are used? Are the routines consistent from classroom to classroom, general education to special education?*
- *Is there evidence of scaffolding and explicit instruction, especially when students are learning something new?*
- *Is there evidence of distributed practice of critical skills?*
- *Is cumulative review built in on a systematic basis?*
- *How much time is allocated and how is the time used?*
- *Does the pace of the instruction match student needs?*
- *Do students have multiple opportunities for response and feedback? Are students actively engaged?*

Careful analysis of the core instruction is an essential part in determining which elements are working at the Tier I level and which elements may need to be adjusted and improved so that core instruction is able to work for all students.

13. ***How is a "'sufficient provision' of standards-aligned curriculum" determined? What standards exist to define this and what data would support the finding?***

The phrase "sufficient provision" incorporates several components. The first is that a student is in school, attending, and has been regularly exposed to instruction. Second, the choice of curriculum in a district/school is expected to align with ND Academic Content Standards. Third, the curriculum chosen must reflect research-based components, e.g., reading curriculum includes the five essential components of reading instruction.

For ND Academic Content Standards see the NDDPI website.

14. ***What are some additional considerations that may be unique to English Learners (ELs) in terms of their "opportunity to learn"?***

For ELs, opportunity to learn includes instruction provided by personnel well versed in the implementation of proven strategies and approaches appropriate for ELs and designed to foster their linguistic and academic growth in culturally responsive and relevant ways. Thus, those providing instruction should be licensed teachers with an EL endorsement. It is also important for districts to provide the necessary support for classroom teachers to

acquire the relevant knowledge and skills specific to teaching ELs and essential to providing effective instruction and support to these students.

15. ***In the context of implementation integrity of the curriculum, what does the phrase "limited access to EL services" mean?***

Limited access to EL services could include, but is not limited to, situations such as the following: a) when parents have refused language instruction educational program services for their children or withdrawn their children from such services before the students have attained a score of English proficient in their annual language proficiency assessments; b) when the instructional program design for serving ELs has changed numerous times over the course of an EL's educational career; c) when an EL experiences the cumulative effects of being taught by personnel without appropriate EL credentials; or d) when an EL's early childhood program did not assess for English proficiency to identify language support needs.

16. A large portion of students in our district is not making academic progress. How do we use RTI to determine eligibility in our district?

Districts that have a large portion of students not making academic progress need to assess the degree to which their curriculum is evidence-based and implemented with integrity, as outlined in Questions 11 – 13 above, and matches the needs of their students. Low achieving districts should document plans to remediate curriculum deficiencies found through these processes in their District Improvement Plan and School Improvement Plans. Districts with a large portion of students not making academic progress may need to consider intensifying instruction for all students so that approaches considered to be Tier 2/strategic instruction in a high achieving district are utilized by general educators at Tier 1/core for all students in a low achieving district. Doing this provides more intensive support to all students and is more efficient and effective than trying to place large percentages of students in remedial and special education programs, which ultimately dilutes those remedial services.

Once low achieving districts create and implement their improvement plan addressing their deficiencies in curriculum, instruction/pedagogy, and instructional environments, eligibility determination is no different than described in these Guidelines. In part, the low achieving district would establish universal screening systems to provide tiered early intervening services, monitor integrity and progress of interventions, and establish district guidelines for meeting the discrepancy/gap component by setting local data-based decision making rules to compare individual students against age level peers within that district or to grade level content standards.

17. Is it permissible to use a "standard protocol" intervention approach rather than a problem solving approach?

The standard protocol and problem solving approaches for intervention are not mutually exclusive. A standard protocol intervention represents a specific intervention that is

consistently used to address one or more particular skill deficits within an RTI/MTSS model. The standard protocol intervention should be evidence-based, and indicate a high probability of success in remediating the targeted academic or behavioral deficits for a majority of students. Staff receives training on the standard protocol intervention to increase the fidelity of implementation.

The problem solving process is an integral part of RTI/MTSS and is used at all tiers, although it may look somewhat different at each tier. For example, problem solving can be used at a systems level (Tier I) to use data (e.g., from universal screening) to determine:

- If there is a problem with the core curriculum and/or instruction;
- Why the curriculum and/or instruction is not effective;
- How the curriculum and/or instruction can be improved; and
- Whether the changes are working.

Within the strategic level (Tier II), a team can use a problem solving process by analyzing universal screening data to identify a group of students with common educational needs and then match their needs to one or more standard, evidence-based interventions (i.e., standard protocol interventions) that can be provided to small groups of students, with progress monitoring to assess effectiveness. A similar process may also be used at the intensive level (Tier III), but some students may require more individualized interventions that are identified through the individual problem solving process based on universal screening and/or progress monitoring data. The same criteria identified above for standard protocol interventions apply to individualized interventions.

18. ***What are resources for identifying scientifically-based instruction and interventions?***

Scientifically-based interventions are those practices that have been rigorously reviewed to determine whether they produce positive educational results in a predictable manner. The strongest evidence comes from studies, which use control groups and sound statistical analyses to examine the impact on student achievement.

The U.S. Department of Education publishes a document titled "Identifying and Implementing Educational Practices Supported by Rigorous Evidence: A User Friendly Guide." The guide is designed to "provide educational practitioners with user-friendly tools to distinguish practices supported by rigorous evidence from those that are not."

Information regarding scientifically-based methods is more available in some areas than in others. Several Reading First sites have systematically reviewed many core, supplemental, and intensive instructional and intervention reading programs and practices, and the results of these reviews are available online.

The final report of The National Mathematics Advisory Panel, "Foundations for Success," was published in 2008 and is available online. The findings in this report are expected to have an impact on math instruction similar to the impact the National Reading Panel report had on reading instruction.

The websites below are a partial listing of evidence-based programs and/or scientifically based practices available online.

Websites with Evidence-Based Instruction and Intervention Information in Multiple Subject Areas

- *What Works Clearinghouse – U.S. Dept. of Ed.;*
  Literacy
  Mathematics
  Science
  Behavior
  English Learners
  Early Childhood
  Dropout Prevention
  Path to Graduation

- *Center on Instruction;*
  Literacy
  Science Technology Engineering Mathematics
  Special Education
  English Language Learning
  Special Education

- *Intervention Central;*
  General Academic Strategies
  Study and Organization
  Reading
  Math
  Writing

- *IRIS Center;*
  Reading, Literacy, Language Arts
  Math
  Differentiated Instruction
  Content Instruction
  Collaboration
  Behavior and Classroom Management

Websites with Evidence-Based Instruction and Intervention Information by Specific Area

- **Reading and Writing**
  - *Vaughn Gross Center for Reading and Language Arts;*
  - *Florida Center for Reading Research;*
  - *Oregon Reading First Center;*

- **Oral Expression & Listening Comprehension**
  - *American Speech-Language & Hearing Association - Compendium of EBP Guidelines and Reviews and Evidence-Based Systematic Reviews;*

- **ELs**
  - *National Center on Culturally Responsive Educational Systems;*
  - *Equity Alliance at ASU*
  - *World-Class Instructional Design and Assessment (WIDA)*

19. ***Is Tier 3 ONLY special education?***

No. RTI is a tiered model of increasingly intense instruction and interventions that is intended to meet the needs of *all* students and does not define Tier 3 as being only special education. Rather, Tier 3 is discussed as being the most intense level of instruction and intervention provided to students, which may include special education services if appropriate to a student's needs. In an RTI context, a student who does not respond to intense interventions may be found eligible for special education services when it has been demonstrated that the intensity or type of intervention required to produce acceptable rates of student improvement exceeds the resources in general education.

20. What is the difference between RTI and a Multi-Tiered System of Supports (MTSS)?

Both RTI and MTSS are frameworks used to provide effective instruction to increase learning among students. MTSS is more comprehensive and designed to meet the needs of all learners within the system and to provide them with the best opportunities to succeed academically and behaviorally in school. MTSS is considered the "umbrella term" under which RTI falls, so RTI becomes a component of MTSS. RTI often is used as a problem-solving model. MTSS plans for the full system approach, not just addressing the difficulties that may arise within the system. RTI is composed of three tiers of instruction, whereas a MTSS may require more than three tiers to address the needs of both high and low achieving students. Both RTI and MTSS utilize assessment, progress monitoring and data-based decision making, but MTSS also takes into consideration school leadership, school culture, professional development activities and evaluation that takes place within the school system.

Special Education Evaluation

21. ***When is a special education evaluation initiated in an RTI process?***

The point at which a special education evaluation is initiated depends on the student's individual plan and progress status based on the student's participation and success in the RTI process. Per federal regulations, a referral for special education can be initiated at any time for a student who is suspected of having a disability. If an IEP team is considering special education eligibility, it is important that questions are formulated and the review of

comprehensive student progress data and progress through the RTI process are part of the referral process. When a student is participating in an RTI process, data showing that the student has a significant skill deficit and is making insufficient progress, even when provided with intense, evidence-based interventions, could lead the team to suspect that the student has a disability and make a referral for evaluation. Another possible consideration in determining the need for a referral for evaluation is the student's need to receive ongoing and specialized supports and services in order to participate and make progress in the general education curriculum.

It is important to note that in the case of students who have or are suspected of having a SLD, rules governing special education prohibit the district from using a student's participation in a process that determines how he or she responds to scientific, research-based interventions as a basis for delaying or denying a parent's request for an evaluation. Accordingly, the team must consider a parent's request and follow the required procedures for determining whether a special education evaluation is necessary (see Question 26).

22. ***How can the requirement for a full and individual evaluation be met in an RTI model?***

The federal regulations at 34 CFR 300.301(a) require a "full and individual evaluation" to be completed before the initial provision of special education and related services, and this requirement does not change in an RTI process. Further, in accordance with 34 CFR 300.304(b), in conducting the evaluation, school districts must use a variety of assessment tools and strategies that may assist in determining whether the student is a student with a disability. The student must also be "assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities" [34 CFR 300.304(c)(4)]. In addition, the evaluation must be sufficiently comprehensive to identify all of the student's special education needs [34 CFR 300.304(c)(6)]. Depending on their nature and scope, it is possible that data generated during the RTI process could fulfill the requirements of a "full and individual evaluation."

23. ***What constitutes a "sufficiently comprehensive evaluation"?***

The use in the federal regulations of such terms as "if appropriate" establishes the authority of the school team, of which the student's parent is a member, to determine the areas, also called domains, in which the student should be assessed. Therefore, what constitutes a "comprehensive" evaluation is determined on an individual basis in accordance with a student's needs. In the past, the required "comprehensive evaluation" was interpreted by most to mean a common battery of assessments for all students suspected of having a particular disability. Now it is anticipated that the data gathered during the RTI process, related directly to the student's performance in the learning context, should reduce the need for the "common battery" approach to assessments.

In conducting an evaluation, the team may not use any single measure or assessment as the sole criterion for making a disability determination and for determining an appropriate educational program. While a student's response to scientific, research-based intervention

is crucial to disability identification and educational planning, other types of information and assessment data must also be collected throughout the RTI process.

The requirement to collect additional information and assessment data can be addressed through what is commonly called the RIOT (Record review, Interviews, Observation, and Testing) process, which is typically an integral part of the early intervening period. Below are examples of data sources and evaluation tools in each of these four categories that might be included in a full and individual evaluation. The collection of this information and data may occur during the RTI process and/or after the special education evaluation period begins.

- Record Review: Student work samples, grades, office referrals, etc.
- Interviews: Of teachers, parents, counselors, the student, and others involved in the student's education
- Observation: Of the student in specific, relevant settings and of the learning environment
- Testing: Universal screening, CBMs, classroom tests, district-wide and state tests, functional behavior assessments, etc.

The following is a list of some of the evaluation tools that might be included in a full and individual evaluation:

- Interviews
- Observation of the student in specific, relevant settings
- Error analysis of work samples
- CBAs/Functional Academic Assessments, including CBMs and CBE (see Question 4)
- Progress monitoring data
- Results from state and local assessments
- Functional Behavioral Assessments
- Behavior Rating Scales
- Vocational assessments
- Developmental, academic, behavioral, and functional life skills checklists
- Standardized (norm-referenced) assessments

24. ***When are additional data necessary beyond the use of existing data when using RTI in determining eligibility?***

Screening data collected as components of Tier 1 activities and Tier 2 and 3 assessment data (e.g., classroom observations, the results of a curriculum-based evaluation) and progress monitoring data documenting student response to intervention are part of the comprehensive evaluation and may be sufficient for determining entitlement for special education services as stated in the regulations at 34 CFR300.305(a).

The regulations use the term "if any" which allows the team the discretion to determine if further data are required. In a system where RTI is being implemented, existing data collected during the RTI process will be used as an important source of evaluation information when determining special education eligibility. The school team, which includes a student's parents, will make a decision about whether these data are sufficient to determine eligibility or if additional evaluation data are needed. The team may decide that the collection of additional data is necessary when they do not feel that they have enough data to meet the eligibility requirements (e.g., there is insufficient evidence regarding the level of discrepancy between the target student and his/her age level peers or grade level standard, a pattern of student performance over time has not been established, there is insufficient evidence for the implementation integrity of the interventions, they have not been able to identify the instructional characteristics that produce a positive impact on the student's performance, one or more of the exclusionary criteria have not been ruled out).

25. ***Can the team review existing data and determine eligibility at the same time?***

Neither North Dakota rules governing special education nor the federal IDEIA regulations specifically prohibit such meetings from being held concurrently, provided that all requirements associated with the review of existing evaluation data and the eligibility determination meeting are met, including the notice requirements at 34 CFR 300.322 and 300.501(b)(2) and the requirements associated with membership of the eligibility and IEP team(s).

The regulations at 34 CFR 300.305(b) allow the review of existing evaluation data to occur without a formal meeting, provided parents have an opportunity to participate in the process. However, a meeting of "a group of qualified professionals and the parent of the child" must be held to determine whether the student is or continues to be a student with a disability and the educational needs of the student [34 CFR 300.306(a)].

If, as a result of the review of existing evaluation data, the IEP team determines that no additional evaluation data are needed, the requirements at 34 CFR 300.305(d) must be met. This means that the district must notify the student's parent of the determination and the reasons for it and of his or her right to request further assessment.

If the parent agrees with the determination that no additional evaluation data are needed and is willing to proceed immediately to the eligibility determination, then it is possible to subsequently conduct the eligibility meeting. It is important to ensure that the parent fully understands the data being used to determine the student's eligibility. Accordingly, the documentation of the evaluation results should fully detail the existing data being used to make the eligibility determination, including data graphs and/or charts. The documentation must also verify that the requirements for a full and individual evaluation, in accordance with 34 CFR 300.301, have been fulfilled.

26. ***Can parents request an evaluation while their child is involved in an RTI process?***

Yes. The right for parents to request a special education evaluation at any time has not changed, nor have the requirements associated with the district's response to such a request. Therefore, parents can request a special education evaluation at any time prior to, during, or following their child's involvement in an RTI process. If the district agrees that the student may be a student with a disability requiring special education and related services, then it must provide notice of the intent to conduct an evaluation, obtain written parental consent, and complete the evaluation. If the district does not agree that a special education evaluation is warranted, a written notice must be provided to the parents that informs them of this decision and explains the reasons why it has been determined an evaluation is not indicated. The parent can challenge the district's decision by requesting mediation and/or a due process hearing to resolve the dispute over the student's need for an evaluation.

Once written parental consent is obtained, the 60 calendar-day timeline begins for completing the evaluation, determining eligibility, and if the student is eligible, developing an IEP. When determining SLD eligibility, this timeline may be extended by "mutual written agreement of the student's parents and a group of qualified professionals" [34 CFR 300.309(c)]. If the student has not been involved in an RTI process and SLD is the suspected area of disability, appropriate interventions must be initiated in the area(s) of difficulty and the student's progress regularly monitored during the evaluation period in order to use the RTI evaluation process. However, the Office of Special Education Programs (OSEP) reminded states in a *Memorandum to State Directors of Special Education* (2011) that once parental consent has been obtained for an initial evaluation to determine if the child needs special education and related services, the school district must not delay completion of the evaluation because an RTI process is pending.

27. ***If a parent requests an "immediate" evaluation during or prior to the RTI process, how does the school fulfill its obligation to complete the evaluation within the 60 calendar-day timeline? What if the parent requests a "traditional" evaluation using the ability/achievement discrepancy model?***

If a parent requests an immediate evaluation, the same procedures discussed in the response to Question 25 apply. If a decision is made to conduct an evaluation, the school team should explain the RTI process and the services the student will receive during the evaluation period. Schools may not use the RTI process as a reason not to conduct or to delay an evaluation of a student suspected of having a SLD or to try to convince parents not to request an evaluation. If parents request a "traditional assessment" using an ability/achievement discrepancy model, the team must determine if such an assessment is necessary and appropriate in order to evaluate the student and determine eligibility. The team must decide which evaluation process, (RTI or Discrepancy Model) is appropriate given the needs of the individual student.

28. ***When is informed parental consent sought for evaluation when RTI is used?***

Informed parental consent is not required for activities such as universal screening, intervention delivery, and progress monitoring that are implemented during the RTI process as part of the general education program for all students. Specifically, the federal

regulations at 34 CFR 300.302 clearly state that screening of a student to "determine appropriate instructional strategies for curriculum implementation" is not considered an evaluation for special education eligibility and, therefore, informed parental consent is not required. It is important, though, that parents be fully informed of these activities and receive regular reports of student progress. For example, one of the requirements for SLD eligibility determination is that "data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction" [34 CFR 300.309(b)(2)] must be completed and the results provided to the student's parents. Thus, regular communication and sharing of data with parents is critical.

The regulations at 34 CFR 300.300(d) refers to other consent requirements.

(1) Parental consent is not required before –

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

Federal regulation CFR 300.15 further defines evaluation: procedures used in accordance with CFR 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

29. ***Who should make up the multi-disciplinary team when an RTI process is used as part of the evaluation procedures to determine special education eligibility?***

The requirements for membership of the multidisciplinary team formed for the purpose of determining eligibility using an RTI process are the same as those set forth at 34 CFR 300.306. If the suspected disability is SLD, then the additional requirements for team membership at 34 CFR 300.308 also apply.

It is suggested that the multidisciplinary team members be chosen from the RTI problem-solving team, as these individuals would be knowledgeable of the student's intervention and progress monitoring data. Other individuals can be added to the team if needed, to provide specific expertise or to fulfill particular roles. This team would complete the necessary evaluation components, the results of which will be used by the group to determine if the student has a disability requiring special education and related services.

30. ***How will we determine the existence of a SLD in the areas of oral expression, listening comprehension, and written expression where no formal RTI is being conducted? What data collection, evidence-based instruction and interventions, benchmarking, etc., are supposed to be used for these areas?***

In general, the areas of oral expression and listening comprehension would be addressed in a speech/language evaluation or traditional assessment model. In order to identify a student as having a SLD in the areas of oral expression, listening comprehension, and/or written comprehension, a district should collect benchmarking data (to determine what is typical educational achievement and progress) in these three areas and develop a three-

tiered system of increasingly intensive interventions targeting these three areas. Although most of the research related to data collection/benchmarking and evidence-based instruction and interventions within an RTI framework has been conducted in the areas of reading and mathematics, more research is occurring related to diagnostic assessment, evidence-based curriculum and interventions, and benchmarking in the areas of written language (see Berninger & Wagner, 2008; Malecki, 2008; Robinson & Howell, 2008) and listening comprehension and oral expression (see Bray, Kehle, Caterino, & Grigerick, 2008). Also see the response to Question 18.

31. ***Do I have to do an IQ test or other standardized test as part of an evaluation for SLD?***

Neither, state or federal IDEIA regulations governing special education evaluation requirements, including the additional procedures for SLD identification, specify that a particular type of assessment (e.g., an intelligence/IQ test, achievement test, speech/language or other standardized test) must be conducted. However, in the past, districts have often used intelligence tests to establish that a student has a severe discrepancy between achievement and intellectual ability in order to determine the existence of a SLD, as previously required under the Individuals with Disabilities Education Act of 1997.

Because the implementing regulations of IDEIA 2004 [see 34 CFR 300.309(a)] eliminated the IQ/achievement discrepancy criterion for SLD, districts that previously conducted intelligence testing to fulfill this criterion no longer need to do so. Intelligence tests are also not necessary for intervention planning, as screening, progress monitoring, and diagnostic/prescriptive assessments collected as part of the RTI process can provide the information needed.

32. ***Does cognitive processing need to be assessed as part of an SLD eligibility evaluation?***

No. As stated previously, none of the federal regulations addressing special education evaluation requirements, including the additional procedures for SLD identification, specify that a particular type of assessment (e.g., assessment of psychological or cognitive processing) must be conducted. Further, although the federal definition of SLD uses the terminology "a disorder in one or more of the basic psychological processes," the U.S. Department of Education's response in the "Analysis of Comments and Changes" section of the federal regulations states the following:

> *The Department does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD. Further, in many cases, these assessments have not been used to make appropriate intervention decisions… In many cases, though, assessments of cognitive processes simply add to the testing burden and do not contribute to interventions. As summarized in the research consensus from the OSEP Learning Disability Summit (Bradley, Danielson, and Hallahan, 2002), "Although processing deficits have been linked to some specific learning disabilities (e.g., phonological processing and reading), direct links with other processes have not been established. Currently, available methods for*

*measuring many processing difficulties are inadequate. Therefore, systematically measuring processing difficulties and their link to treatment is not yet feasible * * *. Processing deficits should be eliminated from the criteria for classification * * *." (p.797).* (Federal Register, Vol. 71, No. 156, p.46651)

33. *When ruling out limited English proficiency, what about ELs who may have had limited access to language assistance instructional programs?*

Culturally and linguistically responsive pedagogy (teaching and learning) involves the use of cultural knowledge, prior experiences, frames of reference, and performance styles of ethnically diverse students to make learning encounters more relevant to and effective for them. It teaches *to and through* the strengths of these students. It is culturally validating and affirming. (Adapted from Gay, 2010)

If an EL has had limited access to a language instruction educational program (see Question 15 for examples of limited access), it is essential that the school team keep in mind that ELs may not have developed the expected proficiency in academic language in English and in their home language due primarily to inconsistencies in the language instruction educational program being offered or in the student's participation in such a program. Such inconsistencies could result in the student having language fragmentation rather than a language disability. In these situations, the team would recommend interventions to support these students in both languages as they work to determine if the student is an EL who may also need special education services or a student who needs more intensive support as an EL.

With regard to the design of the language instruction educational program itself, it is also important to remember to include meaningful content, appropriate EL methodology, deliberate plans for language of instruction/language allocation, model of instruction, sufficient frequency and duration of daily instructional services, and whether gaps in content instruction occurred within a typical instructional day. These factors can all greatly influence ELs' performance.

34. *Can the results of independent evaluations be used to determine eligibility for SLD in RTI evaluation process?*

As provided in 34 CFR 300.502, a parent has the right to request an independent educational evaluation (IEE) at public expense if the parent disagrees with an evaluation obtained by the school district. If the district has not yet completed its evaluation, the parent would not have a right to obtain an IEE at public expense. The U.S. Department of Education addressed this issue specifically in the context of RTI in the "Analysis of Comments and Changes" section of the federal regulations, as follows:

The parent, however, would not have the right to obtain an IEE at public expense before the public agency completes its evaluation simply because the parent disagrees with the public agency's decision to use data from a child's response to intervention as part

of its evaluation to determine if the child is a child with a disability and the educational needs of the child. (Federal Register, Vol. 71, No. 156, p. 46689)

If the independent evaluation is to be at public expense, it must conform to the state and district eligibility criteria [see 34 CFR 300.502(e)]. Therefore, if the IEE fails to follow the state criteria, districts are not obligated to use the information provided.

With regard to use of the results of an IEE to determine eligibility, as stated at 34 CFR 300.502(c)(1), "If the parent obtains an independent evaluation at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation must be considered, if it meets the agency criteria, in any decision made with respect to the provision of FAPE [free appropriate public education] to the child." The requirement that a district must consider the results of an IEE (provided the evaluation meets the education agency's criteria) does not equate to a requirement that the results be accepted in making the eligibility determination. If the IEE results meet the education agency's criteria for special education evaluation and the district team accepts the results, then the data should be considered in determining the student's eligibility.

35. *How is RTI used when conducting evaluations of parentally-placed private school students or students who are home schooled?*

When evaluating students who are parentally-placed in a private school or who are home schooled, the same processes of reviewing existing assessment data and determining what, if any, additional data need to be collected for educational decision making are used (see Question 23). Many private schools regularly collect assessment data that a school district may review and include in their determination of a student's response to instruction and intervention (e.g., state and local program evaluation assessments, universal screeners, curriculum-embedded assessments). Some private schools provide supplemental and intensive interventions within their setting and monitor progress toward a goal. Any of these data may be useful in determining whether appropriate instruction was provided, determining discrepancy/gap from age level peers or grade level standards, and/or for assessing response to ongoing instruction. Students who are home schooled may also have similar assessment data available for use in an RTI model.

Districts may want to provide private school and home school educators with educational opportunities in RTI and in the use of RTI in special education eligibility and entitlement decisions (e.g., workshops, brochures). While private schools and home school settings are not required to provide early intervening services or special education, knowledge of RTI might assist both the district and the student's private school or home school in communicating and working with one another.

When existing data are not available, the district is responsible for collecting necessary data in order to determine a student's response to instruction and intervention as part of the evaluation. Universal screening measures utilized in the district might be administered and the resulting scores compared to same age/grade students in the district, and/or the team may choose to provide limited consultation or interventions and progress monitoring.

36. ***How are reevaluations conducted when using RTI?***

When a student is found eligible for special education and related services through an evaluation process that includes RTI, the same core practices of RTI continue in the delivery of the services identified on the student's IEP. This includes interventions matched to student needs and frequent progress monitoring to determine the student's response to intervention, as well as adjusting the interventions based on the progress monitoring data. The data collected as part of that intervention process should be used to determine needs and eligibility on an ongoing basis, including during the reevaluation process. The requirements specific to reevaluations with regard to when and how often they must be conducted, as delineated at 34 CFR 300.303, remain applicable, as do the requirements for evaluations in general [300.304, 300.305, and 300.306].

Regardless of whether or not the initial evaluation included the use of an RTI process, it is presumed that the initial eligibility process was valid and that the disability remains unless data exist that indicate otherwise. Such data could include evidence showing a change in the student's ability to benefit from the general education curriculum without special education and related services. The U.S. Department of Education commented on this issue in the context of reevaluations and state SLD eligibility criteria that have been revised to include an RTI process:

> *States should consider the effect of exiting a child from special education who has received special education and related services for many years and how the removal of such supports will affect the child's educational progress… Obviously, the group should consider whether the child's instruction and overall special education program have been appropriate as part of this process. If the special education instruction has been appropriate and the child has not been able to exit special education, this would be strong evidence that the child's eligibility needs to be maintained.* (Federal Register, Vol. 71, No. 156, p. 46648)

Planning for reevaluations is the same as the planning that occurs for initial evaluations. The IEP team, which includes the student's parents, reviews existing data to determine what, if any, additional data are needed. The reevaluation focuses on assessment of progress, including how the student has responded to the interventions (i.e., the degree to which the special education services are addressing the student's needs), answering any assessment or diagnostic questions, and planning subsequent instruction and interventions. Ultimately, the reevaluation determines:

- Whether the student continues to have a disability and need special education and related services;
- The educational needs of the student;
- The present levels of academic achievement and related developmental needs of the student; and

- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the annual IEP goals and to participate in the general education curriculum.

37. ***Can a student's eligibility for SLD be determined by establishing a pattern of strengths and weaknesses in performance, achievement, or both, as allowed under 34 CFR 300.309(2)(ii)?***

Because 34 CFR 300.309(a)(2)(ii) permits (but does not require) the eligibility team to consider whether a student exhibits a pattern of strengths and weaknesses in performance, achievement, or both to determine SLD eligibility, teams in North Dakota have the option of examining data for this purpose if they consider such information relevant to an identification of SLD. If a student is not found eligible based on his or her response to scientific, research-based interventions, then it is not recommended to subsequently find the student eligible based on a pattern of strengths and weaknesses.

38. ***Can a student with a nonverbal learning disability qualify for/continue to receive special education services under the SLD category*****?**

Only students exhibiting skill deficits in the eight areas listed in 34 CFR 300.309 (i.e., oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving) may be considered for eligibility under the category of SLD. These eight areas represent the only academic areas inclusive of SLD. The eligibility requirements include student performance data that focus on achievement, not processing deficits. Therefore, a student must exhibit skill deficits in one or more of the eight areas to be considered for initial or continued eligibility under the SLD category.

39. What happens if the school team has made changes to the intervention(s) based on student data but has not been able to identify an intervention that results in a positive rate of improvement for a student? Does that mean the student is eligible for special education services?

The focus of the entire three-tiered problem solving system is to identify successful interventions that result in acceptable rates of learning. A student may receive intensive interventions that yield an acceptable rate of learning, but the type(s) and amount of resources necessary to maintain this rate are beyond what can be supported by general education alone. Another student may receive appropriate, intensive interventions that do not produce acceptable rates of progress within the expected time period. In both cases, the team should examine the student's educational progress by reviewing progress monitoring data and evidence that the scientifically- or evidence-based interventions were directly linked to the student's area of deficit, delivered with integrity, and implemented for a sufficient amount of time to allow changes to occur in the student's skill level. The team can then use the results of this review to make a decision about the need to conduct a special education evaluation in accordance with all relevant laws, statutes, regulations, and rules. If an evaluation is conducted, the educational progress data will also be an important source

of evaluation information in determining if the student has a disability that requires special education and related services.

It is important to note that special education does not automatically equate to "successful interventions" simply by virtue of being special education. Therefore, it is expected that when a student does not make expected progress or is not able to maintain progress when receiving intensive interventions provided with general education resources alone, eligibility determination for special education services will occur within the context of the problem solving framework, where all educational professionals are responsible for the student's education. When interventions that improve performance have not been identified at the point where initial special education eligibility is determined, the team continues to work to establish effective interventions delivered using special education resources.

If a student is found eligible for and receives special education services, it is important that the team continue to monitor the student's progress and utilize student data to determine the effectiveness of and make any needed adjustments to the interventions. When adjustments are made to interventions being delivered in accordance with the student's IEP, these changes must be made in accordance with procedural safeguard requirements. For example, if the amount of interventions specified on the IEP will be modified, an IEP meeting must be convened to revise the IEP.

Appendix E- Specific Learning Disability Sample Checklist: Determining Eligibility

Determination of Eligibility: Specific Learning Disability

Definition: Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak read, write, spell., or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include problems that are primarily the result of vision, hearing, or motor disabilities; intellectual disabilities, emotional disturbance; cultural factors; environmental and economic disadvantage; or limited English proficiency. The specific learning disability prevents the student from receiving reasonable education benefit from general education alone.

The MDT has considered: (300.306(b))

Yes ☐	No ☐	1. The evaluation is sufficiently comprehensive to appropriately identify all of the student's special education and related service needs, whether or not they are commonly linked to the disability category.
Yes ☐	No ☐	2. The student can receive reasonable educational benefit from general education alone.
		3. The student's performance: ☐ Is ☐ Is not due to a lack of appropriate instruction in reading, including the essential components of reading instruction; ☐ Is ☐ Is not due to a lack of appropriate instruction in math; and ☐ Is ☐ Is not due to limited English proficiency.

The student meets the following criteria: (300.309)

☐ 1. The student does not achieve adequately for the student's age or to meet State-approved grade level standards in one or more of the areas identified below, when provided with experiences and instruction for their age or State-approved standards, ***and***

☐ 2. The student does not make sufficient progress to meet age or State-approved grade level standards in The area(s) when using a process based on the student's response to scientific, research-based interventions, ***or***

☐ 3. The student demonstrates a significant discrepancy between ability and achievement, or a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards, or intellectual development.

Check all areas that meet condition 1, and 2 or 3:

☐ Basic Reading Skills ☐ Reading Comprehension ☐ Mathematical Calculation ☐ Oral Expression

☐ Reading Fluency Skills ☐ Written Expression ☐ Mathematical Problem Solving ☐ Listening Comprehension

The attached IWAR report must contain documentation of the following: (300.311)

☐ A statement of whether the child has a specific learning disability;

☐ A description of the basis for the determination that the child has a specific learning disability;

☐ A statement about any relevant behavior noted during the observation and the relationship of that behavior to the student's academic functioning;

☐ A description of any educationally relevant medical information;

☐ A statement about the child not making sufficient progress to meet age or State-approved grade level standards OR a statement of whether there is a significant discrepancy between ability and achievement OR a pattern of strengths and weaknesses relevant to identification of a specific learning disability, that is not correctable without special education and related services; and

☐ The determination of the MDT concerning the effects of visual, hearing, motor disability; intellectual Impairment, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency on the student's achievement levels

☐ If the student participated in a process that assesses the student's response to scientific, research-based Intervention-

- The instructional strategies used and the student-centered data collected; and
- The documentation that the student's parents were notified about-
  - The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
  - Strategies for increasing the child's rate of learning; and
  - The parent's right to request an evaluation.

The MDT has considered all of the following (must be checked "are not" for an SLD determination)

1. That the learning problems described in the IWAR:

☐ Are ☐ Are Not Primarily the result of intellectual disability

☐ Are ☐ Are Not Primarily the result of emotional disturbance

☐ Are ☐ Are Not Primarily the result of a vision impairment

☐ Are ☐ Are Not Primarily the result a hearing disability

☐ Are ☐ Are Not Primarily the result of a motor disability

☐ Are ☐ Are Not Primarily the result of cultural factors

☐ Are ☐ Are Not Primarily the result of environmental or economic disadvantage

☐ Yes ☐ No ***The MDT agrees that this student has a specific learning disability as defined in Federal and State regulations and demonstrates a need for special education services and is eligible for special education and related services.***

Adapted from Colorado Department of Education, *Guidelines for Identifying Students with Specific Learning Disabilities,* 2008.

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