MTSS Quick Reference Guide: Specific Learning Disability Eligibility within a Tiered System of Support

Under the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA), districts are not required to consider the discrepancy between a student's performance and intellectual ability when evaluating for a Specific Learning Disability (SLD) and may instead use scientific, research-based interventions as part of the SLD evaluation process. In Massachusetts, districts may choose to use the discrepancy model, the response to intervention model, or a combination of the two to determine SLD eligibility. Regardless of the chosen method, the SLD eligibility process requires that the evaluation team collect and examine both student performance data and data pertaining to the learning environment, including instructional practices, assessments, and teacher qualifications. This Quick Reference Guide offers guidance and resources for districts to ensure that as they build a tiered system of support, the policies, practices, and procedures are in place to enable educators to collect student data that can be used for SLD eligibility determination and to demonstrate that a student has had ample opportunity to learn.

What is Specific Learning Disability (SLD)?

IDEA 2004 defines specific learning disability (SLD) as "a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations." Specific learning disabilities include perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. SLDs do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage (from [34 CFR §300.8(c)(10)]). SLD is the most commonly diagnosed disability in the United States and over one million students, or one third of all students receiving special education services, have been identified as having some form of SLD.

SLD may manifest itself in a student's ability to:

- Listen
- Think
- Speak
- Read
- Write
- Spell
- Do Mathematical Calculations

34 CFR 300.8(c)(10)(i)

What Does the Law Say?

In Title 20 of Section 1414, the 2004 reauthorization of IDEA expanded states' options for the procedure through which schools and districts determine whether students have SLD to include the use of scientific, research-based interventions. The statute reads as follows:

(A) In General… When determining whether a child has a specific learning disability… a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

(B) … a local educational agency may use a process that determines if the child responds to **scientific, research-based *intervention*** *as part of the evaluation procedures… .*

The traditional IQ/Achievement Discrepancy Model for SLD determination has been criticized for being a "wait to fail" model, requiring students to fall significantly behind before they are considered for special education services. The Response to Scientific, Research-based Intervention Model has gained popularity for its focus on prevention. When done correctly, this model offers all students access to high-quality core instruction and enables educators to target instructional interventions to a student's area(s) of specific need as soon as those needs become apparent. Research has shown, however, that the data gathered through the response to a scientific, research-based intervention process may not provide enough information about how a student learns to allow the evaluation team to write an effective IEP for students who are found eligible for special education services under SLD. Best practice supports the use of additional diagnostic tests if needed to supplement the data collected through the response to scientific, research-based intervention model.

Research has shown the use of any **single** method to diagnose SLD to be insufficient. Evaluations should include **multiple** assessment tools and strategies (Hale, 2009; U.S. Department of Education, 2006).

While models using research-based interventions have been shown to more accurately distinguish between students who truly have an SLD from those whose learning struggles could be resolved with more targeted interventions and supports provided within the general education environment, Massachusetts does allow a district to use either this method or the severe discrepancy method. It is our hope that over time all Massachusetts districts will have scientific research-based interventions in effective programs that will make the sole use of a severe discrepancy method unnecessary.

What is a Scientific Research-Based Intervention?

Also known as Response to Intervention (RTI), Three-Tiered Instruction, Multi-Tiered Instruction, Flexible Tiers of Instruction and Intervention, and/or Recognition and Response, "response to scientific, research-based intervention" covers any kind of instructional support program that is based on research and provides assistance to students who are struggling. While IDEA does not offer a definition of scientific, evidence-based interventions in the regulations, there has been extensive research around effective interventions in literacy. Much of this research can be generalized to interventions in other subjects.

The following are characteristics of effective interventions for at-risk students, based on scientific research*:

1. Interventions must be research-based, and valid and reliable predictors of future performance.
2. Interventions should be offered at the first signs that a student is struggling with the development of skills or knowledge critical to accessing the general curriculum.
3. Interventions must significantly increase the intensity and practice of the skill(s) being targeted and should be available in a range of intensities.
4. The type, frequency, intensity and duration of interventions must be guided by and responsive to academic and/or non-academic data.
5. Interventions must provide the opportunity for explicit and systematic instruction and practice along with cumulative review to ensure mastery.
6. Interventions must be administered by appropriately trained staff who provide skillful instruction and offer many opportunities for immediate feedback.

Guiding Principle:
In a Tiered System of Support, all interventions and/or supports are **provided in addition to** high quality core instruction.

7. Interventions should supplement, enhance, support, and provide access to the general curriculum.
8. Interventions must be provided in addition to core instruction.
9. Inventions must 1) be sensitive to English language acquisition issues and 2) be able to distinguish language acquisition issues from other learning challenges.

*Adapted from Florida Center for Reading Research: *A Principal's Guide to Intensive Reading Interventions for Struggling Readers in Reading First Schools* and *The MTSS Blueprint*

What is the Process for Determining Eligibility in Massachusetts?

In Massachusetts, districts may choose to use 1) the traditional IQ/discrepancy model, 2) data from a student's response to research-based interventions, or 3) a combination of the two to determine eligibility for special education under SLD. The process for determining eligibility includes four required components that are addressed concurrently during the evaluation process. They are: Historical Review and Educational Assessment; Area of Concern and Evaluation Method; Exclusionary Factors; and Observation.

Component 1 ensures that all requirements for Historical Review and Educational Assessment have been met. These include an historical review to ensure that the student has been provided with appropriate instruction by qualified staff in the general education setting and that there have been repeated assessments given over time to track the student's progress; a collection of data around the student's participation skills, including assessments of attention and communication skills, memory, and social relations; a performance history with evidence of the student's performance as compared to same-age peers; and any relevant medical information.

Component 2, Area of Concern and Evaluation Method, allows the team the option to provide evidence that a student is not making effective, age-appropriate educational progress toward meeting standards in English Language Arts (ELA) or mathematics based on assessment data from scientific, research-based intervention(s).

Required Components for SLD Identification (MA):

A. Historical Review and Educational Assessment
B. Area of Concern and Evaluation Method
C. Exclusionary Factors
D. Observation

To meet requirements for Component 2, the research-based intervention(s) must provide sufficient information so that a responsive, data-driven IEP can be developed; in most cases, additional diagnostic assessments will need to be used to write the IEP and design specialized instruction based on the student's needs.

Component 3 asks the team to respond to a list of Exclusionary Factors to ensure that the student's lack of sufficient progress does not have a root cause other than an SLD. These exclusionary factors include cultural factors; environmental or economic disadvantage; limited English proficiency; a visual, hearing, or motor disability; mental retardation; and/or emotional disturbance. If the team answers that any of these factors are the primary impediment to the student's learning, the student cannot be found eligible for Special Education under the SLD category.

Component 4 calls for the observation of relevant behaviors across areas of concern and their correlation to the student's performance. The observer identifies the areas of concern, which may include language, reading, writing, math, social emotional, attention, and/or gross and fine motor skills, and notes the relationship between different behaviors and the student's academic functioning. Multiple observations at different times and in different settings are often necessary for the observer to obtain a complete picture of the student. A similar process is taken for students at each grade level, though observation forms vary.

All four components must be addressed whether the team decides to use the IQ/Achievement Discrepancy model, the Response to Scientific, Research-based Intervention model, or a combination of the two. The following are questions that the team should consider depending on the model they wish to pursue. For either model, documentation will need to be provided to support the answers:

Response to Scientific, Research-Based Intervention Model

- What is the Area of Concern?
- Do we have enough information from the interventions that have been tried so we know how the student learns?
- Is there enough information so that a responsive, data-driven IEP can be developed, if necessary?
- What research-based strategies were implemented with the student?
- Has assessment data been collected at reasonable intervals?
- Have the student's parents been informed of
  - the teaching strategies,
  - the student's progress, and
  - their right to request an evaluation?

IQ/Achievement Discrepancy Model

- Is there a severe discrepancy between ability and achievement in one or more of the Areas of Concern?
- Is there a pattern of strengths and weaknesses in performance and/or achievement?
- What information has been gathered from cognitive, behavioral, physical, and/or developmental assessments?
- Has the Team considered data from multiple assessments?

Additional technical assistance documents that support the SLD eligibility process, and forms related to all four components, can be found at http://www.doe.mass.edu/sped/iep/sld/default.html.

Flexible Tiers of Instruction and Intervention: What it Looks Like

Whether finding a student eligible for special education services under SLD using the Response to Scientific, Research-based Intervention Model or the IQ/Achievement Discrepancy Model, there must be evidence to show that a lack of instruction is not the reason for the student's academic struggles. Therefore, schools must demonstrate that all students have access to high-quality curricula and instruction by qualified educators. The following elements are critical to SLD determination within a tiered system of support and, when implemented with fidelity, will reduce the likelihood that students will be inappropriately referred for a special education evaluation:

Guiding Principle:
In order for a student to be identified as having SLD, the team needs to demonstrate that the student has had adequate opportunity to learn.

1. Students receive high quality, research-based instruction by qualified staff in the general education setting.
2. Curriculum, instruction, and assessments are aligned vertically (between grades) and horizontally.
3. General educators assume an active role in all students' access to, and assessment in, the curriculum.
4. School staff conduct universal screenings in both academic and non-academic areas for all students.
5. School staff implement specific, research-based interventions to address students' difficulties.
6. Continuous progress monitoring of student performance occurs (weekly or bi-weekly).
7. School staff use progress-monitoring data to make instructional decisions and to determine the effectiveness of interventions throughout the tiers.
8. There is systematic assessment of the fidelity with which instruction and interventions are implemented.
9. Tiers describe the intensity of instruction and intervention, not a placement of steps in a process.

**Adapted from the National Research Center on Learning Disabilities

The key elements above should be formally systematized by schools and districts as they develop or enhance their policies, practices, and procedures around the academic components of a tiered system of support, to not only enhance schools' ability to effectively evaluate students for SLD, but to ensure that all students have access to rigorous and responsive instruction.

SLD and Tiered Systems of Support: Tools and Resources

Florida Center for Reading Research: http://www.fcrr.org/

LD Online for Educators: http://www.ldonline.org/educators
for Parents: http://www.ldonline.org/parents

Memorandum on Specific Learning Disability – Eligibility Process/Forms (Massachusetts Department of Elementary and Secondary Education, 2007): http://www.doe.mass.edu/sped/iep/sld/default.html

Response to Intervention and SLD Identification (PowerPoint): http://www.ideapartnership.org/documents/RTI-advanced-ppt-7-30-07.ppt

State of Learning Disabilities (2014): http://www.ncld.org/types-learning-disabilities/what-is-ld/state-of-learning-disabilities

Additional References

Hale, James B. (2008). Response to Intervention: Guidelines for Parents and Practitioners. http://www.wrightslaw.com/idea/art/rti.hale.htm

Hehir, Thomas, with Lauren Katzman (2012). *Effective Inclusive Schools*: *Designing Successful Schoolwide Programs.* San Francisco: Jossey-Bass.

U.S. Department of Education (2007). *Q and A: Questions and Answers On Response to Intervention (RTI) and Early Intervening Services (EIS*). http://idea.ed.gov/explore/view/p/,root,dynamic,QaCorner,8