

Specific Learning Disability Evaluation and Eligibility

Specific Learning Disability (SLD) eligibility criteria were revised via amendment to the Colorado Rules for the Administration of the Exceptional Children’s Educational Act (ECEA) in 2007 to align with revisions in federal law (the IDEA statute was revised in 2004, the federal IDEA regulation were updated in 2006). Colorado’s revised criteria were required to be implemented no later than August 15, 2009. This document addresses requirements and practices in assessment and evaluation related to the identification of an SLD.

Key Question: *What are the two major eligibility criteria that must be met (demonstrated through a body of evidence) in order to determine that a student has an SLD?*

(1) The child **does not achieve adequately for the child’s age or to meet state approved grade-level standards and exhibits *significant academic skill deficit(s)*** in one or more of the following areas when provided with learning experiences and instruction appropriate for the child’s age or state-approved grade-level standards: **oral expression; listening comprehension; written expression; basic reading skill; reading fluency skills; reading comprehension; mathematical calculation; mathematics problem solving;**
 AND

(2) The child **does not make sufficient progress to meet age or state-approved grade-level standards** in one or more of the areas identified ... when **using a process based on the child’s response to scientific, research-based intervention**

See, ECEA Rule 2.08(b)(1) and (2) (emphasis added).

Key Question: *What is a “Full and Individual Evaluation?”*

The federal IDEA regulations and the Colorado ECEA Rules require a “full and individual evaluation” that must be conducted before initial provision of special education and related services. It must consist of procedures to determine if the child is a child with a disability and to determine the educational needs of the child. This evaluation should now be more focused on the specific areas of suspected disability than in the past – when a “comprehensive evaluation” typically meant a common and extensive battery of assessments given to all students referred, regardless of the student-specific learning difficulties.

It is important to note that a variety of assessment tools and strategies must be used to gather relevant information about the student, including information provided by the parent. The team may not use any single measure for making a disability determination and for determining educational programming. Even though a student’s response to scientific, research-based

In conducting the evaluation, the public agency must—

Use a variety of assessment tools and strategies to gather relevant ...information about the child, including information provided by the parent...

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

[excerpts from IDEA 300.304(b)(1) & (2)]

The student meets the following criteria:

1. The student does not achieve adequately for the student's age or to meet State-approved grade-level standards and exhibits significant academic skill deficit(s) in one or more areas...
2. The student does not make sufficient progress to meet age or State-approved grade-level standards ... based on the student's response to scientific, research-based intervention.

Check all areas that meet both conditions:

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

[from *SLD: Determination of Eligibility form, Colorado Department of Education*]

intervention is crucial to SLD determination and educational planning, other types of information or assessment data must be collected during the Response to Intervention (RtI) problem-solving process and/or evaluation process.

Parents must be actively involved as partners in educational decision-making, providing both information and input throughout the RtI and evaluation process. [Recommended resource: CDE'S *Multi-Tiered System of Supports (MTSS) Family, School, and Community Partnering (FSCP) Implementation Guide: Supporting Every Student's Learning* at http://www.cde.state.co.us/cdesped/mtssfscp_implementationguide]

When making an initial determination of SLD, only the specific area or areas (of the 8 areas of SLD) for which there is the "body of evidence" that substantiates both the presence of an academic skill deficit and insufficient progress should be indicated as areas of identified disability (i.e., on the Determination of Eligibility: SLD form -- CDE model form available at http://www.cde.state.co.us/cdesped/iep_forms#disabilitycategories)

Even though special education evaluations are more focused than in the past, they must be "sufficiently comprehensive to appropriately identify all of the child's special education and related services needs, whether or not commonly linked to the disability category." See 34 C.F.R. §§300.304(c)(6) and 300.306(b); ECEA Rule 2.08(6). This means that the evaluation team could identify special education needs that are more typical to a disability other than SLD (e.g., emotional or behavioral) and still address these needs in the evaluation report and in the IEP without finding the student eligible in a second special education category.

Similarly, even within the category of SLD, the evaluation team may come to suspect a special education need in another area of SLD for which a body of evidence was not gathered. For example, if no progress monitoring data were collected in relation to a specific intervention provided, there would be no documented evidence of "insufficient progress in response to scientific, research-based intervention." Evaluation data demonstrating an "academic skill deficit" might be used by the team to determine an additional special education need. This area of need would be addressed in the evaluation report and reflected in an IEP goal, but NOT indicated as an area of SLD for initial eligibility purposes. Again, only areas for which there is a documented body of evidence that all the required criteria



have been met are indicated as areas of SLD in the determination of an individual student's eligibility.

Key Question: In relation to the two major eligibility criteria for SLD, what might constitute a “body of evidence” for a student being evaluated for a suspected Specific Learning Disability?

For determination of an SLD, Colorado Rules specifically state that a body of evidence must be used to demonstrate both criteria. It is important that one assessment instrument not be the sole or primary determiner of both an academic skill deficit and insufficient progress. For example, if a Curriculum Based Measure (CBM) is being used as a progress monitoring tool, the student's results over time on this measure would probably be the primary indicator of “insufficient progress.” This measure, even though nationally normed, should not also be used as the only norm-referenced assessment required for determining an “academic skill deficit.” A standardized, normed and focused assessment in the specific area of suspected disability should also be administered.

Demonstrating an Academic Skill Deficit

Parameters given for determining the significance of a deficit are not intended to be hard and fast “cut-points” and the convergence of multiple sources of data needs to be considered by the eligibility team.

At least one measure needs to be norm-referenced in order to provide some consistency across schools and districts in the interpretation of “significance.” A score at or below the 12th percentile or 1.5 standard deviations below the mean may be considered to represent a significant deficit. The results of a focused and norm-referenced, diagnostic/prescriptive assessment will not only assist with the identification of a specific learning disability, but would provide valuable information for developing IEP goals and determining appropriate instruction/intervention.

Additional existing performance data from such sources as student work products, classroom and district assessments, state assessments, etc., all add to the body of evidence.

Criterion referenced measures of “mastery” may be one type of classroom assessment reflected in the body of evidence – a guideline is that if a student is performing at only 50% of mastery expectations for a particular skill or set of concept knowledge, it would be considered evidence of a significant deficit. For example, end of chapter comprehension or skill questions/tasks where the proficiency or mastery level set by the textbook or teacher is 80 % or greater correct responses, a student who consistently scores at 40% or less correct may be considered to have a significant deficit in the particular skill or knowledge set being targeted.

Demonstrating Insufficient Progress in Response to Scientific, Research-Based Intervention

In addition to an academic skill deficit, teams must identify insufficient progress in one or more of the eight educationally relevant areas to determine a Specific Learning Disability. To determine insufficient progress, the progress monitoring tool must be linked to one of the eight areas of SLD. The following guiding questions will assist a team in this determination:

- Has appropriate, research-based intervention been implemented with fidelity for a sufficient length of time? What is the rate of improvement at the grade level and instructional level?
- Is the student's rate of improvement the same as peers receiving the same or similar intervention?
- Has there been a gap analysis of student progress?
- Is the gap with peers closing?
- How many weeks will it take the student to reach the average range at their grade level?
- By a determined point in time, what is the goal for progress? Will the student achieve this at their current rate of improvement?

A common question regarding the determination of insufficient progress is, "When implementing the Gap Analysis process, does a gap of 2.0 or greater mean that we should move forward with identification of a specific learning disability?"

The answer to this question is "not necessarily." It is essential that the significance of the gap needs to be determined in relation to the gap (based on age/grade norm or benchmark). A gap of 2.0 or greater, even after targeted/intensive intervention, is often considered significant, but is not an absolute cut-point. In addition, if the majority of students have a skill gap of 2.0 or greater, a 2.0 gap for the student being evaluated would not necessarily signify the presence of a disability. Gaps that are prevalent across a peer group may mean that instruction, at the universal level, needs to improve and/or be more intense as to time and focus for all students within that peer group.

The accuracy of gap analysis may vary according to the type of norms/benchmarks utilized (research-based norms, local norms, or criterion-based benchmarks). It is recommended that Curriculum Based Measures (CBMs) with national norms be used if one is available that correlates to the skill being targeted. For example, improvements in phonemic awareness and phonics are highly correlated to increased performance on oral reading fluency (ORF) measures, which are well-researched and nationally normed.

Key Question: What other evaluation documentation is required for determination of disability in the category of SLD and the need for special education?

[See Determination of Eligibility - Specific Learning Disability CDE recommended form at:

http://www.cde.state.co.us/cdesped/iep_forms#disabilitycategories , select SLD]

- Documentation of consideration that the learning problems in the areas of SLD identified are "not *primarily* due to...vision, hearing, or orthopedic impairment; emotional disabilities; intellectual disabilities; cultural factors, environmental or economic disadvantage; or limited English proficiency. The evaluation report should include documentation of the findings and considerations for any student-specific relevant factors. For example, if a student is an English language learner, the evaluation should address evidence and rationale for the determination that the student's learning difficulties are not primarily due to the lack of English proficiency.
- Documentation that the team has determined that the student's performance is not due to a lack of appropriate instruction in reading, including the essential elements of reading instruction, or in math.
- Documentation of an observation in the learning environment

- May be conducted and documented prior to a referral for special education evaluation (e.g., as part of the RtI/problem-solving process) OR as part of the special education evaluation.
- Student observed within the learning environment including the regular classroom setting and in context of the area of learning difficulty
- Must be a documented, specific observation (date/instructional activity occurring/specific student behaviors observed/summary of implications) – not documentation of general comments regarding the student’s performance in the learning environment, although that type of information (e.g., via teacher report or interview) may also be relevant to gather and include in the evaluation report.
- Documentation of educationally relevant medical findings, if any
- Documentation of instructional strategies used to improve performance and results of repeated assessments of achievement at reasonable intervals (progress monitoring data)
- Documentation that the parents were notified about: amount and nature of student performance data collected; strategies for increasing the student’s rate of learning; results of repeated assessments of student’s progress; the right to request an evaluation

Key Question: What are some unique considerations and procedures when evaluating a student who is culturally and/or linguistically diverse (CLD)?

Certainly, a student may be culturally and/or linguistically diverse and be appropriately identified as having a Specific Learning Disability. As a team begins to evaluate a student for special education, it is important to gather/review and document information that answers the following questions:

- Does evidence exist that a student’s achievement and/or behavior differ significantly from that of other students with similar demographic characteristics? [It is important to compare to students with similar cultural background, language, age and/or stage of English language acquisition.]
- Has progress in response to instruction/intervention been monitored and compared with the progress of a comparable group of learners? Was instruction/intervention culturally and/or linguistically appropriate?
- Is the achievement gap with grade-level peers closing?
- If the student is an English learner, is there evidence that the student has deficits in both languages and across various settings?

Guidance related to assessment use and interpretation when the student being evaluated is CLD:

- Consider student’s dominant language when selecting assessment materials. Communicate any departures from standard testing procedures and the impact on interpretation.
- Use assessments that minimize cultural bias.
- Use informal measures to supplement standardized test scores, including dynamic assessment strategies.
- Ascertain whether errors are typical of other students with similar backgrounds or level of English proficiency.
- Review test results with family members or other persons from student’s background to gain additional insight as to the student’s performance.



The team should include in the evaluation and eligibility meeting documentation references to the impact of cultural diversity and/or English language proficiency on the student’s learning and on the final determination of disability. (For example, the rationale for a determination that a student’s learning difficulties are not due to his level of English language acquisition, but are due to a Specific Learning Disability might include a statement such as: “The student’s rate of progress in response to intensive intervention is much slower than that of other struggling students who are receiving the same intervention and who are at the same level of language acquisition.”)

[See the *SLD Technical Assistance: Culturally and/or Linguistic Diversity & SLD* for further clarification – reference and link are included at the end of this document.]

Key Questions: How might a Triennial Reevaluation be conducted for a student who was initially identified under the previous SLD criteria that included “a severe discrepancy between achievement and intellectual ability?” How is a determination of continued eligibility made and documented?

Reevaluations are planned in the same way as initial eligibility evaluations, with parents participating as team members. Existing data are reviewed to determine if any additional data are needed. However, with reevaluations it is presumed that the initial eligibility process was valid and that the disability remains -- unless there are data that indicate otherwise, including evidence of a change in the student’s ability to benefit from the general education curriculum without supplemental aids and services (e.g., specialized instruction no longer necessary). The focus of the triennial reevaluation process and meeting is on existing student-centered data, such as ongoing assessments of progress and focused/diagnostic assessment that answers specific questions related to the student’s learning. Important considerations and determinations include: sufficiency of response to instruction/intervention provided; degree to which the current special education services are meeting the individual student needs; and any indicated changes to instruction and services. Continued eligibility must be documented.

There are three options regarding how a triennial reevaluation is addressed:

- (1) Reevaluation that includes additional assessment data
- (2) Reevaluation with no additional evaluation data needed (reevaluation based on existing data)
- (3) Reevaluation determined unnecessary by documented agreement between parent and public agency

Resources to support the documentation of disability that would assist in the successful transition of a student who may need disability services after graduation from high school can be found on the CDE Secondary Transition Resources Website http://www.cde.state.co.us/cdesped/transition_resources

[See the *SLD Technical Assistance: Triennial Reevaluation and Continued Eligibility* for further clarification – reference and link are included at the end of this document.]

Key Question: Why might a student not be eligible for special education in the disability category of SLD even though s/he has academic skill weaknesses in comparison to areas of strength or assessed IQ?



Disagreements sometimes arise when a parent or other advocate believes that a student identified as gifted should be eligible for special education services as a student with an SLD, even if the student is achieving at or near grade level in area(s) of relative weakness. The expectation for achievement referenced in the identification of SLD was established in the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) and the regulations that followed, §300.309 (2006) – which describe a deficit in comparison to age or grade-level standards. It is this comparison that guides the special education determination, rather than a comparison with a student’s assessed ability/intelligence or a comparison with that student’s area(s) of strength.

Certainly, a student who is gifted in some area(s) may also be appropriately identified as having a Specific Learning Disability and be found eligible for special education due to significant skill deficits (as defined in current criteria); insufficient response to scientific, research-based intervention; consideration of other factors; and a determination of the need for special education and related services in order to benefit from general education.

[See the *SLD Technical Assistance: Gifted & SLD (Twice Exceptional)* for further clarification – reference and link are included at the end of this document.]

Key Question: What is the relationship between dyslexia and Specific Learning Disability?

Although the definition of Specific Learning Disabilities in both federal and state law refers to dyslexia as one of the conditions that may be included, dyslexia is not a special education disability category in and of itself. There is some confusion between the identified educational disability category of SLD (recognized under the Individuals with Disabilities Education Act and Colorado’s Exceptional Children’s Educational Act) and a diagnosis of dyslexia that is typically not made by school personnel. Under federal and state law, if a student has an identified learning disability that significantly impacts the ability to learn without special supports and services, the entitlement label is Specific Learning Disability. An individual student who has had a diagnosis of dyslexia may or may not be eligible for special education services—it is never an automatic conclusion that if a student is identified as having dyslexia, that student is also eligible for special education services.

Eligibility is dependent on whether the criteria and other determinations for SLD are met. However, there is certainly overlap between students who have had a clinical diagnosis of dyslexia and those who have been identified as having a specific learning disability and been found eligible for special education – particularly in the SLD area of “Basic Reading Skill” & “Reading Fluency”. Specific Learning Disabilities that involve word level reading deficits (as described in a commonly endorsed definition of dyslexia) have been cited by leading researchers as the most common of all learning disabilities.

The fact that the determination of the significance of an academic skill deficit is no longer based on a comparison between assessed achievement and assessed ability or intelligence has also caused some confusion. A significant academic skill deficit is now determined by comparing a child’s academic skill level to age or grade-level standards or norms.



[See the *SLD Technical Assistance: Dyslexia & SLD* for further clarification – reference and link are included at the end of this document.]

Key Question: Why are assessments of general intelligence or cognitive/psychological processing not recommended as part of an evaluation when suspecting a Specific Learning Disability?

Role of Intelligence Testing

With the increased reliance on direct measures of learning in the determination of SLD and the elimination of the IQ/Achievement discrepancy criterion, the need for general intelligence testing is diminished. In addition, the substantial overlap between skills measured through intelligence testing and academic skills, as well as the fact that achievement often affects students' performance on components of IQ tests, the administration of IQ tests may be of limited value in informing instruction.

Role of Cognitive Processing Assessment

Also no longer required is documentation of cognitive/psychological processing difficulties separate from what might be apparent through direct measures of academic skills within any of the 8 identified areas of SLD. For example, the relationship between phonological processing is apparent in two of the basic reading skill components: phonemic awareness and phonics/decoding. A focused assessment in basic reading skills (e.g., Dynamic Indicators of Basic Early Literacy Skills/DIBELS NEXT, Test of Early Reading Ability-Third Edition/TERA-3, or specific subtests of a comprehensive battery that focus on phonemic awareness, phonics and decoding) should provide the necessary information to both identify a reading deficit and inform instruction/intervention that is needed. The preamble to the federal regulations expresses... “support for models that focus on assessments that are related to instruction and promote intervention for identified children...” See, 71 Fed. Reg. 46,647 (Aug. 14, 2006).

Other related guidance documents are posted on the CDE-SLD website

(<http://www.cde.state.co.us/cdesped/SD-SLD.asp>):

- **Additional SLD Technical Assistance (TA)** address the impact that the SLD criteria and identification process has on the determination of eligibility in the category of SLD in particular situations or with particular students. The list below gives the document titles and the “key questions” they address:
 - **SLD TA - Cultural and/or Linguistic Diversity & SLD** *What are some unique considerations when referring a student who is CLD for a special education evaluation due to apparent learning difficulties? As part of an evaluation, what relevant data from the school, district, and family should be collected and documented related to a student’s cultural and/or linguistic diversity? What important strategies and procedures should be utilized related to assessment use and interpretation? What documentation should be included that provides evidence that the evaluation team considered the impact of a language and/or cultural difference on learning?*

The Department [i.e., U.S. Department of Education] 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.

See, 71 Fed. Reg. 46,651 (Aug. 14, 2006).

- **SLD TA - Triennial Reevaluation and Continued Eligibility** *How might a Triennial Reevaluation be conducted for a student who was initially identified under the previous SLD criteria (including “a severe discrepancy between achievement and intellectual ability”)? How is a determination of continued eligibility made and documented?*
- **SLD TA - Gifted and SLD (Twice Exceptional)** *Why might a student who has academic skill weaknesses in comparison to his/her areas of strength or tested IQ not be eligible for special education services in the disability category: Specific Learning Disability?*
- **SLD TA - Dyslexia and SLD** *Why might a child diagnosed as having dyslexia not be found eligible for special education within the category of Specific Learning Disability?*

This CDE guidance document is meant for clarification, is not legally binding, and is not to be confused with legal advice. This guidance reflects CDE’s recommendations, but Administrative Units (AUs) may have developed their own policies or procedures that differ from those described herein. Be sure to refer to your local AU’s policies and procedures through the Director of Special Education. If you are seeking legal advice, please contact your legal counsel.

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