



Illinois State Board of Education

Special Education Department

Illinois Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention Framework: A Guidance Document

This document is intended to provide non-regulatory guidance on the subject matter listed above. For specific questions, please contact the Illinois State Board of Education.

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Foreword

[Illinois Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention Framework: A Guidance Document](#) was developed by ISBE with the invaluable assistance of committee members drawn from positions of educational leadership across the state. This collaboration first occurred in 2008 and the manual was revised in 2012 to address factors and considerations that may be unique to the needs of English Learners (ELs) when implementing an Response to Intervention (RTI) process as part of special education eligibility and entitlement. It has undergone a third revision in 2021 to reflect changes in language and guidelines at the state and federal levels.

As described in ISBE’s rules governing special education at [23 Illinois Administrative Code \(IAC\) 226.130](#), Illinois districts are required to implement a process to identify how students respond to scientific, research-based interventions or Multi-tiered Systems of Support (MTSS) as part of the evaluation process described in [34 Code of Federal Regulations \(CFR\) 300.304](#). ISBE supports RTI as an important part of school improvement under the umbrella of the state’s widespread usage of MTSS.

The guidance document is designed to provide Illinois districts and schools with a framework for using RTI to determine a student’s eligibility for and entitlement to special education services. Data collected during instruction are essential to eligibility determination, so it is important that school districts understand the critical role that effective, research-based academic instruction, interventions, and assessment play in this process. To that end, the guidance document addresses ways in which districts can assess whether their curricula and instruction, as well as interventions, are effective and, in turn, use such data in the eligibility determination process.

As will become evident through the information delineated in the guidance document, decisions about the effectiveness of scientific, research-based instruction and evidence-based interventions must be made for all students, not just those who are under consideration for special education eligibility. It is, therefore, important that district and school leadership teams have an active role in examining curricular materials, instructional methodologies, and other practices across school settings to determine their effectiveness and assess their impact on student outcomes.

Introduction

Illinois' rules governing special education at [23 IAC 226.130](#) provide the legal structure for the implementation of a process that determines how a child responds to RTI or MTSS as part of the evaluation process described in [34 CFR 300.304](#). The [Illinois State RTI Plan](#), issued on January 1, 2008, outlined a framework for statewide implementation of RTI and delineated requirements for district RTI plans, which were to be in place by January 1, 2009. The district plans were to lay the foundation for the implementation of an RTI process.

The [Every Student Succeeds Act](#) (ESSA), was signed in December 2015. It allowed school districts to implement an MTSS framework to meet the needs of students academically, socially, emotionally, and behaviorally. MTSS is defined in ESSA as “a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students’ needs, with regular observation to facilitate data-based instructional decision-making.” There has been much confusion regarding how RTI fits into the MTSS model. RTI, which is one example of the MTSS framework, continues to provide many tiers of support for struggling students. This document will focus specifically on the RTI framework and how it impacts eligibility for special education services for students with specific learning disabilities.

As stated in 2008 in the Illinois State RTI Plan, “...the Illinois State Board of Education believes that increased student learning requires the consistent practice of providing high-quality instruction matched to student needs ... In a quality educational environment student academic and behavioral needs must be identified and monitored continuously with documented student performance data used to make instructional decisions.” The plan also defines RTI as “the practice of providing (1) high-quality instruction/intervention matched to student needs and (2) using learning rate over time and level of performance to (3) make important educational decisions” (Batsche, et al., 2006).

RTI is an ongoing process of using student performance and related data to guide instructional and intervention decisions for ALL students. It is a part of an MTSS model of prevention using evidence-based interventions and includes the use of scientific, research-based educational resources to address student needs. RTI matches instructional and intervention strategies and supports student needs in a data-based, ongoing approach for planning, implementing, and evaluating the effectiveness of curricular supports and interventions.

In accordance with [23 IAC 226.130](#), school districts in Illinois were required to use a process that determines how a student responds to scientific, research-based interventions such as RTI when determining whether that student is or continues to be eligible for and entitled to special education services under the category of specific learning disability (SLD). The change in the SLD eligibility requirements at [23 IAC 226.130](#) came from the 2004 reauthorization of the federal Individuals with Disabilities Education Act (IDEA) and the [IDEA regulations](#) issued in 2006. The federal regulations at [34 CFR 300.307](#) allow a State Education Agency to adopt criteria to identify students in the category of SLD using a process that determines how a student responds to

scientific, research-based interventions. These regulations also require school districts to use the established state criteria.

The purpose of this guidance document is to provide Illinois districts and schools with an updated framework for using RTI to determine a student's eligibility for and entitlement to special education services. The requirement at [23 IAC 226.130](#) for the use of a process that determines how a child responds to scientific, research-based interventions or MTSS as part of an evaluation is specific to the identification of SLD. However, the purpose of this document is also to lay the foundation for the optional use of RTI as part of the evaluation procedures to determine special education eligibility for all students suspected of having a disability other than SLD.

It is imperative to put this document and the identification of students who qualify for special education services in the larger context of RTI. RTI is not just a process that is used to make eligibility and entitlement decisions. More importantly, RTI is about creating learning environments by utilizing data-based instructional practices that lead to improved outcomes for all students; consequently, the RTI framework outlined in this document should have significant impact on instruction and assessment practices in Illinois schools. In addition, the RTI framework should also align with a broader schoolwide MTSS application as defined in ESSA. Accordingly, numerous additional resources available to support the implementation of RTI are provided in the Resources section of this document.

Using information on how a student responds to scientific, research-based instruction and evidence-based intervention (e.g., RTI) when determining whether a student is eligible for and entitled to special education services is a process that was outlined through the reauthorization of IDEA in 2004. More specifically, school districts were to implement this process through an approved RTI plan by the 2010-11 school year. This process shifted special education evaluation to an evidence-based interventions process as opposed to a discrepancy model (IQ/Achievement) for identifying students with specific learning disabilities. The discrepancy model can still be used, according to [23 IAC 226.130\(d\)](#), but it must be used only in addition to the RTI process. When using an RTI approach, the focus shifts away from identifying and diagnosing characteristics that are internal to the student and moves to identifying effective interventions. When using a student's response to intervention as a basis for special education eligibility and entitlement decisions, the following questions are asked:

1. How does the students' performance on assessments compare to grade-level peers?
2. What is the student's educational progress as measured by rate of improvement on validated assessment measures?
3. What are the instructional needs of the student?

There are many advantages to using data collected as part of an RTI process to support entitlement decisions over more traditional models of disability identification (e.g., use of an IQ/achievement discrepancy), including the following:

1. Student needs are addressed proactively. The monitoring of student progress is early and frequent, which allows for scientific, research-based instruction and evidence-based intervention to be delivered as soon as possible.
2. The delivery of scientific, research-based instruction and evidence-based intervention prior to finding a student eligible to receive special education services reduces the number of students who are inappropriately identified as having a disability due to a mismatch between the curriculum and the student's needs.
3. Staff spend their time focusing on finding what works for students and the conditions under which they are most successful instead of attempting to identify problems that are internal to the student and presumed to be stable across environments and across time.
4. Eligibility determination is based on data collected that demonstrates a student's educational need. Those with the greatest need are given the most support.
5. The RTI process continues once students receive special education supports, and the school team continues to work to find instruction and interventions that result in the greatest progress for the student. The team continues to make regular and ongoing instructional decisions based on data, including when special education resources may no longer be necessary.

The increased emphasis on using information on how a student responds to scientific research-based instruction and evidence-based intervention to support eligibility and entitlement decisions is coupled with a decreased emphasis on the use of standardized, norm-referenced assessments of achievement, cognitive ability, and cognitive processing. IDEA 2004 makes it clear that the determination of a severe discrepancy between IQ and achievement is not necessary in order to identify a student as having an SLD. Additionally, 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. Of particular relevance is the U.S. Department of Education's response in the "Analysis of Comments and Changes" section of the federal regulations.

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.

– Federal Register, Vol. 71, No. 156, p. 46651

When using RTI to make eligibility and entitlement decisions, a variety of sources of information, including validated universal screening tools, evidence-based progress monitoring data, and diagnostic/prescriptive assessment data, can provide the information necessary for a) determining a student's performance compared to the same aged peer group, b) establishing a pattern of educational progress over time, and c) identifying the educational circumstances under which the student performs best. This document provides Illinois schools and districts with detailed information on the process for the collection of student performance data in an RTI

framework (Part B) and delineates how those data can be used to assist with eligibility and entitlement decisions (Part C).

Users of this document should note that because the document's focus is to provide guidance on utilization of an RTI framework in making special education eligibility and entitlement decisions, the federal laws and regulations and Illinois statutes and rules cited herein are those most directly connected to this subject. Accordingly, individuals are strongly encouraged to consult other federal laws and regulations and Illinois statutes and rules that may have relevance to a particular situation such as those governing personnel qualifications, specific program requirements, etc. Examples of state-level sources that may be consulted are [Chapter 105, Part 5 of the Illinois Compiled Statutes](#), including, but not limited to, [Articles 14, 14C, 21, and 23 IAC](#), including, but not limited to, Parts 24-28, 226, and 228.

A. Response to Intervention/Multi-tiered System of Support

The purpose of this section is to clarify the terms Response to Intervention and Multi-Tiered Systems of Support. The reauthorization of IDEA in 2004 brought changes in how students suspected of having a specific learning disability were evaluated, as previously stated in the introduction of this document. Students suspected of requiring special education services due to a specific learning disability were no longer required to be evaluated using the discrepancy model of identification of a learning disability. Instead, utilizing a scientific, research-based process to identify students with specific learning disabilities was introduced. Districts were to outline a multi-tier plan that included implementing scientific, research-based interventions that were driven by the gathering of progress monitoring data. This multi-tier plan of academic support would guide districts to make educational decisions regarding students' academic needs and the intensity of these supports based on the data gathered. ESSA allowed districts to use funding to support MTSS. There was confusion regarding which process to use for this purpose at that time. RTI has been thought of as a process specific to identifying students with disabilities due to its mention in IDEA, whereas MTSS is often seen as a broader approach to meet the needs of students academically, behaviorally, socially, and emotionally. A [Dear Colleague Letter dated October 23, 2015](#), from the [U. S. Department of Education \(ED\) Office of Special Education and Rehabilitative Services](#) defined RTI as a specific example of MTSS. Both processes are data-based and use a multi-tiered approach to meet the needs of students. Supports are provided in tiers. Tier 1 is defined as whole class instruction utilizing high-quality, universally designed academic instruction that provides meaningful environmental supports; Tier 2 is defined as small group supplemental instruction utilizing evidence-based interventions to meet academic needs; and Tier 3 is defined as individual-based instruction. Tier 3, while focused on individual student needs, can be implemented in small groups or individually, utilizing evidence-based interventions that are data-driven and are provided in a high-dosage, high-intensity manner to meet the academic needs of students. Tier 1 instruction must be implemented using scientific, research-based curriculum and strategies. This instruction is the foundation for all systems of support when universal screening data is gathered from reliable and valid assessment tools to identify students in need of support. Tier 2 and Tier 3 interventions should supplement Tier 1 instruction, not

supplant it. The RTI and MTSS frameworks are further explained in the answers to Questions A-1 and A-2 of the [“Special Education Eligibility and Entitlement within a Response to Intervention Framework: Frequently Asked Questions”](#) guidance document.

B. Essential Components of RTI Data-Based Decision-Making

The purpose of this section is to identify and describe the processes that lead to the determination of eligibility. Subsection B-1 addresses the collection of data to determine whether one or more of the factors associated with the Special Rule for Eligibility Determination are the *primary* reasons a student is experiencing difficulty, and this rule is applicable to all disability categories. Subsection B-2 discusses the additional requirements for determining if a student qualifies for special education services under the category of SLD. Subsection B-3 examines the regulatory requirement that Individualized Education Program (IEP) teams must review existing evaluation data when conducting a special education evaluation for all suspected disabilities. The requirements contained in Subsections B-1 through B-3 reflect existing federal regulations, and their implementation is discussed in the context of an RTI framework.

The requirements associated with initiating a full and individual evaluation [\[34 CFR 300.301\(a\)\]](#), requesting an initial evaluation [\[34 CFR 300.301\(b\)\]](#), and conducting the evaluation [\[34 CFR 300.304\(b\)\]](#) remain the same. These requirements are addressed in greater detail in the [FAQ](#) supplement to this guidance document.

When implementing the data collection requirements and procedures discussed below for ELs, 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 RTI. These areas of data collection and analysis include the learning environment, personal and family background, physical and psychological functioning, previous schooling in the United States and elsewhere, oral language and literacy in English and the student’s native language, academic achievement in the United States and elsewhere, and cross-cultural factors.

B-1. Determinant Factors – All Disabilities

When determining eligibility for special education services, regardless of the type of disability suspected, the IEP team must apply the [Special Rule for Eligibility Determination](#), which states:

- (b) “A child must not be determined to be a child with a disability under this part —
 - (1) If the determinant factor for that determination is —
 - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA [Elementary and Secondary Education Act]; as such section was in effect on the day before the enactment of ESSA on (December 9, 2015);
 - (ii) Lack of appropriate instruction in math; or
 - (iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under [300.8\(a\)](#)”

In order to rule out each of the factors listed above as the *primary* reason a student is experiencing difficulty, it is important that the IEP team examine data-based evidence, as discussed below.

B-1 a. Lack of Appropriate Instruction in Reading and Math, including the Essential Components of Reading and Math Instruction

A key component of appropriate instruction is a student’s opportunity to learn. Opportunity to learn is a complex construct that includes not only access to key resources (e.g., qualified personnel, funding, relevant and rigorous curriculum) but also factors related to the nature and implementation of academic instruction. To rule out lack of appropriate instruction in reading and math, the group must consider, as part of the evaluation described in [34 CFR 300.304](#) through [300.306](#):

- 1) Data that demonstrate that prior to or as part of the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel and
- 2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction which was provided to the child’s parents.

Scientific-based Curriculum: It is important that the IEP team has evidence that the academic curriculum and supplemental instruction are scientifically based. “Scientifically based” is a term used to describe practices and programs that have been thoroughly and rigorously reviewed to determine whether they produce positive educational results in a predictable manner. This determination is made based on objective, external validation.

Scientifically based reading programs include the [essential components of reading instruction](#) as defined in the ESEA of 2001 (i.e., phonemic awareness, phonics, fluency, vocabulary, and comprehension). Scientifically based math programs include the essential components of math instruction (conceptual understanding, procedural fluency, strategic competence, adaptive reasoning, and productive response), as recommended by the National Research Council (2001).

Evidence that curricula and supplemental instruction are scientifically based can be obtained from a variety of sources. The strongest evidence includes such sources as positive curriculum outcomes published in peer-reviewed journals, favorable reviews by panels of appropriately credentialed experts, and/or independent reviews that verify alignment of curriculum with learning standards adopted by the State of Illinois.

Examples of moderate-level evidence that curricula or supplemental instruction are scientifically based positive outcomes from field studies that are conducted by the curriculum publisher. The weakest sources of evidence include customer testimonials, consumer satisfaction surveys, local

or internal district reviews, and high proportions of district students meeting state standards. Using multiple sources of evidence can increase the strength of evidence overall.

In examining evidence that ELs have had access to comprehensive evidence-based language and literacy as part of their core curriculum, it is important to determine if the curriculum is aligned with all standards adopted by the State of Illinois, including the [English Language Development \(ELD\) Standards](#). This should be reflected in all programs designed for ELs, including Transitional Bilingual Education (TBE) and Transitional Programs of Instruction (TPI). According to “Meeting the Needs of English Learners with and without Disabilities: Brief 1 Multitiered Instructional Systems for ELs” (supported and sponsored the ED Office of Special Education Programs), the following items are necessary for effective core instruction for ELs:

- High-quality, differentiated language and literacy teaching that is appropriately scaffolded for students’ linguistic and academic needs.
- Culturally relevant principles applied to instruction and assessment.
- Meaningful opportunities for students to practice in the four language domains (listening, speaking, reading, and writing).
- Use first language supports during instruction.
- Educator knowledge of native language development and second language acquisition.

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:

- Is the curriculum linguistically appropriate for the EL subgroups?
- Did the research include a significant number of ELs and were the results disaggregated for the subgroup? 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 materials adequate and appropriate for ELs across the developmental spectrum of language acquisition and academic achievement?

Additionally, when identifying those students who are ELs, 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. In addition, educators of ELs need to be responsive to the needs of their students. They need to utilize the following practices to help promote success:

- Scaffolding instruction when linguistic and cognitive demands are high.
- Using non-linguistic tools strategically (e.g., advance organizers, visuals) to anchor instruction and support students in making sense of content.

- Adjusting instruction for different levels of language proficiency.
- Teaching students how to transfer native-language skills to second language learning.

Implementation Integrity: The factors listed below should be examined through existing mechanisms, such as the district leadership process, district improvement process, curriculum review and adoption process, professional development plans, integrity checklists, school and classroom walk-throughs, etc., to assess the integrity with which the curriculum has been implemented.

- The length of time the curriculum has been in place in the school.
- The amount of training the teachers have received in using the curriculum and supplemental instruction.
- The degree to which the teachers used the prescribed instructional procedures and materials associated with the scientific, research-based curriculum and supplemental instruction.
- The degree to which the teachers used effective instruction methodologies and techniques (e.g., differentiation, scaffolding, frequent opportunities to respond with corrective feedback).
- The length of time the student was taught the curriculum.

Additional considerations for ELs include ensuring the following:

- The implementation of the curriculum and delivery of instruction is congruent with EL pedagogy, including first and second language literacy instruction, as demonstrated by differentiated, high-quality language and literacy instruction with varying levels of intensity.
- The teacher demonstrates knowledge of second language acquisition and the role of language proficiency in reading achievement.
- ELs are provided an adequate opportunity to learn (e.g., a curriculum within a language assistance instructional program such as TBE or TPI is of sufficient length and intensity to support the child’s developmental stage of language acquisition) while receiving grade-level appropriate content instruction. In other words, the least proficient students should be getting more support. A 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 by using a culturally responsive teaching approach by strengthening student’s sense of identity, promoting equity and inclusivity in the classroom, and engaging students in course materials and supporting critical thinking (e.g., activating student’s prior knowledge, making learning contextual,

encourage students to leverage their cultural capital, reconsidering the classroom setup, and building relationships).

- It is also important to keep in mind that a language assistance instructional program such as TBE or TPI program is a core instructional program and should not be considered an “intervention.” Elements of such programs include English as a Second Language/ELD, Structured English Immersion, or Dual Language/Two-Way Immersion. Any additional intervention and support within RTI should be supplemental to the scientific, research-based curriculum and should consist of research-based instructional materials and evidence-based intervention approaches. The interventions should consistently align with students’ linguistic, cultural, and instructional needs while addressing both foundational skills and language proficiency.

Student Outcomes: To assess the impact of instruction on outcomes for all students, it is important that data such as the following be examined:

- State assessment data (e.g., Illinois Assessment of Readiness [IAR], PSAT 8/9, PSAT 10, ACCESS for ELLs®).
- Local districtwide assessment data based on national norms.
- Local universal screening/benchmark data on all students collected multiple times during the academic year.
- Progress monitoring data collected at regular intervals for individual or groups of students.

Additional considerations for ELs include the following:

- It is important that students be compared to their like peers for all assessments (as described previously), and that the assessment occurs in the child’s primary language to the degree appropriate or possible and in English.
- State assessment data for ELs should include results from student performance on the ACCESS for ELLs®, which is the English language proficiency assessment used in Illinois. Further it is important to remember that in accordance with [23 IAC 228.25\(b\)\(2\)](#), the State Superintendent of Education establishes Illinois’ uniform definition of English language proficiency. Currently, a student is identified as an EL until such student obtains a minimum Overall Composite Proficiency Level of 4.8; thus, districts must continue to provide ELs with appropriate services until they achieve these cut scores on ACCESS. Prior to attainment of proficiency, care should be taken to appropriately interpret ELs scores on any districtwide assessment being used.
- Districts must continue to monitor the education progress of former EL students. 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 ACCESS for ELLs® or the WIDA MODEL™ to determine if the student qualifies again and needs additional EL services.

- In terms of universal screening and benchmarking, assessments should be validated for ELs and be equivalent across languages so that performance in each language can be compared and a comprehensive profile of skills can be established. ELs should be compared to peers from similar language and cultural backgrounds. If it is determined the **primary** reason a student is discrepant from his or her peers is lack of appropriate instruction in reading and/or math, then delivery of appropriate instruction utilizing a curriculum that is scientifically, research-based and implemented with integrity should be put in place for the student to determine whether it will result in improved academic performance.

B-1 b. Limited English Proficiency (LEP)

A school district shall ensure compliance with the requirements of [Section 14-8.02](#) of the School Code by determining the primary language of a child’s home, general cultural identification, and mode of communication before conducting an evaluation.

- Determination of the child’s language use pattern and general cultural identification shall be made by determining the languages spoken in the child’s home and the languages used most comfortably and frequently by the child.
- If the child has a non-English speaking background, a determination shall be made of his or her proficiency in English. This determination shall be conducted in accordance with the provisions of [23 IAC 228](#) (Transitional Bilingual Education), which specifies the assessment procedures and eligibility criteria for bilingual education programs. (See [23 IAC 228.15.](#))
- Determination of the child’s mode of communication shall be made by assessing the extent to which the child uses verbal expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for verbal expressive language.
- The child’s language use pattern, proficiency in English, mode of communication, and general cultural identification shall be noted in the child’s temporary student record, and this information shall be used in the evaluation and in the development and implementation of the individualized education program ([23 IAC 226.140\(d\)](#)).

It is important that the IEP team has evidence that the core curriculum is effective for most of the subgroup of students identified as LEP before ruling out LEP as a determinant factor for an individual student. To that end, the team examines data such as the following:

- State assessment data (e.g., IAR, SAT 9/10).
- ACCESS for ELLs® and other language proficiency tests
- Local districtwide assessment data based on national norms.
- Local universal screening/benchmark data collected multiple times during the academic year.
- Progress monitoring data collected in regular intervals for individual or groups of students.

- Authentic assessment (portfolios, teacher-made assessments using rubrics, etc.).

Many of the considerations discussed previously with regard to ruling out lack of appropriate instruction in reading and mathematics are applicable to ruling out LEP as the primary cause for a student's academic difficulties. In addition, IEP teams need to consider the following:

- ELs' progress rates in acquiring English proficiency vary depending on several factors, including how much education they received prior to immigration to the United States, how proficient they are in their home language, and how much first language support is/has been provided by the school and available in the home and community.
- ELs who grow up in the United States are often considered simultaneous bilinguals whose full language skills would be a composite of both the first and second language. Examining concept knowledge and vocabulary in only one language does not accurately reflect their full language proficiencies.
- Mixed proficiency in the native language and in English is not an indicator of language impairment. A student may demonstrate strengths and weaknesses in either or both languages depending on instruction and usage of first language and second language at home and school.
- When an underlying difficulty is due to a disability, it will manifest itself across languages and contexts. For example, if the child is having difficulty following directions, then the team should see if the same difficulty occurs in social as well as academic settings and occurs in the home language as well as in English. It would not be appropriate to find an EL to have a disability in one language and not the other.

If a student is failing due ***primarily*** to any one of the reasons listed above (lack of appropriate instruction in reading or math or LEP), he or she is *not eligible* for special education and related services.

B-2. Additional Procedures for Determining the Existence of a Specific Learning Disability

Subsection B-1 (Determinant Factors – All Disabilities) addressed evaluation requirements applicable to all students suspected of having a disability. This subsection identifies the additional requirements specific to determining the existence of an SLD.

As discussed in the introduction, the purpose of this document is to provide guidance on determining a student's eligibility for and entitlement to special education and related services within an RTI framework. Illinois [requires](#) that a process that determines how a student responds to scientific, research-based interventions or multi-tiered systems of support be used as part of the evaluation procedures for determining SLD. Other options allowed under the federal regulations and ISBE's rules governing special education will not be discussed here and are instead addressed in the FAQ supplement. The options addressed in the FAQ include consideration of whether a student exhibits a pattern of strengths and weaknesses in performance, achievement, or both and determination of a severe discrepancy between intellectual ability and achievement *in addition to* use of an RTI process.

The IDEA 2004 regulations at [34 CFR 300.301](#) and [300.304–300.306](#) delineate procedures for conducting an evaluation to determine eligibility for special education and related services. The regulations at [34 CFR 300.307–300.311](#) prescribe additional procedures for determining whether students qualify for special education services under the category of SLD. These additional requirements include the following:

- Determining if the student is achieving adequately.
- Ruling out exclusionary criteria.
- Considering data related to appropriate instruction and repeated assessments to ensure that underachievement is not due to lack of appropriate instruction in reading or math.
- Observing the student.
- Specifically, documenting requirements for the eligibility determination.

This information, combined with the information described in Subsection B-1, is sufficient for determining whether a student has an SLD requiring special education or related services. The [federal definition of SLD](#) makes reference to “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, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.” However, [Additional Procedures for Identifying Children with Specific Learning Disabilities](#) do not require assessment of psychological or cognitive processing, nor do they require assessment of intellectual ability.

a. Adequate Achievement

As set forth in [34 CFR 300.309\(a\)](#), “a group of qualified professionals and the parent may determine that a student has an SLD if —

- (1) The child does not achieve adequately for the child’s age or to meet state-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child’s age or state-approved grade-level standards:
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill[s].
 - (v) Reading fluency skills.
 - (vi) Reading comprehension.
 - (vii) Mathematics calculation.
 - (viii) Mathematics problem solving.

[and]

- (2) (i) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section *when using a process based on the child’s response to scientific, research-based intervention* [emphasis added]; or
- (ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with [§§ 300.304](#) and [300.305](#).”

Given the regulations cited above, when determining the existence of a SLD:

- Students who are included for consideration of a SLD are those who do not achieve adequately for their age or to meet state-approved grade-level standards.
- Only those students whose achievement falls significantly below (as defined locally) an age or grade-level state standard are eligible for consideration.
- The eight areas listed in (1) on the previous page are the only academic areas pertaining to determination of an SLD. There are no other areas that are permitted in considering SLD; however, certain conditions are included under the SLD category in accordance with [23 IAC 226.125](#), which addresses dyslexia specifically. The requirement is that student performance data focus on achievement, not processing deficits.
- Illinois requires the use of a process based on a child’s response to scientific, research-based interventions as part of the evaluation procedures for SLD, so [34 CFR 300.309\(a\)\(2\)\(ii\)](#) is not relevant to the purposes of this document.

The considerations and cautions discussed in previous sections of this document are applicable to the IEP team’s decision-making process when it is determining whether an EL is achieving adequately for his or her age or meeting state-approved grade-level standards. For example, an EL’s performance should be compared to a group of the student’s peers (as described previously) in order to determine adequate progress. Also, the standards to which the student’s performance is compared may need to include both the ELD standards as well as grade-level content standards adopted by the State of Illinois.

b. Exclusionary Criteria

In accordance with the [federal regulations](#), the IEP team must determine that a student’s response to instruction is not **primarily** a function of a visual, motor, or hearing disability or **primarily** the result of an intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantage, or LEP.

To rule out these factors, an IEP team must document evidence that each factor has been excluded from consideration in the screening process or, if necessary, conduct a more extensive evaluation to eliminate them from consideration. There is no legal requirement that an in-depth evaluation of any of these areas occur if it is not judged appropriate or necessary by the team. Each of these areas may be assessed via screening activities, as discussed below. Please note

that the “areas to consider” for each of the factors below provide examples of screening data sources and are not intended to be an exhaustive list.

- A visual, hearing, or motor disability
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
Areas to consider: Review of adaptive behavior history (age-appropriate adaptive behavior indicates that the student does not have an intellectual disability), review of performance across academic areas (average performance in any of the academic areas may indicate that a student does not have an intellectual disability).
- Emotional disability
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. An IEP team must determine whether students who display behavior problems are exhibiting an antecedent of the behavior problems or whether emotional problems are impacting the student’s ability to acquire academic skills.
- Cultural factors
Areas to consider: Review of results of achievement data that compare the performance of subgroups (e.g., race/ethnicity, gender) in the district. The disaggregated data might indicate that most students of a particular cultural or ethnic group are achieving at acceptable levels in response to the instruction they are receiving. If a particular student is receiving the same instruction in a similar learning environment but not achieving, a determination that the learning difficulties are not due to cultural factors might be made.

Further, sensitivity and instruction/curriculum review are needed to assess if instruction is “culturally responsive,” which is an important element of appropriate instruction. Students may also display academic deficiencies that are related to their acculturation experience in the United States, and these must be considered. Partnering with parents is crucial in assessing whether cultural factors are the primary reason for the student’s difficulties, as are student interviews and observation.

- Environmental or economic disadvantage
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, and developmental histories. Situations such as homelessness, child abuse, poor nutrition, and other factors may adversely impact a student's ability to learn. Interviews with the family and developmental histories are useful tools to assess these issues. In addition, chronic medical conditions, frequent absences, and sleep disruptions should be duly considered.

- Limited English Proficiency

Areas to consider: Review of results of achievement data that compare the performance of all LEP students and results of assessments of a student’s English proficiency. The same factors and considerations for ELs when ruling out LEP, which are covered in Subsection B-1 (B-1. b.), are applicable here.

c. Appropriate Instruction and Repeated Assessments

The federal regulations at [34 CFR 300.309](#) require the following:

- (b) “To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in [300.304](#) through [300.306](#) —
 - (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.”

The explicit requirement stated above 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 of the student’s response to instruction. 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.

The emphasis of this entire “Additional Procedures for Determining the Existence of a Specific Learning Disability” section requires a focus on student achievement within the context of age and/or grade-level standards and not on deficits within the child. This is a requirement that applies to all evaluations of students thought to have a SLD. Low achievement is not evidence of an SLD if appropriate curriculum choice and the delivery of effective instruction cannot be demonstrated. If it is determined that there has not been a sufficient provision of scientific, research-based, standards-aligned curriculum and instruction, these features should be put in place for the student in order to determine whether they will result in improved academic performance.

Data demonstrating the student was provided appropriate instruction from qualified personnel: An IEP team considering a student for SLD eligibility must document the school’s efforts to provide the student with scientific, research-based instruction in the essential components of reading and mathematics. It is important that, prior to a student being referred for evaluation, the team documents the extent to which that student has been provided with an appropriate scientific, research-based instructional program that is delivered by personnel whose credentials demonstrate that they meet the requirements of ESSA. The team can meet this requirement by providing the same evidence discussed previously in Subsection B-1.

Instruction for ELs should include comprehensive, evidence-based language and literacy instruction as part of the core curriculum. Further, personnel providing instruction should not only include individuals who are qualified in their subject matter but also those who are qualified in the instruction of ELs and explicitly teach forms of linguistic complexity and provide multiple practice opportunities for developing language skills.

Procedures that districts may consider implementing to assess the provision of appropriate instruction for all students also include:

1. The principal's observation of teachers' delivery of instruction through routine classroom visits and more formal observations conducted on a regular basis during the instructional period for the targeted content/subject area.
2. Checklists of integrity of instruction completed by teachers as self-check measures.
3. Checklists of integrity of instruction completed among teachers as peer-check measures.
4. Checklists completed by content specialists or curriculum supervisors working with classroom teachers.

In the context of instruction, documentation is also needed for the interventions that were provided during the early intervening period. It is important that an IEP team can ensure the following:

- Evidence-based interventions used at the strategic (Tier 2) and the data-based individualization (Tier 3) levels of intervention are supported by scientific research, are based on the problem-solving approach, and are appropriate for the group of students receiving the intervention.
- Evidence-based interventions have yielded successful responses and outcomes from other students receiving the intervention.
- Staff implementing the evidence-based interventions are adequately trained and demonstrate proficiency with the interventions.
- The interventions were delivered with a high degree of fidelity and an appropriate level of time and intensity to meet an individual student's needs based on progress monitoring data. Specific information about the frequency and intensity of the interventions delivered should be documented. Data-based individualized instruction should be adjusted until an effective intervention has been identified.
- In the context of the EL population, the effectiveness of the interventions with similar ELs is supported by peer-reviewed research.

Data-based documentation of repeated assessments of achievement: To meet this requirement, the IEP team will need to provide evidence of local universal screening/benchmark data that are collected on all students at multiple times during the academic year. Universal screening is a systematic process for the assessment of all students within a given grade, school building, or school district on critical academic skills. Universal screening yields data to make decisions about needed enhancements in the academic curriculum, instruction, and/or

educational environment, and about which students may need additional assessment and/or supplemental or intensive intervention and instruction beyond what is provided through academic programming.

IEP teams must also provide evidence of data from repeated assessments (e.g., progress monitoring) collected to determine the effectiveness of interventions that were delivered. Additional information about progress monitoring tools and data collection can be found in C-2 (Educational Progress).

The focus of data collection for EIs typically needs to be on closing the gap between the target student and similar, nondisabled peers not 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 of 4.8 on the ACCESS for ELLs®), the focus begins to include comparison with native English speakers in addition to like peers (as described previously).

Communicating with parents and safeguarding their rights is an important part of the repeated assessment process. Accordingly, the IEP team must provide evidence that universal screening/benchmark data and progress monitoring data have been provided to the student's parents. The results of universal screening should be shared in easily understood language (parent-friendly) without jargon and should report the student's performance data. In addition, the report should provide age and/or grade-level expectations so that parents have a way to compare their child's performance. It is important to provide this information for parents whose primary language is other than English in a language they understand.

d. Observation

[Federal regulations](#) require the following for any student under consideration as having an SLD:

- (a) "The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty."

The regulations also require that the IEP team must either use information from an observation in routine classroom instruction and monitoring of the student's performance that was done prior to referral for a special education evaluation (and therefore does not require parental consent), or the team must have at least one team member conduct an observation after the student has been referred for an evaluation and parental consent is obtained.

This requirement makes clear that classroom observations conducted during the early intervening period are sufficient to comply with the provision and should be documented by the IEP team; however, if a classroom observation has not been conducted prior to the referral for evaluation, the team must conduct an observation in the general education classroom and provide appropriate documentation. At least one of the individuals conducting the

observation(s) for ELs should be a person knowledgeable about instruction for ELs, as well as any pertinent cultural and/or linguistic characteristics of the individual student.

The focus of the observation must be tied directly to relevant academic performance in one or more of the eight areas listed previously under “Adequate Achievement” on page 15 and the functional relationship of behavior to that academic performance. Further, best practice suggests that structured classroom-based observations (e.g., utilizing a pre-established objective format and/or checklist) should occur prior to referral. The observation(s) should assist in the documentation that appropriate instruction was provided and serve to inform the decisions about recommended instructional changes. Observations across instructional settings (e.g., different classes) are especially valuable, as are observations by different team members.

e. Specific Documentation for the Eligibility Determination

The preceding four additional procedures for determining the existence of SLD focused on data collection. This fifth component addresses requirements associated with documentation of the data in order to make a determination of special education eligibility for a student suspected of having an SLD.

[Federal regulations](#) require:

- (a) “For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in [§ 300.306\(a\)\(2\)](#), must contain a statement of —
 - (1) Whether the child has a specific learning disability;
 - (2) The basis for making the determination, including an assurance that the determination has been made in accordance with [§ 300.306\(c\)\(1\)](#);
 - (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child’s academic functioning;
 - (4) The educationally relevant medical findings, if any;
 - (5) Whether —
 - (i) The child does not achieve adequately for the child’s age or to meet State-approved grade-level standards consistent with [§ 300.309\(a\)\(1\)](#); and
 - (ii) (A) The child does not make sufficient progress to meet age or state-approved grade-level standards consistent with [§ 300.309\(a\)\(2\)\(i\)](#); or
(B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards or intellectual development consistent with [§ 300.309\(a\)\(2\)\(ii\)](#);
 - (6) The determination of the group concerning the effects of a visual, hearing, motor disability; or an intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child’s achievement level; and
 - (7) If the child has participated in a process that assesses the child’s response to scientific, research-based intervention [required in Illinois] —

- (i) The instructional strategies used, and the student-centered data collected; and
 - (ii) The documentation that the child’s parents were notified about —
 - (A) The state’s policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - (B) Strategies for increasing the child’s rate of learning; and
 - (C) The parents’ right to request an evaluation.
- (b) Each group member must certify in writing whether the report reflects the member’s conclusion. If it does not reflect the member’s conclusion, the group member must submit a separate statement presenting the member’s conclusions,” per amendment from 82 FR 31913, July 11, 2017.

The documentation requirements listed above are specific and comprehensive in scope. They require student performance data that compare the student’s performance within an age context or a state-approved grade-level standard and documentation that the student does not make sufficient progress to meet the age or grade-level standard.

The first requirement refers to the student having one or more significant academic skill deficits when comparing the student’s performance and the peer group. The second refers to the student’s rate of learning, or how well and at what pace or speed the student is responding to an evidence-based intervention delivered with integrity. The word “and” connecting these two requirements means each must be documented, and these data are required for all students suspected of having an SLD. The IEP team should also keep in mind the factors and considerations for ELs discussed in earlier parts of this document with regard to the types of data used for meeting the documentation requirements.

The documentation requirements in [34 CFR 300.311\(a\)\(7\)](#) focus on the substance of the evidence-based interventions delivered and the student’s response to those interventions and not on merely notifying parents of these interventions for the purpose of compliance. The documentation must focus on the strategies used, the student’s response to those interventions (progress monitoring data), and strategies used to increase the student’s rate of learning.

B-3. Use of Existing Evaluation Data

A requirement for all special education evaluations, regardless of the suspected disability, is the review of existing evaluation data. Subsections B-1 (Determinant Factors – All Disabilities) and B-2 (Additional Procedures for Determining the Existence of an SLD) of this section outlined the processes and data sources that are necessary to make eligibility decisions in an RTI framework. These processes and data sources are integral to RTI, so data collected through screening, assessment, progress monitoring, etc. should be readily available for review.

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.*

– 34 CFR 300.302, Federal Regulations

Given the regulation at [34 CFR 300.302](#), as cited previously, screening data collected as components of Tier 1 activities and Tier 2 and 3 assessment data (e.g., curriculum-based evaluation) and progress monitoring data documenting student response to intervention neither require nor trigger procedural safeguards associated with comprehensive evaluations. Yet, use of these data as a component of a comprehensive evaluation is permitted and expected, as evidenced by the regulations at [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 evaluation 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) Observation by teachers and related services providers; and
 - (2) On the basis of that review, and input from the child’s parents, identify what additional data, if any [emphasis added], are needed to determine —
 - (i) (A) Whether the child is a child with a disability, as determined in § 300.8, and the educational needs of the child; or
 - (B) In the 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 ...”

The use of existing evaluation data is a part of the comprehensive evaluation. The term “if any” allows the IEP team, which includes the student’s parents, the discretion to determine if further data are required or if the data already collected as a part of a three-tiered RTI process are sufficient to determine special education eligibility and entitlement to services.

The data collection requirements and procedures discussed in a. through c. of this section provide the foundation for special education eligibility and entitlement decisions and have been framed in the context of using an RTI process.

C. Use of RTI Data for Eligibility and Entitlement Decisions

The previous section of this guidance document described the data collection processes that lead to eligibility determination. Section C discusses how student data collected within an RTI process can be subsequently used in making decisions about special education eligibility and entitlement for services. In considering such decisions, the IEP team uses student data collected through the RTI process to answer the following questions:

1. How does the student's performance compare to grade-level peers?
2. What is the student's educational progress as measured by rate of improvement?
3. What are the instructional needs of the student?

When using data to answer the questions above and thereby determine ELs' eligibility and entitlement, it is important that the IEP team address the factors and considerations for ELs discussed in Sections A and B, based on each student's needs.

C-1. Student's Performance Data Compared to Grade-Level Peers or Level/Extent of Discrepancy or Gap

When answering the question regarding the difference between a student's performance and the performance of the student's peer group and/or standard, 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 grade-level standards. The question is answered based on student progress monitoring data compared to benchmark peer or standards-based data. Accordingly, the team must consider evidence that shows the student performs significantly below grade-level peers, as defined locally, on the following:

- a. State assessments; and
- b. Local grade-level norms from universal screening (e.g., student is below the cut score of a universal screening instrument that can scientifically predict performance on high-stakes testing).

C-2. Educational Progress

When examining educational progress, the IEP team must determine if previous evidence-based interventions have not sufficiently improved the student's rate of learning and whether additional resources are needed to enhance student learning or if the evidence-based interventions that have sufficiently improved the student's rate of learning are 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 (ROI) presupposes that the student's progress has been monitored frequently and with fidelity during the early intervening period. Progress

monitoring is a formative assessment technique that is based in research on applications of repeated measurement. 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 for Intensive Intervention has indicated that progress monitoring measures should include the following characteristics:

- Performance level standards, including reliability, validity, and bias analysis.
- Growth standards, including validity of slope, reliability of slope, alternate forms, decision rules for setting and revising goals, and decision rules for changing instruction.
- Usability documentation, including format for administration, time for administering and scoring, scoring format, ROI, and end of the year benchmarks.

It is important that school districts identify progress monitoring measures that meet these criteria. There are two types of progress monitoring. Mastery measurement and general outcome measurement. Mastery measurement is used for evaluating a student's understanding and proficiency in a specific target skill (e.g., single digit multiplication). General outcome measurement is typically referred to as curriculum-based measurement. General outcome measurement is the most common type of progress monitoring that is used and it is conducted frequently.

The frequency of progress monitoring is determined by the level of intensity of interventions. It is recommended that students receiving supplemental (strategic) interventions (Tier 2) be progress monitored at least twice per month. It is recommended that students receiving intensive interventions (Tier 3) be progress monitored weekly. Progress monitoring should take place in all areas of being addressed through evidence-based interventions.

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., aimlines, trendlines) used to create a visual display of the student's response to intervention. In addition, a quantitative index of the student's ROI can be determined through the student's slope of progress. For example, in monitoring a student's progress in oral reading fluency, the IEP team might calculate the number of words per minute per week the student gained during strategic and intensive interventions.

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:

- a. 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.

- b. Evidence that interventions provided to address the skill deficit were scientific- or evidence-based and of sufficient intensity based on the individual needs of the student. The level of intensity should be driven by data collected and adjusted as needed.
- c. Evidence that interventions were delivered with integrity (e.g., documentation of observations, interview checklists, or self-evaluation checklists that monitor integrity of intervention implementation).
- d. Evidence that interventions were implemented for enough time, as outlined by the district's RTI plan, to allow changes to occur in the student's skill level (e.g., progress monitoring graphs). 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.
 - The intensity of the interventions.
- e. Evidence that an intervention has been identified that results in a positive rate of improvement (e.g., progress monitoring graphs) and/or evidence that changes were made to an intervention when data suggested the student was not making adequate progress (e.g., Instructional Planning Forms, progress monitoring graphs).

C-3. Instructional Needs

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:

- a. Based on RTI outcome data, the factors of the evidence-based intervention program at Tier 3 that are responsible for the student making progress, and
- b. Characteristics of the educational program needed for the student to make educational progress, including the following:
 - i. Intensity of instruction (e.g., amount and rate of practice and feedback, how explicit the instruction is)
 - ii. Time delivered (e.g., amount of time weekly the intervention is delivered)
 - iii. Size of group (e.g., individualized or small group).

It is important that the IEP team consider all three questions (Level/Extent of Discrepancy or Gap, Educational Progress, and Instructional Needs) in its deliberation. Affirmative decisions are understood to mean that the student is entitled to special education and related services, which

include specific interventions that have already proven effective for that student. Thus, to be eligible for special education services, a student must meet the following standards:

- a. Demonstrate performance that is significantly below the performance of peers or expected standards (*Discrepancy*).
- b. Exhibit significant deficiencies in his or her rate of learning based on progress monitoring data (*Educational Progress*).
- c. 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.

A student may also be found eligible for special education if he or she 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 standard or if the team has been able to demonstrate that this progress is only possible when the student has been provided and continues to need curriculum, instruction, and/or environmental conditions (*Instructional Needs*) that are significantly different from general education peers and of an intensity or type that exceed general education resources.

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 program such as TBE or TPI, which must still be provided as needed to help students overcome language barriers and meet the IEP goals as determined by an appropriately constituted IEP team. TBE/TPI support and instruction is not a related service. It is part of the core curriculum for ELs.

C-4. Resources – General and for English Learners

It is essential that schools recognize that in order to implement RTI and use the data from an RTI process to determine eligibility for special education services, the following are necessary:

1. Strong collaboration among ALL school administrators and staff.
2. The consistent review of the district's RTI self-assessment and RTI implementation plan in order to assess progress toward identified benchmarks.
3. High-quality and ongoing staff development, technical assistance, and coaching.

ISBE recognizes that implementation of the guidelines presented within this document may pose a challenge to some districts. Illinois school districts have several resources available for technical assistance and support for the implementation of RTI, including, but not limited to, the following:

- As stated previously, an FAQ document was developed as a companion to this guidance document. This supplemental tool provides greater details and examples connected to the information found herein. The FAQ also answers specific questions raised by

stakeholder groups and individuals during the review of the initial 2009 draft, the updated 2011 draft, and 2022 revision of the guidance document.

- The [ISBE RTI webpage](#) will continue to serve as a resource. Here districts can access various documents, such as the “Illinois State Response to Intervention Plan” and the “Illinois RTI District Plan.” The ISBE site also has links to various sources for professional development and technical assistance, such as PowerPoints, webinars, and other websites.
- The [National Center on Multi-tiered System of Supports at the American Institutes for Research](#) was previously titled National Center on Response to Intervention. It is funded by ED Office of Special Education Programs (OSEP) and provides information on the latest research, professional development opportunities through online learning events, and practical resources for implementation of MTSS/RTI.
- The [RTI Action Network](#) is a program of the National Center for Learning Disabilities and has the goal of providing tools and resources for the effective implementation of RTI. The website provides research and references behind RTI practices, ongoing professional development through webinars, and opportunities to connect to others regarding implementation issues through discussion strands.
- The [National Center on Intensive Intervention](#) is housed at the American Institutes for Research. It is funded by OSEP and is part of OSEP’s Technical Assistance and Dissemination Network. The website, which is based on a standard evaluation process of scientific rigor, publishes a tool chart to assist educators and families in becoming informed consumers who can select universal screening and progress monitoring tools to be used within the RTI context.
- The [IRIS Center](#) at Vanderbilt University’s Peabody College is supported by OSEP. It develops and disseminates free, engaging online resources about evidence-based instructional and behavioral practices to support the education of all students, particularly struggling learners and those with disabilities. These resources, designed to bridge the research-to-practice gap, are intended for use in college teacher preparation programs, in professional development activities for practicing professionals, and by independent learners. The array of IRIS resources includes modules, case studies, information briefs, course/PD activities, a high-leverage practices alignment tool, and an online glossary of disability-related terms as well as supporting products to enhance their use in coursework and PD activities.

EL Resources

- The [Illinois Resource Center](#), (IRC) provides assistance to teachers and administrators serving linguistically and culturally diverse students. Support from ISBE as allowed IRC to

emerge as a major statewide intermediate service agency. Its educational and professional development programs have helped educators throughout Illinois and the nation to develop effective learning environments for ELs.

- [Multi-tiered Systems of Support for English Learners](#) is part of a model demonstration research project that is sponsored by OSEP. This site offers several briefs referenced in this guidance document that provide guidance on working with ELs with and without disabilities.
- [Tools and Resources for Addressing English Language Learners with Disabilities](#)
- [Identifying English Learners with Disabilities](#)
- [Council of Chief State School Officers English Learners with Disabilities Guide](#)

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