

# **Frequently Asked Questions about Special Education Eligibility and Entitlement within a Response to Intervention (RtI) Framework**



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## Frequently Asked Questions about Special Education Eligibility and Entitlement within a Response to Intervention (RtI) Framework

This “Frequently Asked Questions” (FAQ) document is designed as a supplement and companion tool for the Illinois State Board of Education’s “Illinois Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention (RtI) Framework: A Guidance Document.” While the Guidance Document is intended to provide districts with a framework for collecting and using RtI data to support special education eligibility decision making, the FAQ provides additional detail and examples connected to information in the Guidance Document. It is important to note that the FAQ is intended to provide technical assistance and should not be a substitute for appropriate professional and/or legal advice on specific matters.

The questions contained in the FAQ were developed, in part, based on questions and issues raised by stakeholder groups and individuals during the review of the initial draft of the ISBE Guidance Document. The responses to the questions draw on current research and effective practices in implementing a three-tiered model of instruction, assessment, and intervention, as well as the federal regulations and state rules for special education.

The questions and answers are grouped by topic and are listed below. When this document is accessed electronically via the ISBE website, a bookmark feature will appear and can be used to go directly to a particular topic or the response to a particular question.

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## Data Collection

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

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

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

Students who are determined eligible for special education services will continue to receive the recommended amount and intensity of supports articulated through a well-defined process that measures the growth towards achievement of the identified goals.

It is important to note that in the case of students who have or are suspected of having a specific learning disability (SLD), the Illinois special education rules prohibit a district from using a student's participation in a process that determines how he or she responds to scientific, research-based interventions as a basis for denying a parent's request for an evaluation [[23 IL Admin. Code 226.130\(b\)](#)]. Accordingly, the team must consider a parent's request and follow the required procedures for determining whether a special education evaluation is necessary (see Question 22).

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

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

The following discussion about implementation integrity is an excerpt from the Pennsylvania Department of Education document "PA Guidelines for Identifying Students with Specific Learning Disabilities (SLD)" (2008). The bracketed language within the excerpt has been added to highlight the relevance of the information to not only interventions but also to instruction.

*Professional development is important in initially establishing and maintaining fidelity. Direct and indirect assessments of the implementation of major components of interventions will allow school districts to measure and analyze fidelity to determine the professional development needs of staff. This reiterates the importance of using a limited number of research-based [curricular materials and] interventions so school districts are working with a common understanding of what [the instruction or] intervention "looks like" and can support effective implementation in the classroom. This analysis is usually conducted at the building level, often by the school principal.*

*Direct assessment of the fidelity of implementation is done through observation during implementation and task analysis of staff's use of the major components. Indirect assessment is conducted through staff's*

*self-reporting, interviews and documentation. Indirect assessment should focus on the staff's knowledge of components (often documented through a checklist) and gap analysis to determine when components were and were not used properly.*

*There are a number of ways that [the integrity of instruction and interventions] can be documented. Commercially prepared or locally created checklists of critical features of the instructional program [or intervention] can be used by teachers as a self-check tool among teachers as peer to peer checks [and can be verified by instructional coaches and/or supervisory personnel]. Administrators may use these checklists to review lesson plans and during routine classroom visits and more formal observations. Documentation of the methods used and the outcome of the methods, [duration and frequency of the instruction/intervention, and rigorous adherence to the critical features of the instruction/intervention] should be detailed in the evaluation report.*

A detailed discussion on this topic is also available in Best Practices in School Psychology V (pp. 195-208). Roach, A.T., & Elliott, S.N. (2008). Best Practices in Facilitating and Evaluating Intervention Integrity.

The following are examples of instruction and intervention integrity tools:

- Planning and Evaluation Tool for Effective Schoolwide Programs  
[http://reading.uoregon.edu/logistics/pet\\_tool.pdf](http://reading.uoregon.edu/logistics/pet_tool.pdf)
- Florida Principal Walk Through Example  
[http://fcrr.org/Curriculum/PDF/RWT\\_ThirdGrade\\_final.pdf](http://fcrr.org/Curriculum/PDF/RWT_ThirdGrade_final.pdf)
- Reading Mastery Integrity Checklist Example  
<http://www.aea11.k12.ia.us/idm/checklists/rdgmasteryrevdo.pdf>

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

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

Universal screening generally refers to the systematic assessment of all students within a given class, grade, school building, or school district, on critical academic and/or social-emotional indicators. Universal screening provides data that help school teams determine if the core curriculum is meeting the needs of the majority of students in a school district and whether enhancements are needed in the core curriculum, instruction, and/or educational environments. Universal screening also guides decisions about which students may require additional assessment and/or supplemental or intensive intervention and instruction beyond what is provided through core programming. The process of using a screening tool multiple times across the school year to assess the effectiveness of the core curriculum and identify students at risk for failure is referred to as benchmarking.

The National Center on Response to Intervention (<http://www.rti4success.org/>) has established a standard process to evaluate the scientific rigor of commercially available screening tools. The reviews are conducted by a Technical Review Committee that is made up of national experts who together have developed rigorous evidence standards to guide the review process. The Technical Review Committee has identified the following criteria upon which to judge the scientific rigor of universal screening/benchmarking tools:

- 1) *Classification Accuracy*: The screening tool is able to accurately classify students into "at risk" and "not at risk" categories.
- 2) *Generalizability*: Results generated from one population can be applied to another population. A tool is considered more generalizable if studies have been conducted on larger, more representative samples.

- 3) *Reliability*: The tool consistently classifies students from one administration to the next. It produces the same results when administering the test under different conditions, at different times, or using different forms of the test.
- 4) *Validity*: The tool accurately measures the underlying construct that it is intended to measure.
- 5) *Disaggregated Reliability, Validity, and Classification Data for Diverse Populations*: Data are calculated and reported separately for specific sub-populations.
- 6) *Efficiency of Administration*: The screening tool is easy to administer and can be administered to large groups of students in a timely manner.

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

The National Center on Response to Intervention has also established a standard process to evaluate the scientific rigor of commercially available progress monitoring tools. The reviews for progress monitoring tools are conducted by a Technical Review Committee who have developed rigorous evidence standards to guide the review process. The Technical Review Committee has identified the following criteria upon which to judge the scientific rigor of progress monitoring tools:

- 1) *Reliability of the Performance Level Score*: The screening score (or average/median of 2-3 scores) is accurate and consistent.
- 2) *Reliability of the Slope*: Individual differences in growth trajectories can be detected using the tool.
- 3) *Validity of the Performance Level Score*: The screening score (or average/median of 2-3 scores) represents the underlying construct it was intended to measure.
- 4) *Predictive Validity for the Slope of Improvement*: The slope of improvement predicts end-level performance on highly valued outcomes.
- 5) *Alternate Forms*: Parallel versions of the measure are available within a grade level and are of comparable difficulty (or with Item Response Theory (IRT) based, item or ability invariance).
- 6) *Sensitive to Student Improvement*: The measure reveals improvement over time, when improvement actually occurs.
- 7) *End-of-Year Benchmarks*: The measure specifies the level of performance expected at the end of the grade, by grade level.
- 8) *Rates of Improvement Specified*: The measure specifies the expected slopes of improvement or average weekly increases, based on a line of best fit through the student's scores.
- 9) *Norms Disaggregated for Diverse Populations*: Norms are established for various subgroups of students.
- 10) *Disaggregated Reliability and Validity Data*: The data for determining the reliability and validity for the measure are calculated and reported separately for specific sub-populations (e.g., race, economic status, special education status, etc.).

Schools and districts are encouraged to visit the website of the National Center on Response to Intervention (<http://www.rti4success.org>) when selecting or reviewing screening and progress monitoring tools. It is important to note that the presence of a particular tool on their site does not constitute endorsement and should not be viewed as a recommendation. The National Center on Response to Intervention simply reports how different tools performed against the criteria established. If a school is using a tool that has not been reviewed by this site, the district would need to determine whether the tool meets the criteria above for being scientific.

Another resource for selecting or reviewing progress monitoring tools is the website of the National Center on Student Progress Monitoring (<http://www.studentprogress.org>), where information is available about the characteristics of various progress monitoring options and to assist in identifying appropriate measures. In addition, there are a number of websites that provide detailed instructions and calculation aides for determining slope of progress, such as Vanderbilt University's IRIS Center (<http://www.iris.peabody.vanderbilt.edu>) and the RTI Action Network (<http://www.rtinetwork.org>).

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

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

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

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

Systematic and structured classroom-based observations are distinguished by five characteristics. “First, the goal of observation is to measure specific behaviors. Second, the behaviors being observed have been operationally defined a priori in a precise manner. Third, observations are conducted under standardized procedures and are highly objective in nature. Fourth, the times and places for observation are carefully selected and specified. Fifth, scoring and summarizing of data are standardized and do not vary from one observer to another” (Hintze, Volpe, & Shapiro, 2007, p. 319).

When defining target behaviors, the definition should be “a) objective, referring only to observable characteristics of the behavior and environment, b) readable and unambiguous, such that an experienced observer could read it and readily paraphrase it accurately, and c) complete, delineating the boundaries of what is to be included as an instance of the behavior and what is to be considered not an instance of the behavior” (Hintze, Volpe, & Shapiro, 2007, pp. 322-323).

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

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

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

The following is a sampling of systematic observation codes. Observation codes are instruments that have been developed in order to assess a specific range of behaviors in a standardized manner. Hintz, Volpe, and Shapiro (2007) reported detailed information about the purpose of each of the codes, the behaviors that they are intended to measure, and their psychometric properties. The interested reader is directed to their chapter (see References on page 25).

1. Academic Engaged Time Code of the SSBD (AET-SSBD; Walker & Severson, 1990)
2. ADHD School Observation Code (ADHD-SOC; Gadow, Sprafkin, & Nolan, 1996)
3. Behavioral Observation of Students in Schools (BOSS; Shapiro, 2004)
4. Classroom Observation Code (COC; Abikoff & Gittelman, 1985)
5. Direct Observation Form (DOF; Achenbach, 1986)
6. State-Event Classroom Observation System (SECOS; Saudargas, 1997)
7. Student Observation System (SOS; Reynolds & Kamphaus, 2004)

#### 6. *How frequently should progress be monitored?*

The frequency of progress monitoring is determined by the level of intensity of interventions. In general, students receiving supplemental (strategic) interventions (Tier 2) should be monitored at least twice per month. Students receiving intensive interventions (Tier 3) should be monitored at least weekly.

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

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

As discussed in the ISBE Guidance Document, within the context of RtI, there are three key factors involved when determining significant discrepancy and inadequate progress:

1. The student has one or more significant academic skill deficits compared to age level peers or grade level benchmarks,
2. The student is making insufficient progress in response to research/evidence-based interventions or is making adequate progress but that progress is only possible when the student has been provided and continues to need curriculum, instruction, and environmental interventions that are significantly different from general education peers and of an intensity or type that exceed general education resources, and
3. The learning difficulties are not primarily the result of lack of appropriate instruction in reading and math or limited English proficiency, and additionally for SLD, are not primarily the result of a visual, hearing, or motor disability; a cognitive disability; an emotional disability; cultural factors; or economic disadvantage.

By applying the established district criteria and decision making rules, a school team may describe a student's academic performance as significantly discrepant when he or she does not achieve adequately for his or her age or to meet a State-approved grade level standard and fails to make sufficient progress when using a process based on the response to scientific, research-based interventions. Inadequate progress is tied directly to this second component and is present when supplemental/intensive interventions fail to result in the student demonstrating improved academic performance as measured via frequent progress monitoring, resulting in a learning trajectory that will lead to the student meeting the peer and/or grade level standard. Whenever interventions are not successful, whether that occurs before or after special education eligibility, teams are expected to use the RtI/problem solving process to refine, modify, and/or change intervention programs until a successful intervention is found. In the case of students who are already eligible for special education, it is important to keep in mind that changes in interventions being delivered in accordance with the student's IEP must be made in accordance with procedural safeguard requirements (see Question 36 for further details).

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

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

In terms of grade retention, it is first recommended that districts and schools review the research on the effectiveness of grade retention in addressing the needs of students whose skills are below the age-appropriate grade level benchmark(s). In particular, research does not support grade retention as being an effective "intervention" for closing the gap between a student's skill level and the expected benchmark. According to Jimerson, Woehr, & Kaufman (2007), evidence indicates that grade retention is an *"ineffective and possibly harmful intervention."* Therefore, schools and districts are strongly encouraged to utilize more effective alternatives to grade retention (i.e., scientifically research-based instructional and intervention strategies) to address the skill needs of students. In those instances when a student has been retained, school teams should consider the fact that he/she has not been exposed to the same instruction as his/her age level peers and will take the state assessment for the grade level in which he/she is currently enrolled. Therefore, it is recommended that grade level standards be used to determine the student's discrepancy/gap and rate of progress.

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

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

If a team determines that, based on the universal screening data, the performance level of a student who has recently moved into the district is significantly discrepant (as defined by locally-established criteria; see Question 7) in comparison with age level peers or grade level standards, and the team suspects that student may be a student with a disability, the team should initiate an evaluation. The evaluation process would be no different for this student than for any other student, except that the early intervening period (i.e., where supplemental instruction and interventions with regular progress monitoring occurs) might be concurrent with the evaluation. As part of the evaluation, the new district should make efforts to obtain information regarding instructional history and assessment results from the student's previous district(s). This process is applicable whether an IEP team is implementing an RtI process to meet the state requirement for using such a process as part of the evaluation procedures for determining SLD eligibility or has chosen to utilize an RtI process for other suspected disabilities.

## **Scientifically-Based Curriculum and Instruction**

10. *How do we determine that our core curriculum is scientifically-based?*

In order to determine whether its core curriculum is scientifically-based, a district may embark on a process of inquiry to assess the degree to which the curriculum is aligned with national and state standards and effective instruction (pedagogy) research. For example, in selecting or reviewing a core program in reading, a district would review curricula in relation to its alignment with the National Reading Panel (NRP) standards, Illinois

Learning Standards, and effective instructional practices. The following information is taken directly from “Selecting a Scientifically Based Core Curriculum for Tier 1” by Charles Hughes, Ph.D., and Douglas D. Dexter, M.Ed., Penn State University – RtI Action Network.

*The five components of effective early reading (e.g., grades K–3) instruction, as reported by the NRP, are as follows:*

1. *Phonemic awareness, the understanding that the sounds of spoken language work together to make words.*
2. *Phonics, the relationship between the letters of written language and individual sounds of spoken language.*
3. *Fluency, the ability to read text accurately and quickly.*
4. *Vocabulary, the words one must know to communicate effectively.*
5. *Text Comprehension, understanding what one is reading.*

*As part of the 2000 report, the NRP reviewed more than 100,000 studies that met several criteria: a) the study included one or more of the above components in reading, b) results were generalizable to a large number of students, c) the study had to examine effectiveness of an instructional approach, and d) the research was regarded as “high quality”...*

### ***Technical Assistance Centers***

*The U.S. Department of Education funds technical assistance centers in Oregon, Texas, and Florida to help states, districts, and schools implement Reading First requirements. At least two practical tools [that can assist districts in reviewing reading curricula] were developed at these centers. Simmons and Kame'enui (2003) created *A Consumer's Guide to Evaluating a Core Reading Program Grades K–3: A Critical Elements Analysis at the Oregon Center*, and researchers at the Florida center created a scoring rubric for evaluating potential core reading programs. According to Foorman (2007),*

*“The Oregon Center's Consumer's Guide suggests that educators select a core reading program by first considering (a) evidence of efficacy established through rigorously designed experimental studies, and (b) relevance to the demographic characteristics of the students who will use the program. At a second stage, the guide includes a critical elements analysis to help educators determine whether the five major components of reading instruction emphasized by the NRP are adequately addressed: phonemic awareness, phonics, fluency, vocabulary, and reading comprehension. Educators are recommended to review elements (a) in terms of the program's scope and sequence, (b) within a lesson or series of two to three successive lessons, and (c) across a series of 10 consecutive lessons (to analyze a “skill trace”). Elements are to be rated as (a) not satisfactorily meeting the criterion, (b) partially meeting or exceeding the criterion, or (c) consistently meeting or exceeding the criterion.” (p. 27)*

*The Florida Center's rubric consists of the following questions:*

1. *Are all five components from the NRP present and prominent?*
2. *Is instruction within each component explicit and systematic?*
3. *Is the sequence for instruction organized sequentially?*
4. *Is student material coordinated with the teacher guide?*
5. *Is instruction across components clearly linked?*

*Each potential core reading program is judged by the presence (yes/no) and quality (acceptable/not acceptable) of these five categories. Essential to this review process, each reviewer must be highly knowledgeable in reading content and pedagogy.*

*Using Oregon's consumer guide and Florida's rubric for selecting core reading programs as their basis, Al Otaiba, Kosanovich-Grek, Torgesen, Hassler, and Wahl (2005) reported that effective core reading programs aligned with Reading First share three important features:*

1. *A clearly articulated statement of SBRR*
2. *Explicit instructional strategies*
3. *Consistent organizational and instructional routines*

*The presence of these features in a core reading curriculum potentially helps prevent reading difficulties in a wide array of diverse classroom learners.*

### **Selecting Core Programs in Other Subjects**

*Although there is considerable literature describing selection of core curricula in reading, there is much less focusing on core curricula in writing, mathematics, science, and social studies.*

*However, some of the findings by Al Otaiba et al. (2005) about reading programs appear to translate across disciplines. That is, effective core curricula should a) have a clearly articulated scientific research base, b) involve explicit instructional strategies, and c) provide consistent organizational and instructional routines. Without explicit guidance or the aid of technical assistance centers in these subjects, it becomes imperative that classroom teachers take the lead in determining an effective core curriculum in these subjects. Teachers can accomplish this by asking whether the content of a curriculum's teacher guide is research based and clearly organized, and whether the text in the pupil edition allows students sufficient practice to master the instructional strategies covered in the lessons (Foorman, 2007). [The first component of the Florida guidelines "Overall Instructional Design and Pedagogy" also might be applicable to other subject areas.]*

### *References*

*Al Otaiba, S., Kosanovich-Grek, M. L., Torgesen, J. K., Hassler, L., & Wahl, M. (2005). Reviewing core kindergarten and first-grade reading programs in light of No Child Left Behind: An exploratory study. Reading & Writing Quarterly, 21, 377–400.*

*Foorman, B. R. (2007). Primary prevention in classroom reading instruction. Teaching Exceptional Children, 39, 24–30.*

*Consumer's Guide to Evaluating a Core Reading Program Grades K - 3: A Critical Elements Analysis (Oregon) [http://reading.uoregon.edu/appendices/con\\_guide.php](http://reading.uoregon.edu/appendices/con_guide.php).*

*Guidelines to Review Comprehensive Core Reading Programs (FCRR) <http://www.fcrr.org/FCRRreports/guides/CCRP.pdf>.*

11. *What do you do if your district **doesn't have a research-based core curriculum**? If a district isn't using a scientifically-based curriculum must they adopt another curriculum?*

If a district has completed a process of inquiry to assess the degree to which the curriculum is aligned with national and/or state standards and effective instruction (pedagogy) research (following the process in Question 10) and has determined that their curriculum is not scientifically-based, the district is responsible for addressing deficits within their curriculum. However, addressing deficiencies within a core curriculum is not synonymous with adoption of another curriculum.

While adoption of scientifically-based core curriculum materials is likely the most efficient, and arguably the most effective, route to establishing a scientifically-based core curriculum, districts still can take steps to correct curriculum deficiencies when adoption of new materials is not immediately possible. For instance, if a

district finds their math curriculum to be deficient because it lacks consistent instructional routines, that district might take steps to correct this deficiency by creating and implementing common instructional routines such as the SIM Course Organizer and Unit Organizer Routines (<http://www.ku-crl.org/sim>).

12. *How is a “sufficient provision’ of standards-aligned curriculum” (as discussed in the ISBE Guidance Document) determined? What standards exist to define this and what data would support the finding?*

The phrase “sufficient provision,” as used in the ISBE Guidance Document, incorporates several components. First, that a student is in school, attending, and has been regularly exposed to instruction. Second, the choice of curriculum in a district/school is expected to align with state learning standards, if not agreed upon internationally benchmarked common core state standards. (Currently Illinois has adopted state learning standards and is part of the Common Core State Standards Initiative.) Third, the curriculum chosen must reflect research-based components, e.g., reading curriculum includes the five essential components of reading instruction.

13. *A large portion of students in our district are **not making AYP**. How do we use **RtI** to determine **eligibility** in our district?*

Districts that have a large portion of students not making AYP need to assess the degree to which their curriculum is scientifically-based and implemented with integrity, as outlined in Questions 10 – 12 above, and matches the needs of their students. Low achieving districts should document plans to remediate curriculum deficiencies found through these processes in their District Improvement Plan (DIP) and School Improvement Plans (SIP). Districts with a large portion of students not making AYP may need to consider intensifying instruction for all students so that approaches considered to be Tier 2/Supplemental Instruction in a high achieving district are utilized by general educators at Tier 1 for all students in a low achieving district. Doing this provides more intensive support to all students and is more efficient and effective than trying to place large percentages of students in remedial and special education programs, which ultimately dilutes those remedial services.

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

14. *Is it permissible to use a “standard protocol” intervention approach rather than a problem solving approach at Tier 2?*

The standard protocol and problem solving approaches for intervention are not mutually exclusive. A standard protocol intervention represents a specific intervention that is consistently used to address one or more particular skill deficits within an RtI model. The standard protocol intervention should be scientifically-based, including evidence that it has a high probability of success in remediating the targeted academic or behavioral deficits for a majority of students. Staff receives training on the standard protocol intervention to increase the fidelity of implementation.

The problem solving process is an integral part of the three-tiered instruction and intervention model and is used at all tiers, although it may look somewhat different at each tier. For example, at Tier 1, problem solving can be used at a systems level to use data (e.g., from universal screening) to determine:

- 1) If there is a problem with the core curriculum and/or instruction,
- 2) Why the curriculum and/or instruction is not effective,
- 3) How the curriculum and/or instruction can be improved, and
- 4) Whether the changes are working.

Within Tier 2, a team can use a problem solving process by analyzing universal screening data to identify a group of students with common educational needs and then match their needs to one or more standard, scientifically research-based interventions (i.e., standard protocol interventions) that can be provided to small groups of students, with progress monitoring to assess effectiveness. A similar process may also be used at Tier 3, but some students may require more individualized interventions that are identified through the individual problem solving process based on universal screening and/or progress monitoring data. The same criteria identified above for standard protocol interventions (scientifically-based and a high probability of success for remediating the targeted skill) apply to individualized interventions.

In summary, problem solving is used across the tiers but in slightly different ways, with more standardized interventions integrated at Tiers 2 and 3.

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

Scientifically-based research is “...research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs” (Elementary and Secondary Education Act (ESEA) of 2001). Scientifically-based interventions are those practices that have been rigorously reviewed to determine whether they produce positive educational results in a predictable manner. The strongest evidence comes from studies which use control groups and sound statistical analyses to examine the impact on student achievement. The U.S. Department of Education publishes a document titled “Identifying and Implementing Educational Practices Supported by Rigorous Evidence: A User Friendly Guide.” The guide is designed to “provide educational practitioners with user-friendly tools to distinguish practices supported by rigorous evidence from those that are not.” The document is available online at <http://www.ed.gov/rschstat/research/pubs/rigoroussevid/index.html>.

Information regarding scientifically-based methods is more available in some areas than in others. There is a large bank of information available regarding what constitutes scientifically-based methods in the area of reading. Large-scale studies, such as those conducted by the National Reading Panel (<http://www.nationalreadingpanel.org/>), have made strong conclusions regarding what constitutes effective reading instruction. Several Reading First sites have systematically reviewed many core, supplemental, and intensive instructional and intervention reading programs and practices, and the results of these reviews are available online (see links below).

While not as plentiful as reading, information on scientifically-based methods exists for the other identified SLD areas as well. For example, the final report of The National Mathematics Advisory Panel, “Foundations for Success,” was published in 2008 and is available online at <http://www.ed.gov/about/bdscomm/list/mathpanel/report/final-report.pdf>. The findings in this report are expected to have an impact on math instruction similar to the impact the National Reading Panel report had on reading instruction. Already, many more scientifically-based programs and practices are available for math than were available just a few years ago. The websites below are a partial listing of scientifically-based programs and practices information available online.

#### **Websites with Scientifically-Based Instruction and Intervention Information in Multiple Subject Areas**

- **Doing What Works – U.S. Dept. of Ed.;** <http://dww.ed.gov/>  
*Early Childhood Education*  
*English Language Learners*  
*Math and Science*  
*Psychology of Learning*  
*School Improvement*
- **What Works Clearinghouse – U.S. Dept. of Ed.;** <http://ies.ed.gov/ncee/wwc/>  
*Beginning Reading*  
*Adolescent Literacy*  
*English Language Learners*  
*Early Childhood Education*

*Elementary School Math*  
*Middle School Math*  
*Dropout Prevention*  
*Character Education*

- **Center on Instruction;** <http://www.centeroninstruction.org>  
*Reading*  
*Math*  
*Science*  
*Special Education*  
*English Language Learners*
  
- **Center for Research on Learning;** <http://www.ku-crl.org/sim/strategies.shtml>  
**Learning Strategies**  
*Reading*  
*Writing*  
*Math*  
*Studying and Remembering Information*  
*Improving Assignment and Test Performance*  
*Effectively Interacting with Others*  
*Motivation*

**Content Enhancement Teaching Routines for:**

*Planning and Leading Learning*  
*Exploring Text, Topics, and Details*  
*Teaching Concepts*  
*Increasing Student Performance*

- **Intervention Central;** <http://www.interventioncentral.org>  
*General Academic Strategies*  
*Study and Organization*  
*Reading*  
*Math*  
*Writing*  
*Classroom Management*  
*Behavior*  
*Bullying Prevention*  
*Motivation*  
*Developmental Disabilities*
  
- **IRIS Center;** <http://iris.peabody.vanderbilt.edu/resources.html>  
*Reading, Literacy, Language Arts*  
*Math*  
*Differentiated Instruction*  
*Content Instruction*  
*Behavior*

**Websites with Scientifically-Based Instruction and Intervention Information by Specific Area**

- **Reading and Writing**
  - *Center on Instruction: Reading*  
[http://www.centeroninstruction.org/resources.cfm?category=reading&subcategory=&grade\\_start=&grade\\_end](http://www.centeroninstruction.org/resources.cfm?category=reading&subcategory=&grade_start=&grade_end)
  - *What Works Clearinghouse: Beginning Reading and Adolescent Literacy*  
<http://ies.ed.gov/ncee/wwc/reports/topic.aspx?tid=01>
  - *Vaughn Gross Center for Reading and Language Arts;* <http://www.texasreading.org/utcrla/>

- Florida Center for Reading Research; <http://www.fcrr.org>
- Oregon Reading First Center; [http://oregonreadingfirst.uoregon.edu/inst\\_curr\\_review\\_si.html](http://oregonreadingfirst.uoregon.edu/inst_curr_review_si.html)
- **Math**
  - *Doing What Works: Math*; [http://dww.ed.gov/priority\\_area/priority\\_landing.cfm?PA\\_ID=8](http://dww.ed.gov/priority_area/priority_landing.cfm?PA_ID=8)
  - *What Works Clearinghouse: Elementary School Math and Middle School Math*  
<http://ies.ed.gov/ncee/wwc/>
  - *Center on Instruction: Math*; <http://www.centeroninstruction.org/resources.cfm?category=math>
- **Oral Expression & Listening Comprehension**
  - *American Speech-Language & Hearing Association - Compendium of EBP Guidelines and Reviews and Evidence-Based Systematic Reviews*; <http://www.asha.org/default.htm>
- **ELL**
  - *Doing What Works – U.S. Dept. of Ed.*  
[http://dww.ed.gov/priority\\_area/priority\\_landing.cfm?PA\\_ID=6](http://dww.ed.gov/priority_area/priority_landing.cfm?PA_ID=6)
  - *What Works Clearinghouse – U.S. Dept. of Ed.*; <http://ies.ed.gov/ncee/wwc/reports/topic.aspx?tid=10>
  - *National Center on Culturally Responsive Educational Systems*  
<http://nccrest.org/publications/briefs.html>

16. *Is Tier 3 ONLY special education?*

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

## Special Education Evaluation

17. *When is a special education evaluation initiated in an RtI process?*

The point at which a special education evaluation is initiated depends on the student’s individual plan and progress status based on the student’s participation and success in the RtI process. Per federal regulations and state rules, a referral for special education can be initiated at any time for a student who is suspected of having a disability. If an IEP team is considering special education eligibility, it is important that questions are formulated and the review of comprehensive student progress data and progress through the RtI process are an integral part of the referral process. When a student is participating in an RtI process, data showing that the student has a significant skill deficit and is making insufficient progress, even when provided with intense, research-based interventions, could lead the team to suspect that the student has a disability and make a referral for evaluation. Another possible consideration in determining the need for a referral for evaluation is the student’s need to receive ongoing and specialized supports and services in order to participate and make progress in the general education curriculum. These procedures are applicable whether an IEP team is implementing an RtI process to meet the state requirement for using such a process as part of the evaluation procedures for determining SLD eligibility or has chosen to utilize an RtI process for other suspected disabilities.

It is important to note that in the case of students who have or are suspected of having a SLD, Illinois administrative rules prohibit the district from using a student’s participation in a process that determines how he or she responds to scientific, research-based interventions as a basis for denying a parent’s request for an evaluation [[23 IL Admin. Code 226.130](#)]. Accordingly, the team must consider a parent’s request and follow the required procedures for determining whether a special education evaluation is necessary (see Question 22).

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

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

19. *What constitutes a “sufficiently comprehensive evaluation”?*

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

In conducting an evaluation, the team may not use any single measure or assessment as the sole criterion for making a disability determination and for determining an appropriate educational program. While a student’s response to scientific, research-based intervention is crucial to disability identification and educational planning, other types of information and assessment data must also be collected throughout the RtI process.

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

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

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

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

- Developmental, academic, behavioral, and functional life skills checklists
- Standardized (norm-referenced) assessments

20. *Can existing evaluation data be used to meet the requirements of a comprehensive evaluation? When are additional data necessary beyond the use of existing data when using RtI in determining eligibility?*

Screening data collected as components of Tier I activities and Tier 2 and 3 assessment data (e.g., classroom observations, the results of a curriculum-based evaluation, etc.) and progress monitoring data documenting student response to intervention is part of the comprehensive evaluation and may be sufficient for determining entitlement for special education services as stated in the regulations at 34 CFR 300.305(a).

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

21. *Can a Review of Existing Data meeting and an Eligibility meeting occur at the same time?*

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

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

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

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

*22. Can parents request an evaluation while their child is involved in an RtI process?*

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

Once written parental consent is obtained, the 60 school-day timeline begins for completing the evaluation, determining eligibility, and if the student is eligible, developing an IEP. When determining SLD eligibility, this timeline may be extended by "mutual written agreement of the student's parents and a group of qualified professionals" [34 CFR 300.309(c)]. Also, given the Illinois requirement for the use of a process that determines how a student responds to scientific, research-based interventions as part of the evaluation procedures for SLD, if the student has not been involved in an RtI process and SLD is the suspected area of disability, appropriate interventions must be initiated in the area(s) of difficulty and the student's progress regularly monitored during the evaluation period.

*23. If a parent requests an "immediate" evaluation during or prior to the RtI process, how does the school fulfill its obligation to complete the evaluation within the 60 school-day timeline and still meet the requirement to use an RtI process as part of the evaluation procedures for SLD? What if the parent requests a "traditional" evaluation using the ability/achievement discrepancy model?*

If a parent requests an immediate evaluation, the same procedures discussed in the response to Question 22 apply. If a decision is made to conduct an evaluation, the school team should explain the RtI process and the services the student will receive during the evaluation period. Schools may not use the RtI process as a reason not to conduct an evaluation of a student suspected of having a SLD [23 IL Admin. Code 226.130(b)] or to try to convince parents not to request an evaluation; however, it is expected that parents will be informed of the requirement that an RtI process must be part of the evaluation procedures for SLD. If parents request a "traditional assessment" using an ability/achievement discrepancy model, the team must determine if such an assessment is necessary and appropriate in order to evaluate the student and determine eligibility. In Illinois, assessment of an ability/achievement discrepancy is neither required nor sufficient for determining the existence of a SLD.

*24. When is informed parental consent sought for evaluation when RtI is used?*

Informed parental consent for a special education evaluation must be obtained any time a special education evaluation is to be conducted. If the school team suspects that a student may have a disability requiring special education and related services, then a request for special education evaluation must be initiated and written parental consent to conduct the evaluation must be obtained prior to completing the evaluation.

Informed parental consent is not required for activities such as universal screening, intervention delivery, and progress monitoring that are implemented during the RtI process as part of the general education program. Specifically, the federal regulations at 34 CFR 300.302 clearly state that screening of a student to "determine

appropriate instructional strategies for curriculum implementation” is not considered an evaluation for special education eligibility and, therefore, informed parental consent is not required. It is important, though, that parents be fully informed of these activities and receive regular reports of student progress. For example, one of the requirements for SLD eligibility determination is that “data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction” [34 CFR 309(b)(2)] must be completed and the results provided to the student’s parents. Thus, regular communication and sharing of data with parents is critical.

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

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

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

If the student in question is not currently receiving interventions through an RtI process and the public agency agrees to initiate a special education evaluation, the student should be referred to the RtI problem solving team so that interventions can be initiated as part of the evaluation procedures (see Question 23 regarding a parent request for immediate evaluation) and eligibility group members identified. This information is applicable whether an IEP team is implementing an RtI process to meet the state requirement for using such a process as part of the evaluation procedures for determining SLD eligibility or has chosen to utilize an RtI process for other suspected disabilities.

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

In order to identify a student as having a SLD in the areas of oral expression, listening comprehension, and/or written comprehension, a district should collect benchmarking data (to determine what is typical educational achievement and progress) in these three areas and develop a three-tiered system of increasingly intensive interventions targeting these three areas. Although most of the research related to data collection/benchmarking and research-based curriculum and interventions within an RtI framework has been conducted in the areas of reading and mathematics, more research is occurring related to diagnostic assessment, research-based curriculum and interventions, and benchmarking in the areas of written language (see Berninger & Wagner, 2008; Malecki, 2008; Robinson & Howell, 2008) and listening comprehension and oral expression (see Bray, Kehle, Caterino, & Grigerick, 2008). Also see the response to Question 15.

27. *Do I have to do an **IQ test** as part of an evaluation for SLD?*

Neither the state rules nor federal regulations addressing special education evaluation requirements, including the additional procedures for SLD identification, specify that a particular type of assessment (e.g., an intelligence/IQ test) must be conducted. However, in the past districts have often used intelligence tests to establish that a student has a severe discrepancy between achievement and intellectual ability in order to determine the existence of a SLD, as previously required under IDEA 1997.

Because the implementing regulations of IDEA 2004 [see 34 CFR 300.309(a)] eliminated the IQ/achievement discrepancy criterion for SLD, districts that previously conducted intelligence testing to fulfill this criterion no longer need to do so. Intelligence tests are also not necessary for intervention planning, as screening, progress

monitoring, and diagnostic/prescriptive assessments collected as part of the RtI process can provide the information needed.

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

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

*The Department does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD. Further, in many cases, these assessments have not been used to make appropriate intervention decisions.... In many cases, assessments of cognitive processes simply add to the testing burden and do not contribute to interventions.... As summarized in the research consensus from the OSEP Learning Disability Summit (Bradley, Danielson, and Hallahan, 2002), ‘Although processing deficits have been linked to some specific learning disabilities (e.g., phonological processing and reading), direct links with other processes have not been established. Currently, available methods for measuring many processing difficulties are inadequate. Therefore, systematically measuring processing difficulties and their link to treatment is not yet feasible \* \* \*. Processing deficits should be eliminated from the criteria for classification \* \* \*.’ (p.797). (Federal Register, vol. 72, no. 156, p.46651)*

29. *Given the state requirement for use of an RtI process as part of the evaluation procedures for SLD, can the results of independent evaluations be used to determine eligibility for SLD?*

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

*The parent, however, would not have the right to obtain an IEE at public expense before the public agency completes its evaluation simply because the parent disagrees with the public agency’s decision to use data from a child’s response to intervention as part of its evaluation to determine if the child is a child with a disability and the educational needs of the child. (Federal Register, vol. 72, no. 156, p. 46689)*

If the independent evaluation is to be at public expense, it must conform to the state and district eligibility criteria [see 34 CFR 300.502(e)]. Therefore, if the IEE fails to follow the state criteria, districts are not obligated to use the information provided. Further, because the Illinois special education rules require the use of a process that determines how a student responds to scientific, research-based interventions as part of the evaluation procedures for SLD, an independent evaluation at public expense must meet this criterion.

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

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

When evaluating students who are parentally-placed in a private school or who are home schooled, the same processes of reviewing existing assessment data and determining what, if any, additional data need to be collected for educational decision making are used (see Question 20). Many private schools regularly collect assessment data that a school district may review and include in their determination of a student's response to instruction and intervention (e.g., state and local program evaluation assessments, universal screeners, curriculum-embedded assessments). Some private schools provide supplemental and intensive interventions within their setting and monitor progress toward a goal. Any of these data may be useful in determining whether appropriate instruction was provided, determining discrepancy/gap from age level peers or grade level standard, and/or for assessing response to ongoing instruction. Students who are home schooled may also have similar assessment data available for use in an RtI model.

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

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

31. *How are reevaluations conducted when using RtI?*

Illinois requires the use of a process that determines how a student responds to scientific, research-based interventions as part of the evaluation procedures to determine the existence of a SLD, and such a process must also be used as part of a reevaluation for SLD. The requirements specific to reevaluations with regard to when and how often they must be conducted, as delineated at 34 CFR 300.303, remain applicable, as do the requirements for evaluations in general [34 CFR 300.302, 300.304, 300.305, and 300.306] and the additional requirements for SLD identification.

When a student is found eligible for special education and related services through an evaluation process that includes RtI, the same core practices of RtI continue in the delivery of the services identified on the student's IEP. This includes interventions matched to student needs and frequent progress monitoring to determine the student's response to intervention, as well as adjusting the interventions based on the progress monitoring data. The data collected as part of that intervention process should be used to determine needs and eligibility on an ongoing basis, including during the reevaluation process.

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

*States should consider the effect of exiting a child from special education who has received special education and related services for many years and how the removal of such supports will affect the child's educational progress... Obviously, the group should consider whether the child's instructional and overall special education program have been appropriate as part of this process. If the special education instruction has been appropriate and the child has not been able to exit special education, this would be strong evidence that the child's eligibility needs to be maintained. (Federal Register, vol. 72, no. 156, p. 46648)*

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

- Whether the student continues to have a disability and need special education and related services,
- The educational needs of the student,
- The present levels of academic achievement and related developmental needs of the student, and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the annual IEP goals and to participate in the general education curriculum.

## **Eligibility and Entitlement**

32. *I have heard the words “**eligibility**” and “**entitlement**” used. How are they different?*

Eligibility generally refers to a student's qualification for special education services as a result of falling within and having his/her educational performance adversely affected by one of the 13 federal disability categories described in IDEA [34 CFR 300.8], as determined through the special education evaluation process. Eligibility determination is addressed in the federal regulations at 34 CFR 300.306, with additional requirements for SLD addressed at 34 CFR 300.311 and in the state special education rules at [23 IL Admin. Code 226.130\(b\)](#). Entitlement is a term generally used in conjunction with a student's right to procedural safeguards and the provision of special education services based upon the determination that the student qualified for special education services under IDEA.

33. *Can we use **RtI** to determine eligibility for disability categories other than SLD?*

The RtI process is applicable for all disabilities, and districts have the option to use it as a data-driven process that establishes needs/goals and eligibility in disability categories other than SLD, provided all aspects of any evaluation requirements and eligibility criteria for the suspected disability are addressed. The essential evaluation questions are the same across disability categories: a) What is the discrepancy of the student's performance with the peer group and/or standard?, b) What is the student's educational progress as measured by rate of improvement?, and c) What are the instructional needs of the student? In an RtI framework, the focus of a special education evaluation is on determining the effective educational goals and strategies necessary to address the student's educational needs.

34. *Can **more timely procedures** be used to determine eligibility?*

It is misleading to represent RtI as a lengthy means-to-an-end procedure to determine eligibility. The RtI process provides intervention strategies for the student much earlier than in the traditional system, and the eligibility process is designed to refine the student's intervention plan – not to wait until the student has a special education label to intervene.

35. *Is **RtI** just a way to avoid providing special education services?*

RtI combines the legal mandates of ESEA 2001 and IDEA 2004 with the primary intent to ensure that students receive high quality, effective instruction and intervention strategies as early and as effectively as possible. Since RtI is a process applicable for all students, there are some students whose educational needs will require special education services. It is not, therefore, a way of avoiding the provision of special education services. If anything, it should result in a more timely provision of services to address students' needs.

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

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

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

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

37. *Why doesn't the Illinois Guidance Document delineate **more specific/prescriptive eligibility criteria** for SLD, such as how discrepant a student must be in order to be found eligible for special education services?*

At no time have the federal law, implementing federal regulations, or state special education rules enumerated prescriptive eligibility criteria for SLD (i.e., how deficient a student must be to qualify for special education). It is the responsibility of the district to develop criteria within the established eligibility framework that includes the following three components:

1. The student has one or more significant academic skill deficits compared to age level peers or grade level benchmarks.
2. The student is making insufficient progress in response to research/evidence-based interventions or is making adequate progress but that progress is only possible when the student has been provided and continues to need curriculum, instruction, and environmental interventions that are significantly different from general education peers and of an intensity or type that exceed general education resources.
3. The learning difficulties are not primarily the result of lack of appropriate instruction in reading or math; a visual, hearing, or motor disability; a cognitive disability; an emotional disability; cultural factors; economic disadvantage; or limited English proficiency.

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

Because 34 CFR 300.309(a)(2)(ii) permits (but does not require) the eligibility team to consider whether a student exhibits a pattern of strengths and weaknesses in performance, achievement, or both to determine SLD eligibility, teams in Illinois have the option of examining data for this purpose if they consider such information relevant to an identification of SLD. However, establishing a pattern of strengths and weaknesses is neither required nor sufficient to determine SLD eligibility in Illinois. Therefore, if a student is not found eligible based on his or her response to scientific, research-based interventions, then it is not possible to subsequently find the student eligible based on a pattern of strengths and weaknesses.

39. *Can a student's eligibility for SLD be determined by establishing a severe discrepancy between intellectual ability and achievement since this option is allowed under the state special education rules at 23 IL Admin. Code 226.130(d)?*

The state special education rules allow districts, **in addition to** using an identification process that determines how a student responds to scientific, research-based intervention, to also use a severe discrepancy between intellectual ability and achievement as part of the evaluation procedures. Thus, teams have the option of conducting an assessment to establish such a discrepancy if they consider that information relevant to an identification of SLD. However, the words "in addition to" that appear in the rule at [23 IL Admin. Code 226.130\(d\)](#) clearly indicate that ability/achievement discrepancy alone is neither required nor sufficient to determine eligibility. Therefore, if a student is not found eligible based on his or her response to scientific, research-based interventions, then it is not possible to subsequently find the student eligible based on an ability/achievement discrepancy.

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

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

41. *If an RtI process is used as part of the procedures for eligibility determination, won't "slow learners" qualify for special education services?*

In the past, educators used the term "slow learner" to classify a student who performed in the below average or borderline range (Composite IQ scores between 70 and 85), generally above the range of students considered to have a cognitive disability (if there are also concomitant deficits in adaptive behavior) yet well below average. It was thought that students functioning within this level could not profit from more intense and specially designed interventions often provided as part of special education. However, this assumption has been proven false.

The eligibility criteria within an RtI framework do not focus on level of cognitive ability. Instead, these criteria include a) a significant discrepancy from age level peers or grade level standard in terms of academic achievement using more direct measures of academic skills (e.g., curriculum based measurement) and b) educational progress, as measured by rate of improvement in response to evidence-based interventions, that is significantly lower than age level peers or grade level standard. If they meet these two criteria and have instructional needs beyond what can be provided with general education resources alone, then students who in the past might have been considered to be functioning in the "slow learner" range of cognitive ability can be found eligible under SLD.

42. *In an RtI system, what happens to **students who are gifted and talented** but still have learning difficulties? Will they qualify for special education services under SLD?*

Yes, if students who are considered to be gifted and talented (defined in Illinois as those who “(i) exhibit high performance capabilities in intellectual, creative, and artistic areas; (ii) possess an exceptional leadership potential; (iii) excel in specific academic fields; and (iv) have the potential to be influential in business, government, health care, the arts, and other critical sectors of our economic and cultural environment” [105 ILCS 5/14A-10] are experiencing learning difficulties, then they would be provided interventions within the RtI three-tiered system of increasingly intensive interventions. If the student who is gifted and talented exhibits a significant discrepancy from age level peers or grade level standard in terms of academic achievement in one of the eight areas listed in 34 CFR 300.309 (see Question 40), has a level of educational progress as measured by rate of improvement in response to evidence-based interventions that is significantly lower than age level peers or grade level standard, and exhibits instructional needs beyond what can be met with general education resources alone, the student who is gifted and talented would be eligible for special education services as a student with a SLD. Providing interventions or services within an RtI framework requires that all students experiencing a specific academic or behavioral skill deficit be provided with intervention(s) to address the targeted area(s) of deficit.

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