

Eligibility

2014-2015

Eligibility

- Autism Spectrum Disorders
- Emotional or Behavioral Disorders
- Blind or Visually Impaired
- Other Health Disabilities
- Deaf/Blind
- Physical Impairment
- Deaf/Hard of Hearing
- Severely Multiply Impaired
- Developmental Cognitive Disability
- Specific Learning Disability
- Developmental Delay
- Speech or Language Impairment
- Traumatic Brain Injury
- Developmental Adapted Physical Education

Eligibility

- The initial Evaluation Report (ER) must document that the student **meets** all required eligibility criteria.
- Reevaluation reports must document that all eligibility criteria have been **addressed**, though the student may not meet the strict criteria required under initial evaluation.
- If looking at a new disability category, even if the child already qualifies under a different disability, initial eligibility criteria must be met for the new disability area.
- If a district receives an out-of-state transfer student, the student would need to meet initial eligibility criteria in Minnesota.

Eligibility Points of Clarification

- The purpose of the eligibility review is not only to determine if the student meets or does not meet the criteria, but also to determine if there is sufficient evidence in the ER to support the team's decision.
- Do not simply transfer the criteria review in the ER onto the criteria checklist but *review the body of the ER* looking for data to support the criteria components and complete the checklist based on the data in the ER.

Eligibility Points of Clarification

- There must be data in the ER to support the criteria components.
- For example, the Specific Learning Disability (SLD) criteria require the presence of an information processing disorder. The ER may say there is an information processing disorder, but there must be evidence in the ER that supports this claim.

Eligibility

- Especially in the case of a reevaluation, the ER may not adequately address all criteria components.
- This does not necessarily mean the student is not eligible, but it may mean there is not sufficient data in the ER to support the team's determination.

Eligibility

- Each checklist will conclude with the following statement and two options:
 - To determine compliance with eligibility determination, one of the following MUST be checked:
 - The documentation supports the team decision.
 - The documentation does not support the team decision.

Eligibility Points of Clarification

- Note that you are indicating whether or not the data in the ER does or does not support the team's decision, not necessarily whether you agree or disagree that the student is eligible.
 - There may not be sufficient data to support the determination of eligibility and therefore you disagree with the determination of eligibility.
 - Or you may agree with the determination of eligibility but find the ER is lacking the data to support the determination.
- In both cases you would check the statement: "The documentation does not support the team decision"

Eligibility

- Check the box of the most accurate determination statement and include any important comments regarding eligibility under the student's Comments tab.

Eligibility

- When reviewing records, fully complete the appropriate eligibility checklist for the child's primary disability category first.
- Then complete the eligibility checklist(s) for any additional area(s) the student has been identified with or assessed for, if applicable.
- If the team considered eligibility for a disability category but did not qualify the student in that area, you would still review the eligibility determination and complete the criteria checklist in that area for verification.

Eligibility

- If documentation in the file indicates that the child receives Developmental Adapted Physical Education (DAPE) services, complete the DAPE eligibility checklist as well.
- All criteria checklists completed are to be turned in with the record for verification.

Specific Learning Disability (SLD) Criteria Point of Clarification

- The major change to the SLD criteria was the addition of the option to qualify students as eligible for SLD using the response to Scientific, Research-Based Intervention (SRBI).

SLD Criteria

Points of Clarification

- The revised SLD criteria, under Minn. R. 3525.1341 went into effect in September 2008.
- All initial SLD evaluations completed after September 2008 must meet all of the new criteria components regardless of model used.
- Reevaluations completed after September 2008 would need to address criteria components under which they were identified.

SLD Criteria

- For example
 - If student qualified under the old rule, the reevaluation would need to address criteria using the discrepancy model in the new rule.
 - If a student qualified under the new rule using the discrepancy model, the reevaluation would need to address criteria using the discrepancy model in the new rule.
 - If a student qualified under the new rule using the SRBI model, the reevaluation would need to address criteria using the SRBI model in the new rule.

Points of Clarification

- Under Minn. R. 3525.1341, subp. 2, districts have the option of qualifying students based on Criteria A, B, and C or A, B, and D.
 - Criteria components A and B are required for **all** SLD evaluations.
 - Criteria C is required when using a severe discrepancy model.
 - Criteria D is required when using a model based on the response to SRBI.

Definition of SLD

- 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.
 - Minn. R. 3525.1341, subp. 1.

SLD Criteria – SLD Criteria Requirements

- Must meet A, B, and C or A, B, and D
- Information about each criteria component (A, B, and C or D) must be sought from the parents.
- Data must confirm the effects of the disability occur in a variety of settings.
- The child must receive two interventions prior to referral (unless waived).

SLD Criteria-A

- The child does not achieve adequately in one or more of the eight areas of SLD:
- Oral Expression
- Listening Comprehension
- Math Calculation
- Mathematical Problem Solving
- Written Expression
- Basic Reading Skills
- Reading Comprehension
- Reading Fluency
- **AND**

SLD Criteria-A

- Either:
 - a. The child does not make adequate progress to meet age or state-approved grade-level standards in one or more of the areas listed above when using a process based on the child's response to SRBI.
 - 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.

Points of Clarification

- There is no legal definition of "inadequate achievement."
- There is no description of a pattern of strengths and weaknesses. There are no criteria regarding how many there must be or how discrepant they must be.
- There are specific criteria to demonstrate an inadequate rate of progress, which are detailed in Criteria D.

Points of Clarification

- When demonstrating inadequate achievement and either inadequate progress in response to SRBI or a pattern of strengths and weaknesses, the measures used to verify this must be representative of the child's curriculum or useful in developing instructional goals and objectives.

Points of Clarification

- Documentation is required to verify Criteria A.
- Documentation includes evidence of low achievement from the following sources, when available:
 - Cumulative record reviews
 - Class work samples
 - Anecdotal teacher records
 - Statewide and district-wide assessments
 - Formal, diagnostic, and informal tests
 - Curriculum-based evaluation results
 - Results from targeted support programs in general education

SLD Criteria B

- The child has a disorder in one or more of the basic psychological processes which includes an information processing condition that is manifested in a variety of settings.

Points of Clarification

- An information processing disorder could manifest itself in a variety of ways including:
 - Acquisition of Information,
 - Organization,
 - Planning and Sequencing,
 - Working Memory,
 - Visual and Auditory Processing,
 - Speed of Processing,
 - Verbal and Nonverbal Expression,
 - Transfer of Information, or
 - Motor control for written tasks.

SLD Criteria C

- The child demonstrates a severe discrepancy between general intellectual ability and achievement in one or more areas.

Points of Clarification

- Standardized tests must be individually administered.
- For initial placement, discrepancy must be equal to or greater than -1.75 Standard Deviation (SD).
- This discrepancy shall not be based solely on standardized tests. There should be evidence from other sources to support the discrepancy.

SLD Criteria D

- The child demonstrates an inadequate rate of progress...measured over time through progress monitoring while using intensive SRBI. A minimum of 12 data points are required from a consistent intervention implemented over at least seven school weeks.

Points of Clarification

- Inadequate rate of progress in SRBI is defined by four points:
 - rate of improvement is minimal and continued intervention will not likely result in reaching age or state-approved grade-level standards;
 - progress will likely not be maintained when instructional supports are removed;
 - level of performance in repeated assessments of achievement falls below the child's age or state-approved grade-level standards; **and**
 - level of achievement is at or below the fifth percentile on one or more valid and reliable achievement tests using either state or national comparisons.

SLD Criteria D

Points of Clarification

- Local norms can be used, but when local comparison data is used and differs from either state or national data, the group must provide a rationale to explain the difference.
- All four of these components of inadequate progress must be documented to support the determination that the child does not make adequate progress in response to SRBI.

Points of Clarification

- Qualifying a student under SLD using SRBI requires a great deal of data collection with specific requirements.
- The specifics of the intervention used can vary greatly from district to district.
- The district's process for SRBI should be spelled out in the district's Total Special Education System (TSES).

The district's TSES should detail:

- The specific SRBI approach, including timelines for progression through the model;
- Any SRBI that is used, by content area;
- The parent notification and consent policies for participation in SRBI;
- Procedures for ensuring fidelity of implementation; and
- A district staff training plan.

SLD Written Report Required Content

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility, ...must include an observation of the child in the child's learning environment, including the regular classroom setting, that documents the child's academic performance and behavior in the areas of difficulty.
 - Minn. R. 3525.1341, subp. 3A

SLD Written Report- Observation

Points of Clarification

- An observation is a required component of an SLD evaluation.
- There is no requirement regarding the number of observations completed- although, there would be a minimum of one.
- However, if there are multiple areas of concern, such as reading and written language, then multiple observations may be necessary to document the child's academic performance and behavior in the areas of difficulty.

Points of Clarification

- The team can decide to use observational data from before the referral or after (as included in the evaluation plan/Prior Written Notice).
- There is no specification as to who must do the observation other than it be a qualified professional.

SLD Written Report- Observation

Points of Clarification

- The observation must be done in the child's regular learning environment.
- Whatever observational data is used must describe behavior that is relevant to the child's academic functioning.

Points of Clarification

- For example, when the concerns are in reading, the observation should describe behavior related to reading; a simple time-on-task observation may not provide relevant observational data.
- This would be a citation if the data from the observation does not relate to the student's academic functioning in the area(s) of concern.

SLD Written Report

- For a child suspected of having a Specific Learning Disability (the documentation of the determination of eligibility...must contain a statement of whether the child has a specific learning disability.
 - 34 C.F.R. § 300.311(a)(1).

SLD Written Report- Documentation of Disability Points of Clarification

- Identifying a student as having a specific learning disability means they have met the required eligibility components.
- This statement would most likely be found in the summary or eligibility determination section of an ER.
- This would be a citation if the ER does not clearly identify the student as SLD.

SLD Written Report

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility...must contain a statement of the basis for making the determination including that the child has a disorder, across multiple settings, that impacts one or more of the basic psychological processes...documented by information from a variety of sources.
 - Minn. R. 3525.1341, subp. 3C(1).

SLD Written Report Basis/Psychological Processes

Points of Clarification
The basic psychological processes are involved in understanding or in using language, spoken or written, that may be manifest in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

SLD Written Report

Basis/Psychological Processes

Points of Clarification

- The disorder across multiple settings must be documented by information from a variety of sources including:
 - aptitude and achievement tests,
 - parent input,
 - teacher recommendations, as well as
 - information about the child's physical condition, social or cultural background, and adaptive behavior.

Points of Clarification

- SLD criteria require that the student have an information processing condition.
- This citation requires documentation that supports this condition.
- The documentation must be from a variety of sources.
- This would be a citation if there is not documentation in the ER from multiple sources to support the information processing condition

SLD Written Report

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility, ...must contain a statement of the basis for making the determination including that the child's underachievement is not primarily the result of visual, hearing, or motor impairment; developmental cognitive disabilities; emotional or behavioral disorders; environmental, cultural, or economic influences; limited English proficiency; or lack of appropriate instruction in reading or math.
- Minn. R. 3525.1341, subp. 3C(2).

SLD Written Report- Basis/Exclusionary Factors

- This must be verified by:
 - 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
 - Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, which was provided to the child's parents.
 - Minn. R. 3525.1341, subp. 3C(2).

**SLD Written Report-
Basis/Exclusionary Factors
Points of Clarification**

- Each of these factors must be considered and ruled out as the PRIMARY cause for underachievement.
- It is not sufficient to just include a statement in the ER indicating these factors were considered and ruled out. There must be data in the ER to support this determination.

Points of Clarification

- It is possible for some of these factors to be present, such as cultural or economic influences, yet determined not to contribute to the underachievement.

Points of Clarification

- It is possible for a student to have a secondary disability, such as an Emotional or Behavioral Disorder, and still meet the criteria for SLD.
- The SLD ER should document that the emotional or behavioral concerns are concurrent and one is not a result of the other.

Points of Clarification

- There are no clear legal guidelines on the data required to 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.”
- One would look for documentation that a student has participated in a regular education program.
- If there is no educational history, you would not be able to rule out the lack of appropriate instruction in reading or math.

Points of Clarification

- Likewise there are no clear legal guidelines on required “data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child’s progress during instruction, which was provided to the child’s parents.”
- This data could include such things as MCA testing, NWEA tests, or any other formal assessment administered over time to gauge achievement.

Points of Clarification

- This would be a citation if there is evidence of potential other factors that may be the primary cause for the underachievement yet those factors are not addressed or not adequately weighed in the basis for making the determination of the child's underachievement.

SLD Written Report

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility ...must contain a statement of the educationally relevant medical findings, if any.
 - 34 C.F.R. § 300.311(a)(4)

SLD Written Report- Medical Findings Points of Clarification

- There is no guidance on what are considered “relevant medical findings.”
- There should be some mention in the ER that possible medical influences have been considered.
- When there is no mention of any educationally relevant medical findings, or lack thereof, this would not be a citation unless there is documentation elsewhere (referral information, Individual Education Program) that there is in fact a medical condition that would be relevant.

SLD Written Report Addressing Criteria

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility, ...must include: whether the child meets criteria in subpart 2, either items A, B, and C or items A, B, and D.
- These components and the supporting data would need to be documented in the SLD written report.

SLD Written Report- Criteria A

- Criteria A is that the child does not achieve adequately in one or more of the eight areas of SLD, and either: Does not make adequate progress (in response to SRBI) OR Demonstrates a pattern of strengths and weaknesses.
- Criteria A is broken down into three possible citations (A, A1, and A2).

SLD Written Report- Criteria A

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility ...must contain a statement of whether the child does not achieve adequately for the child's age or to meet State-approved grade-level standards. (Criteria A)
 - 34 C.F.R. § 300.311(a)(5)(i)

SLD Criteria A

Points of Clarification

- The inadequate achievement would need to be demonstrated in one or more of the eight areas of SLD.
- There is no legal definition of inadequate achievement.
- Documentation of inadequate achievement should come from the following sources when available:
 - Cumulative record reviews
 - Class work samples
 - Anecdotal teacher records
 - Statewide and district-wide assessments
 - Formal, diagnostic, and informal tests
 - Curriculum-based evaluation results
 - Results from targeted support programs in general education
- The documentation should be from multiple sources.
- Information about the low achievement must be sought from the parents.
- This would be a citation if the ER does not have documentation of low achievement in one or more of the eight areas.

SLD Written Report- Criteria A

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility ...must contain a statement of whether the child does not make sufficient progress to meet age or State-approved grade-level standards. (Criteria A1)
 - 34 C.F.R. § 300.311(a)(5)(ii)(A)
 - OR

SLD Written Report- Criteria A

- For a child suspected of having a Specific Learning Disability, the documentation of the determination of eligibility ...must contain a statement of whether 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. (Criteria A2)
 - 34 C.F.R. § 300.311(a)(5)(ii)(B)

Points of Clarification

- For A1, the requirement is for a statement that the child does not make sufficient progress.
- Criteria D defines the inadequate rate of progress and requires specific data to support this.
- For A2, there is no definition of a pattern of strengths and weaknesses, but the report must document evidence of such.
- Since the requirement is for either A1 or A2, you would only cite one of these two.

SLD Criteria A

Points of Clarification

- These components of the criteria are often overlooked.
- The information is often implied in the ER but not explicitly stated.
- When using SRBI, the ER needs to state the child does not make sufficient progress to meet age or State-approved grade-level standards.
- If using a discrepancy model, the ER needs to detail a pattern of strengths and weaknesses.

SLD Written Report- Criteria B

- The child has a disorder in one or more of the basic psychological processes which includes an information processing condition that is manifested in a variety of settings. (Criteria B)
 - Minn. R. 3525.1341, subp. 2(B)

SLD Criteria B Points of Clarification

- An information processing disorder could manifest itself in a variety of ways including:
 - Acquisition of Information,
 - Organization,
 - Planning and Sequencing,
 - Working Memory,
 - Visual and Auditory Processing,
 - Speed of Processing,
 - Verbal and Nonverbal Expression,
 - Transfer of Information, or
 - Motor control for written tasks.

SLD Criteria B

Points of Clarification

- Data to demonstrate an information processing disorder could come from:
 - Formal or informal questionnaires or rating scales,
 - Analysis of formal or informal test results,
 - Anecdotal information from parents or teachers.

Points of Clarification

- The information processing disorder must be demonstrated in a variety of settings and the report should include information from a variety of sources supporting the disorder in multiple settings, including information from the parent.
- This would be a citation if the ER does not address or adequately demonstrate the presence of an information processing condition in a variety of settings.

SLD Written Report- Criteria C

- The child demonstrates a severe discrepancy between general intellectual ability and achievement in one or more areas. (Criteria C)
 - Minn. R. 3525.1341, subp. 2(C)

SLD Criteria C Points of Clarification

- For initial placement, discrepancy must be equal to or greater than -1.75 Standard Deviation (SD).
- For a reevaluation, the student does not need to demonstrate a discrepancy of the same severity but will still need to demonstrate inadequate achievement (Criteria A) and a discrepancy between ability and achievement.
 - This discrepancy shall not be based solely on standardized tests. There should be evidence from other sources to support the discrepancy.

Points of Clarification

- Information about the severe discrepancy must be sought from the parents.
- For an initial evaluation, this may be cited if the student is found eligible but there is not documentation of a severe discrepancy.
- For a reevaluation, the student can still be found eligible without the severe discrepancy but this may still be cited if there is no discrepancy or the discrepancy is not addressed.

SLD Written Report- Criteria D

- The child demonstrates an inadequate rate of progress...measured over time through progress monitoring while using intensive SRBI. A minimum of 12 data points are required from a consistent intervention implemented over at least seven school weeks. (Criteria D)
 - Minn. R. 3525.1341, subp. 2(D)

SLD Criteria D

Point of Clarification

- Inadequate rate of progress in SRBI is defined by four points:
 - rate of improvement is minimal and continued intervention will not likely result in reaching age or state-approved grade-level standards;
 - progress will likely not be maintained when instructional supports are removed;
 - level of performance in repeated assessments of achievement falls below the child's age or state-approved grade-level standards; and
 - level of achievement is at or below the fifth percentile on one or more valid and reliable achievement tests using either state or national comparisons.

SLD Criteria D

Points of Clarification

- All four of these components of inadequate progress must be documented to support the determination that the child does not make adequate progress in response to SRBI.
- There should be data in the SLD ER to document each component and support the inadequate rate of progress.

SLD Criteria D

Points of Clarification

- Information about the inadequate rate of progress must be sought from the parents.
- This would be a citation if any of the components are not addressed or if the data does not support the determination of inadequate progress.

SLD Written Report

- For a child suspected of having a Specific Learning Disability the documentation of the determination of eligibility, ... must contain a statement of if the child has participated in a process that assesses the child's response to scientific, research-based intervention (SRBI) and the instructional strategies used and the student-centered data collected.
 - 34 C.F.R. § 300.311(a)(7)(i)

SLD Written Report – SRBI Data Collection Points of Clarification

- The information in the SLD ER should detail the instructional strategies used and should correspond to what is specified in the district's TSES.
- The data collected needs to be specific to the student. The manner in which data is collected should also be specified in the district's TSES.
- This would be cited if this information were missing in the ER.

SLD Written Report

- When using SRBI, the documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided, strategies for increasing the child's rate of learning, and the parent's right to request an evaluation.
 - 34 C.F.R. § 300.311(a)(7)(ii)(A-C)

Points of Clarification:

- The district's TSES needs to detail the parent notification and consent policies.
- When using SRBI, the SLD ER should include documentation of parent notification and should be consistent with the district's TSES.
- This would be cited if this information were missing in the ER.

SLD Written Report

- Each group member must certify in writing whether the report reflects the member's conclusion.
- 34 C.F.R. § 300.311(b)

SLD Written Report - Signatures

Points of Clarification

- All team members need to sign the ER, whether in agreement or not.
- Signatures are required for both an initial and reevaluation SLD ER.
- Signatures are also required for any ER in which SLD was considered. If the team considered SLD and OHD but found the student eligible for only OHD, it is still an SLD evaluation and would require signatures.

Points of Clarification

- 34 C.F.R. § 300.308 identifies team members required for an SLD evaluation as basically the parent, general education teacher, and person qualified to conduct diagnostic examinations.
- However, anyone present at that meeting would be considered a team member and should sign the ER. If someone at the meeting did not sign, then this should be cited.

SLD Written Report

- If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.
 - 34 C.F.R. § 300.311(b)

SLD Written Report - Statement

Points of Clarification

- The statement does not need to be lengthy, but should include substantive evidence rather than just opinion.
- When more than one team member disagrees, they can write separate statements or a joint statement.
- When two or more team members disagree with the decision, is it really the right decision?

SLD Written Report - Conclusions

- When one or more of the SLD ER requirements are missing, you may need to consider if there is an eligibility concern.
- It could be there is no evidence to support the decision, or it could be the evidence is just not documented appropriately in the ER.

Points of Clarification

- For example, when the SLD ER does not contain documentation of an observation: Was an observation done? Given that is a required component of an SLD ER, how can one truly say the student is SLD if all the required components are not addressed?
- When the SLD ER is missing team member signatures, this is probably not an eligibility issue but rather a documentation concern.