

Specific Learning Disabilities Eligibility Guidance Document



Kentucky Department of Education

<http://education.ky.gov>



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Important considerations for the use of this document:

As a workgroup, we have taken several steps to ease the readability of this document. Given that, please note the following:

- Text boxes have been created using a different font to emphasize their importance and break up the length of reading.
 - Green text boxes provide regulatory references
 - Yellow text boxes provide guidance
 - Blue text boxes provide the corresponding appendix resource
- This document has been created and is available as a “live” document. Given that, several references throughout this document are hyperlinked for your convenience. You can view this document with active hyperlinks by going to the Kentucky Department of Education’s website and searching for *Specific Learning Disabilities Eligibility Guidance Document*.

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I. INTRODUCTION

The overarching goal of this document is to assist schools in conducting appropriate and comprehensive educational evaluations for students suspected of having a specific learning disability (SLD). Additionally, this guidance document will provide an overview of Kentucky's SLD eligibility determination requirements, clarify the evaluation components and criteria, and answer frequently asked questions from the field as they relate to students with a SLD.

The SLD eligibility determination process is a systematic approach that schools use to determine whether a student does or does not have a SLD as defined in the state regulations. SLD means a disorder that adversely affects the ability to acquire, comprehend, or apply reading, mathematical, writing, reasoning, listening, or speaking skills to the extent that specially designed instruction is required to benefit from education. The specific learning disability (SLD) may include dyslexia, dyscalculia, dysgraphia, developmental aphasia, and perceptual/motor disabilities. The term does not include deficits that are the result of other primary determinant or disabling factors such as vision, hearing, motor impairment, intellectual (mental) disability, emotional-behavioral disability, environmental or economic disadvantaged, cultural factors, limited English proficiency, or lack of relevant research-based instruction in the deficit area. 707 KAR 1:002 Section 1 (59).

IDEA 2004 outlines the legal underpinnings of the eligibility determination process and further specifies how districts should approach the process. Within the parameters established in the federal regulations, state and local district policies define individual school-level SLD eligibility determination practices.

The table below illustrates the timeline regarding SLD regulations and guidance.

1975	• Congress passes the Children with Specific Learning Disabilities Act. This is the first time federal law mandates support services for students with learning disabilities.
1975	• The Education for All Handicapped Children Act (PL 94-142), mandates a free, appropriate public education for all students.
1990	• The Individuals with Disabilities Education Act (IDEA) renames and changes PL 94-142. The term 'disability' replaces 'handicap,' and the new law requires transition services for students. • In 1993, Kentucky released the <i>Kentucky Procedures and Criteria for Determining Specific Learning Disabilities</i> .
1997	• IDEA is reauthorized. Regular education teachers are included in the IEP process.; students have more access to the general curriculum and are included in state-wide assessments; and there are incentives for universal approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs.
2004	• IDEA is reauthorized again. School personnel now have more authority in special education placement decisions and the new law is better aligned with the No Child Left Behind Act. 707 KAR 1:300 added specific language that required the provision of research-based instruction and intervention services.
2007	• Kentucky amended the Kentucky Administrative Regulations (KARs) on SLD to reflect changes in the 2004 IDEA Reauthorization, by allowing both RtI and Severe Discrepancy as methods for making an eligibility determination for SLD
2010	• KDE releases Policy Letter #2010-11-01 "Establishing Student Eligibility for IDEA Services" (2010). In 2012, KDE releases Eligibility Q and A.
2014	• KDE releases SLD Eligibility Guidance Document.

II. MAKING AN ELIGIBILITY DETERMINATION FOR SLD

Kentucky's vision is that all students reach proficiency and graduate from high school ready for college and careers. In support of that vision, this document seeks to provide guidance for districts to ensure the accurate identification of and appropriate educational support for students with SLD. The Kentucky Administrative Regulations (KAR) for special education programs outline two possible methods for making an eligibility determination for SLD. A district (Local Education Agency or LEA) must develop written procedures for SLD determinations.

Method A: Severe Discrepancy (Validated Regression)

Method A: Severe Discrepancy is a process based on identification of a severe discrepancy between intellectual ability and achievement. As part of the eligibility determination for SLD, a district may choose to use the severe discrepancy method for determining students eligible for specially designed instruction.

A district determines a severe discrepancy using the LD tables accessible via the Kentucky Department of Education website or a non-standard score method when standardized normative measures of ability and achievement are invalid or not available. Additional information on the non-standard score method can be found on page 11 of this document.

The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to ability level or intellectual development, that is determined by the ARC to be relevant to the identification of a specific learning disability, using appropriate assessments consistent with 707 KAR 1:300, Section 4. (707 KAR 1:310, Section 2(2)(c))

Method B: Response to Intervention (RtI)

Method B: Response to Intervention (RtI) is a process based on the student's response to scientific, research-based intervention/evidence-based practices as documented through progress monitoring and data analysis.

RtI is defined as "the practice of providing high-quality instruction and intervention matched to student needs and using learning rate over time and level of performance to make important educational decisions." National Association of State Directors of Special Education (NASDSE), 2006, p. 5.

The child fails to achieve a rate of learning to make sufficient progress to meet grade-level standards aligned with 704 KAR 3:303 in [one or more of the eight SLD subcategory areas (reading comprehension, math calculation, etc.)] when assessed based on the child's response to scientific, research-based intervention. (707 KAR 1:310, Section 2(2)(b))

III. REGULATORY REQUIRED COMPONENTS: MAKING AN ELIGIBILITY DETERMINATION FOR SLD

Regardless of which eligibility determination method is used, Method A: Severe Discrepancy or Method B: RtI, the process must include all of the elements of a comprehensive evaluation. This requirement includes the additional considerations outlined for SLD determination in 707 KAR 1:310, Section 2. The Admissions and Release Committee (ARC) must consider all components of the child find and evaluation process and document discussions with the parent(s) or guardian(s) before eligibility is finalized.

Referral System (707 KAR 1:300, Section 3)

A district must develop a referral system that ensures the following:

- An LEA shall have a referral system that explains how referrals from district or nondistrict sources will be accepted and acted upon in a timely manner.
- The referral system shall be conducted in such a manner as to prevent inappropriate over identification or disproportionate representation by race and ethnicity of children in special education by ensuring that each child has been provided appropriate instruction and intervention services prior to referral.
- The LEA shall ensure that:
 - Prior to, or as a part of the referral process, the child is provided appropriate, relevant research-based instruction and intervention services in regular education settings, with the instruction provided by qualified personnel; and,
 - Data-based documentation of repeated assessments of achievement or measures of behavior is collected and evaluated at reasonable intervals, reflecting systematic assessment of student progress during instruction, the results of which were provided to the child's parents.

Appendix B:
Eligibility Q and A

ARC Membership (707 KAR 1:310, Section 2(1), (2), and (5); 707 KAR 1:320, Section 3)

An LEA shall ensure that the ARC for each child with a disability includes:

- The parents of the child;
- Not less than one (1) regular education teacher of the child (if the child is or may be participating in the regular education environment) to provide information about the general curriculum for same-age peers;
- Not less than one (1) special education teacher of the child or a special education teacher who is knowledgeable about the child's suspected disability or, if appropriate, at least one (1) special education provider of the child;
- A representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general curriculum and the availability of the resources of the LEA;
- An individual who can interpret the instructional implications of evaluation results may be a member of the team as described above (i.e. regular education teacher, special education teacher, teacher, representative of the LEA);

- An individual who has knowledge or special expertise regarding the child, at the discretion of the parent or the LEA;
- Related services personnel, as appropriate;
- The child, if appropriate.

The ARC shall also include:

- Other professionals, relative to the area(s) of concern, such as a school psychologist, speech pathologist, or educational specialist; and,
- At least one (1) team member other than the child's regular education teacher shall observe the child in the learning environment, including the regular classroom setting, to document the student's academic performance and behavior in the area(s) of difficulty. If the child is less than school age or is out of school, the observation shall take place in an environment appropriate for the child.

Any ARC convened to discuss a child with a suspected or documented SLD shall be collectively qualified to:

- Conduct, as appropriate, individual diagnostic assessments in the areas of speech and language, academic achievement, intellectual development, or social-emotional development;
- Interpret assessment and intervention data and apply critical analysis to that data;
- Develop appropriate educational and transitional recommendations based on the assessment data; and,
- Deliver and monitor specially designed instruction and services to meet the needs of a child with a SLD.

Exclusionary Factors (707 KAR 1:310, Section 2(8))

SLD eligibility determination requires that the following be ruled out as the primary cause(s) of the student's learning deficits:

- Visual Disability
- Hearing Disability
- Motor Disability
- Intellectual (Mental) Disability
- Emotional-Behavioral Disability
- Cultural Factors
- Environmental or Economic Disadvantage
- Limited English Proficiency

Appendix A:
Exclusionary Factors: A Reference
Guide for ARC's

A child shall not be determined to be eligible if the determinant factor for that eligibility determination is:

- (a) A lack of appropriate instruction in reading, including the essential components of reading instruction as established in the Elementary and Secondary Education Act, 20 U.S.C. 6301;
- (b) A lack of appropriate instruction in math;
- (c) Limited English Proficiency;
- (d) The child does not otherwise meet eligibility criteria.

Appendix B:
Eligibility Policy Letter, 2010
Eligibility Q & A 2012
KDE Policy letter: Referral, Evaluation,
Eligibility Webinar, August 31, 2010,
<http://education.ky.gov/curriculum/docs/Pages/KDE-Webex-landR.aspx>

Since state and federal regulations require that districts rule out a "lack of appropriate instruction" prior to identifying a student with a specific learning disability, district staff should be diligent in assessing the strength of its core program. This assessment should be considered first to determine whether the instructional program itself *is* indeed appropriate prior to examining the required components for determining individual student eligibility for SLD. Districts should consider a close self-examination of its core instructional programs when less than 80% of students are observed to be making appropriate progress within the core program. Self-assessment should focus on examining fidelity of the program both at the school level (the process is implemented consistently throughout the school/district), and at the teacher level (instruction is implemented with a high degree of consistency within each classroom). For more information on core programs see "A Guide to Kentucky Systems of Interventions" www.education.ky.gov.

ARC Discussions and Decisions (707 KAR 1:310, Section 1)

The ARC may determine a child has a SLD if the LEA ensures the following:

- Prior to, or as part of the referral process, the child was provided appropriate instruction in regular education settings;
- The child is provided with learning experiences and instruction appropriate for the child's age or state-approved, grade-level standards aligned with 704 KAR 3:303; and,
- The child does not achieve adequately for the child's age or grade level standards aligned with 704 KAR 3:303, as indicated on multiple data sources, as appropriate, in one or more of the following areas:
 - Oral expression
 - Listening comprehension
 - Written expression
 - Basic reading skills
 - Reading fluency skills
 - Reading comprehension

If there are concerns in more than one area, interventions must be provided and documented through progress monitoring and data analysis in all areas of concern prior to eligibility determinations.

- Mathematics calculation
- Mathematics reasoning
- The ARC shall consider a referral for an evaluation to determine if the child needs special education and related services when the child has not made adequate progress after an appropriate amount of time. (For additional information on the length of intervention time, see first box on page 17).
- Method A: Severe Discrepancy (Validated Regression)
The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to ability level or intellectual development, that is determined by the ARC to be relevant to the identification of a SLD, using appropriate assessments consistent with 707 KAR 1:300, Section 4; or,
- Method B: Response to Intervention (RtI)
The child fails to achieve a rate of learning to make sufficient progress to meet grade-level standards aligned with 704 KAR 3:303 in one or more of the eight SLD subcategory areas (reading comprehension, math calculation, etc.) when assessed based on the child's response to scientific, research-based intervention.

In making an SLD eligibility determination, an LEA shall draw upon information from a variety of sources, which may include:

- (a) Response to scientific, research-based interventions;
- (b) Vision, hearing, and communication screenings;
- (c) Parental input;
- (d) Aptitude and achievement tests;
- (e) Teacher recommendations;
- (f) Physical condition;
- (g) Social or cultural background;
- (h) Adaptive behavior; or,
- (i) Behavioral observations.

Triangulation of data confirms the credibility and validity of results when different methods lead to the same conclusion. (For additional information see the KDE Policy letter: Referral, Evaluation, Eligibility Webinar, August 31, 2010).
<http://education.ky.gov/curriculum/docs/Pages/KDE-Webex-landR.aspx>

An LEA shall ensure that information obtained from the above sources (a-i) as appropriate for each student, is documented and carefully considered.

Appendix C:
Adverse Effect

The determination decision satisfies the three-prong test, as follows:

- Meets one or more of the eight specific learning disability areas;
- Adversely affects the student's educational performance; and,
- Needs special education and related services

Appendix D:
Letter from OSEP, 2011

SLD Eligibility Determination Form and Written Report

(707 KAR 1:310, Section 2 (8), (9) and (10))

An ARC shall develop documentation of a specific learning disability. This documentation shall contain a statement of:

- Whether the child has a SLD;
- The basis for making that determination;
- The relevant behavior noted during the observation;
- The relationship of that behavior to the child's academic functioning;
- The educationally relevant medical findings, if any;
- Whether the child does not achieve commensurate with the child's age and ability;
- Whether there are patterns of strengths and weaknesses in performance or achievement or both relative to age, state-approved grade level standards, or intellectual development in one (1) or more of the areas that require special education and related services; and,
- The determination of the ARC concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; environmental, cultural factors; economic disadvantage; or limited English proficiency on the child's achievement level; and,
- The instructional strategies used and the student-centered data collected based on the child's response to scientific, research-based intervention.

Documentation for SLD eligibility shall include notification to the child's parents concerning the policies regarding:

- (a) The amount and nature of student performance data that are collected, and the general education services that are provided;
- (b) Strategies for increasing the child's rate and level of learning; and,
- (c) The parents' right to request an evaluation.

Each ARC member shall certify in writing whether the report reflects the member's conclusions. If it does not reflect the member's conclusion, the team member shall submit a separate statement presenting the member's conclusions.

Documentation on the [SLD Eligibility Determination Form and Written Report](#) is an essential final element of eligibility determination because it ensures that the data indicate that there is an adverse effect on the student's educational performance such that he or she is performing significantly and consistently below same age peers in academic and/or functional skills. Further, documentation within the Written Report reveals the student's specific educational needs which impact decisions about curriculum, instruction and environment thereby informing the development of the student's IEP services and placement. (For additional information, refer to [Guidance Document for IEP Development](#) and Compliance Record Review Document).

IV. METHOD A: SEVERE DISCREPANCY (VALIDATED REGRESSION)

One critical component of the 2004 Reauthorization of IDEA is that State Education Agencies (SEAs) can no longer require a discrepancy between measured intellectual ability and educational performance as one of the criteria for determining whether a student has a SLD.

If the district chooses to use Method A: Severe Discrepancy, the ARC uses the aptitude/achievement discrepancy tables or the non-standard score method to determine initial eligibility for a SLD [Reference Tables for Identifying Students with a Specific Learning Disability](#).

Appendix G:
Reevaluation and
Determination of
Continued Eligibility

For reevaluation purposes, the ARC may use the aptitude/achievement discrepancy tables, although it is not required for continuing eligibility for a SLD.

More information on the required regulatory components of a comprehensive evaluation for both RtI and the Discrepancy Method can be found on pages 6-10 of this document.

In individual situations, when standardized normative measures of ability and/or achievement are invalid or not available, a non-standard score method, such as the use of the general ability index (GAI), may be applied.

The psychologist/evaluator will need to provide a written rationale and summary of the non-standard method in the evaluation report. The summary includes:

- 1) Written rationale of why the formal evaluation procedures used with most students were invalid;
- 2) A list of the formal and informal assessment procedures used to evaluate the ability and/or achievement; and,
- 3) Scores and their interpretation from the alternative procedure.

A comprehensive evaluation is required when using Method A: Severe Discrepancy to determine the existence of a SLD.

Parent Notification of Referral (707 KAR 1:340, Sections 3 and 5)

When a decision is made for a written referral as part of a special education comprehensive evaluation, parents must be notified and written permission obtained.

The designated school personnel must:

- Complete the referral form or process as outlined by the district procedures.
- Follow the procedural safeguards for prior written notice and consent for initial evaluation.

It is the district's responsibility to develop procedures for the referral process. During the referral and evaluation process, the student continues to receive intervention. Data are collected until the comprehensive evaluation is completed; the ARC reconvenes and reviews data to determine eligibility.

- Provide the parent with a copy of the procedural safeguards.
- Obtain written parental consent for evaluation in the area(s) identified by the ARC.

Planning and Conducting a Comprehensive Evaluation (707 KAR 1:300)

The comprehensive evaluation (see pages 6-10 of this document) must include a variety of technically-sound assessment tools, interventions and observations to gather relevant academic information about the student, including information provided by the parent. It is not permissible to use any single measure or assessment as the sole criterion for determining whether the child has a SLD.

When all evaluation data have been collected, the ARC must follow procedural safeguards for prior written notice for an ARC to review the data and determine eligibility.

Determining Eligibility (707 KAR 1:310)

Within 60 school days of receipt of signed written parental consent, the ARC must meet to review all the data and make an eligibility determination using the LD tables accessible via the Kentucky Department of Education or a non-standard score method when standardized normative measures of ability and achievement are invalid or not available.

All components of required documentation for SLD Eligibility must be considered. (See Required Components, beginning on page 6).

Developing the Individual Education Program (IEP) (707 KAR 1:320)

Once eligibility has been determined, the ARC shall develop a standards-based IEP for the student. The [Guidance Document for Individual Education Program \(IEP\) Development](#) provides instructions and examples for the ARC members on how to write standards-based IEPs.

V. METHOD B: RESPONSE TO INTERVENTION (RTI)

For further guidance, please see "A Guide to Kentucky Systems of Interventions" www.education.ky.gov

Schools must have comprehensive, differentiated instruction for all learners; this includes interventions and evidence-based practices and strategies that provide a continuum of educational supports for students as part of the general education program. Once schools are implementing effective RtI processes, referrals most likely will occur after multiple attempts at targeted, research-based interventions/evidence-based practices have documented a student's lack of adequate progress, even with interventions.

This documentation will reflect a level of performance and a rate of growth that is below same age peers. The ARC will need to consider the results of multiple sources of documentation (triangulation of data) when analyzing an individual student's performance and rate of growth. Students should not be referred to special education simply because they need academic assistance and special education is thought to be the only avenue for extra help. However, if targeted interventions within general education have demonstrated minimal results and a team suspects that a student's learning difficulties are not due to a lack of appropriate instruction or other exclusionary factors, a referral for a special education evaluation on the basis of a suspected SLD must be considered.

Determining a child eligible for SLD utilizing the RtI process requires the collection of data and information from the general education environment as well as from increasing levels of interventions targeting specific skills. The Kentucky Systems of Intervention (KSI) is an RtI framework for providing systematic, comprehensive services and supports to address the academic and behavioral needs of all students.

Once a referral is received, regardless of where the district is in the RtI process, the district must convene an ARC to review the referral.

Further explanation of the use of the RtI process can be found at www.education.ky.gov.

While not required, districts may still choose to administer cognitive/intellectual assessments in situations where information on the cognitive abilities of the student is determined necessary by the ARC. The assessments selected by the ARC should directly measure the area(s) of identified concern(s). IDEA 2004 provides for the option to assess the relative contribution of cognitive factors in the determination of eligibility for special education services for students with a disability [34 CFR § 300.304(b)(3)]. Cognitive/Intellectual Assessments may also be useful for assessing specific types of abilities, including nonverbal areas such as spatial abilities and for helping team members better understand an individual student's strengths and weaknesses.

A full description of RtI or any multi-tiered approach to instruction goes beyond the purpose of this document. However, it is desirable to have as much consistency in the process as possible from district to district across the state when determining SLD eligibility. The implementation of a multi-tiered approach to instruction will look different from school to school. However, a set of guiding principles and the core components of such an approach will be evident regardless of the specific implementation within a given school setting.

General Education Interventions Prior to Referral and Evaluation

When using the RtI process, the district/school team must review student progress-monitoring

Appendix E:
Intervention (RtI) Worksheets: Reading, Math,
Written Expression

data at reasonable intervals to ensure that students are making progress within the general education curriculum. Student progress data are used to make recommendations for instructional interventions. A student may be referred for a comprehensive

evaluation to determine whether that student has a disability at the point where unexplained underachievement (level) and insufficient growth (rate) are documented. In addition, other reasons for the lack of student progress have been investigated (such factors might include attendance, office discipline referrals, in/out of school suspensions, medical history, language barriers and/or cultural factors).

The following should be considered before initiating a referral:

- Student has been provided with research-based interventions/evidence-based practices with documented progress monitoring data for a sufficient amount of time to allow student learning to occur. The amount of time needed to document progress should be based on research; specifically, the research conducted for a given intervention.
- Student participation in interventions has been consecutive and consistent.
 - Interruptions in the child's participation of the prescribed intervention (e.g., snow days, school breaks, staff vacancies) will need to be considered.
- Student performance has been determined to be unrelated to behavior.
 - Measures have been taken to address the student's behavior and provide supports to increase the child's motivation to participate in prescribed interventions, when needed.
 - Behavioral interventions should consider environmental changes and factors that may affect a student's behavior.
- Student has received appropriate instruction and intervention. In determining appropriate instruction, ensure the following:
 - Scientifically, research-based or evidence-based materials are used.
 - Personnel are qualified and have received appropriate training in the use of the instructional materials or interventions.
 - Interventions are delivered with fidelity (i.e., presented in the manner for which they were designed and researched).
- District/school RtI team has reviewed the existing data and determined whether interventions specifically designed to address student's concern(s) have been implemented with fidelity and that an ample amount of time has been provided for the specific intervention(s).
- A referral cannot be delayed just because a student has not moved through all tiers of the RtI process.

Districts must not deny referrals or delay initial evaluation procedures for students suspected of having a disability because of RTI implementation. (Letter from OSEP, 2011, Appendix D)

- When a referral is made before completion of an intervention cycle, interventions and progress-monitoring data collection should continue as part of the comprehensive initial evaluation process.
- District/school RtI team has analyzed unexplained underachievement (level), insufficient growth (rate), student skill level, and intensity of instructional need. Progress-monitoring data for a targeted skill should be used and documented for decisions in these areas. Indicators suggesting further evaluation is needed include:

- Unexplained Underachievement (Level): Evidence that the student's lack of achievement cannot be explained by other factors.
 - Level: A student's current academic or behavioral performance compared to their expected performance (either criterion or norm referenced).

Questions to consider:

- Is the student meeting the state-approved, grade-level academic standards?
- Is the student achieving LEA and classroom curricular benchmarks?
- Are there known reasons why the student is not meeting expected achievement?

- Insufficient Growth (Rate): Evidence of student's lack of progress over time.
 - Rate: A student's growth in achievement or behavior over time compared to prior levels of performance and peer growth rates.

Questions to consider:

- Given an equal opportunity to learn (including expanded classroom supports and interventions), is the student's learning rate significantly less than the rate of typical peers or the expected rate of growth?
- What does it take, or what is it projected to take, for this student to learn at the expected rate?
- Are clear benchmarks for performance level and rate of learning defined so that intervention goals can be established?

- Student Skill Level: Evidence of gaps in student skill area(s) compared to peers.

Questions to consider:

- Is the student's performance in skill areas significantly different from peers in his or her class or school, or from state or national norms?
- In what areas is the student's performance significantly different?

- Intensity of Instructional Needs: Evidence of the student's instructional needs and what is required for the student to be successful.

Questions to consider:

- Are the student's learning patterns such that sustained learning requires instruction and support significantly different from the general education program, including comprehensive, expanded supplemental supports, extensive differentiation of instruction and precise measurement of progress?
- If the instruction and support is removed, does the student regress to such an extent that the student is unable to achieve state and district standards?

Parent Involvement throughout the RtI Process

When designing an RtI framework, an essential component is to involve parents as partners in the process. As soon as a child exhibits difficulty meeting an academic or behavioral benchmark, parents should be advised as to what their child's educational needs are and what steps will be taken to address those needs. Parents should also be encouraged to participate in decision-making about their child's instructional programming.

Questions to consider:

- How do we tell parents that their child has been identified for intervention?
- How are parents involved in the development, implementation and monitoring of their child's intervention and support?
- What are the different ways to communicate with parents about their student's progress in meeting the school or district benchmarks?
- How do we communicate with parents about the continuum of supports and services provided to students within an RtI framework?
- In what ways are parents provided with strategies they can implement at home to help support their student's progress?
- How are parents included in celebrating their student's growth?

Interpreting and Analyzing RtI Progress Monitoring Data

Once a student has been provided interventions or evidence-based practices, the next step is to interpret and analyze the existing student data to determine how a student has responded.

- It is critical that an intervention be implemented long enough for a change in student performance to be possible. Student response to intervention should be monitored carefully and frequently throughout the intervention period, so that an unproductive intervention is changed or intensified in a timely manner. For additional information on length of time see page 17 first box.
- Districts must not deny referrals or delay initial evaluation procedures for students suspected of having a disability because of RtI implementation. (Letter from OSEP, 2011, Appendix D)

- For a student's response to intervention to be deemed "inadequate," his or her *level* of performance must be consistently and significantly below age-appropriate, grade-level expectations. Moreover, his or her *rate* of progress during intervention must also be insufficient, even after repeated attempts to change or otherwise intensify the intervention.
- Assessment data must be analyzed and interpreted. Information obtained from the data must guide instructional decision-making. Student performance data must be clearly understood by all involved.

An informed decision-making process provides a framework for consistently monitoring and evaluating the progress of students based upon data; with that being said, the framework does not provide absolutes such as time-limited interventions. Limiting the amount of time for an intervention to be successful places too much emphasis on "when" is enough, rather than placing the emphasis on "what" instructional strategies the student needs to be successful. Although a student may be receiving additional supports through Tier 2 or 3, one should not automatically assume that the instructional strategies in the core program (Tier 1) are sufficient. Students who continue to need Tier 2 support (e.g., year after year) will likely need more differentiation within the core curriculum than other students who may only need Tier 2 supports on a short term basis (e.g., three months). The focus of an effective system of intervention should be on finding instructional strategies that work rather than focusing on what did or did not work within a specified time frame. The nature of a true intervention system must be based upon evaluating the effectiveness of the intervention(s) at set intervals to make informed decisions.

Modified from Pamela Radford
Response to Hintze (2008) - *Conceptual & Empirical Issues Related to
Developing a Response-to-Intervention Framework*

Note: After analysis of the intervention data has occurred and a student has been determined as not making sufficient progress on the intervention (rate and level), a referral for a special education evaluation on the basis of a suspected SLD may be considered.

Documentation of progress monitoring should include both a visual display of student's response to intervention (e.g., aim line and trend line) and a quantitative index of student's rate of improvement determined by the student's slope of progress. Rate of improvement is the amount of improvement divided by the time devoted to the intervention. Information on progress monitoring assessments and calculating slope of progress can be found at National Center of Progress Monitoring (www.progressmonitoring.org), RTI Action Network (www.RTInetwork.org) and Vanderbilt University's IRIS Center (www.iris.peabody.vanderbilt.edu).

Parent Notification of Referral (707 KAR 1:340, Sections 3 and 5)

When a decision is made for a written referral as part of a special education comprehensive evaluation, parents must be notified and written permission obtained.

The designated school personnel must:

- Complete the referral form or process as outlined by the district procedures.

- Follow the procedural safeguards for prior written notice and consent for initial evaluation.
- Provide the parent with a copy of the procedural safeguards.
- Obtain written parental consent for evaluation in the area(s) identified by the Admissions and Release Committee (ARC).

Planning and Conducting a Comprehensive Evaluation (707 KAR 1:300)

The comprehensive evaluation (see pages 6-10 of this document) must include a variety of technically-sound assessment tools, interventions and observations to gather relevant academic information about the student, including information provided by the parent. It is not permissible to use any single measure or assessment as the sole criterion for determining whether the child has a SLD.

When all evaluation data have been collected, the ARC must follow procedural safeguards for prior written notice for an ARC to review the data and determine eligibility.

Determining Eligibility (707 KAR 1:310)

The comprehensive evaluation must include information from multiple sources in determining SLD eligibility. Lack of progress in an RtI structure in and of itself is not sufficient to determine that a child is eligible as a child with a disability in the area of SLD. Other factors such as lack of appropriate instruction, failure to implement appropriate interventions with fidelity, attendance, behavior, medical conditions, etc., must be considered when trying to determine the reason for a child's lack of progress.

Within 60 school days of receipt of signed written parental consent for initial evaluation, the ARC must meet to review all the data and make an eligibility determination.

- When making a determination of SLD, the ARC must consider all of the data and use the following to guide the eligibility decision:
 - The RtI component of the evaluation must evidence underachievement (level) and insufficient growth (rate).
 - Evidence of underachievement can be made by documentation of progress-monitoring data, classroom performance, observation, and norm-referenced or standardized assessments.
 - If a student's rate of growth on benchmarks is within the average range (e.g., GRADE, GMADE, AIMS web, DIBELS, T-PRO, Easy CBM, Discovery Education, MAP) when compared to the performance of peers, the student may not be a student with a SLD.
 - The student requires ongoing intensive instruction and resources that are not sustainable in the general education setting alone without additional special education services. If the ongoing intensive instruction is removed, the student is once again not making progress sufficient to keep pace with similar age peers.

Appendix A:
Exclusionary Factors: A Reference
Guide for ARC's

- The evaluation must assure that core instructional programs and RtI interventions were implemented with fidelity.
- The evaluation must rule out exclusionary conditions such as the effects of visual, hearing, or motor disability; cognitive disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency.
- All components of required documentation for SLD Eligibility must be considered. (See Required Components: Making an SLD Eligibility Determination, beginning on page 6).

It is the district's responsibility to develop procedures for the referral process. During the referral and evaluation process, the student continues to receive intervention. Data are collected until the comprehensive evaluation is completed; the ARC reconvenes and reviews data to determine eligibility.

Developing the Individual Education Program (IEP) (707 KAR 1:320)

Once eligibility has been determined, the ARC shall develop a standards-based IEP for the student. The [Guidance Document for Individual Education Program \(IEP\) Development](#) provides instructions and examples for the ARC members on how to write standards-based IEPs.

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Appendix A
Exclusionary Factors: A Reference Guide for ARCs

EXCLUSIONARY FACTOR	POSSIBLE CONSIDERATIONS
Visual Disability	<ul style="list-style-type: none"> • Vision screening • Student file(s): <ul style="list-style-type: none"> ○ History of vision screening results ○ Other information about vision, glasses, etc. ○ Previous notes or concerns related to vision by staff or parents ○ Grades/progress in relevant subjects • Current vision concerns of staff and parents • Relevant work samples • Relevant assessment results • Relevant existing medical records • Social-developmental history • Orientation and Mobility Assessment • Functional Learning Media Assessment • KIMRC Eye Report • Low Vision Evaluation Report
Hearing Disability	<ul style="list-style-type: none"> • Hearing screening • Student file(s): <ul style="list-style-type: none"> ○ History of hearing screening results ○ Other information about hearing ○ Previous notes or concerns related to hearing by staff or parents ○ Grades/progress in relevant subject areas • Current hearing concerns of staff or parents • Relevant work samples • Relevant assessment results • Relevant existing medical records • Social-developmental history • Functional Hearing Assessment
Motor Disability	<ul style="list-style-type: none"> • Motor screening • Individual results from any health screenings administered to all students, such as scoliosis screening • OT and PT screenings/assessments • Student file(s): <ul style="list-style-type: none"> ○ History of screening results ○ Other information about fine/gross motor skills ○ Previous notes or concerns related to motor skills by staff or parents ○ Grades/progress in relevant subject areas • Current motor concerns of staff or parents • Relevant work samples • Relevant assessment results • Relevant existing medical records • Social-developmental history • Specified tests/measures related to possible orthopedic impairment needs

Intellectual (Mental) Disability	<ul style="list-style-type: none"> • Individual results from any cognitive assessments administered to all students • Student file(s): <ul style="list-style-type: none"> ○ History of cognitive assessments ○ Other information related to cognitive skills ○ Previous notes or concerns related to intellectual ability by staff or parents ○ Grades/progress in relevant subjects ○ Retention ○ Courses (e.g., remedial, advanced placement, summer school) ○ Previous school/outside evaluation reports • Current cognitive concerns of staff or parents • Relevant work samples • Relevant assessment results • Relevant existing medical records • Social-developmental history • Specific tests/measures related to possible cognitive disability needs, including adaptive behavior functioning
Emotional-behavioral Disability	<ul style="list-style-type: none"> • Emotional screening • Student file(s): <ul style="list-style-type: none"> ○ Medication/mental health information ○ Other information related to emotional skills ○ Previous notes or concerns related to emotional skills by staff or parents ○ Significant recent changes in grades ○ Significant recent absences ○ Discipline records ○ Previous school/outside evaluation reports ○ Functional Behavior Assessment ○ Behavior Intervention Plan ○ Juvenile court involvement • Teacher to student positive interactions • Persistence to Graduation Report • Current emotional concerns of staff or parents • Emotional withdrawal • Atypical anxiety • Relevant work samples (e.g., essays, journal entries, drawings) • Relevant assessment results (e.g., social skill instruction, motivational information, skill deficit versus performance deficit) • Relevant existing medical/mental health records • Social-developmental history • Specified tests/measures related to possible Emotional Disability needs
Cultural Factors	<ul style="list-style-type: none"> • Student file(s): <ul style="list-style-type: none"> ○ Home language survey ○ School history & attendance, including kindergarten & preschool ○ English language instruction ○ Race/ethnicity ○ Refugee or migrant status ○ Homeless

	<ul style="list-style-type: none"> ○ Family culture, including child of deaf adults ○ Family expectations ○ Changes in family structure ○ Death of a relative ○ Neglect ○ Trauma ○ Abuse ○ Parent conference notes ○ Multiple school placements ○ Other information related to cultural factors ● Nonverbal Behaviors (eye contact, body language, proximity when speaking) ● Verbal Behaviors (tone, rate, volume) ● Response time ● Current cultural factor concerns of staff and parents ● Relevant work samples (e.g., language work for students whose parents have hearing impairments) ● Relevant assessment results ● Relevant existing medical records ● Social-developmental history ● Limited or no participation in enrichment programs, community services/programs ● Limited or no participation in pre-school or other developmental opportunities ● Observation, screening and other tests/measures related to possible disability needs
Environmental or Economic Disadvantage	<ul style="list-style-type: none"> ● Persistence to Graduation Report ● Relevant work samples (e.g., journal entries, drawings) ● Relevant assessment results ● Relevant existing medical records ● Social-developmental history ● Observation, screening and other tests/measures related to possible disability needs ● Student file(s): <ul style="list-style-type: none"> ○ Home: <ul style="list-style-type: none"> ▪ Free or reduced lunch ▪ Hunger ▪ Homeless ▪ Refugee or migrant status ▪ Foster care ▪ Family members as guardian ▪ Lack of home resources ▪ Lack of sleep ▪ Lack of access to community resources ▪ Lack of experiences ▪ Failure to thrive ▪ Student has job/exceptional home responsibilities ▪ Parent education/support issue ▪ Stress/violence ▪ Family size/space ▪ Family living arrangements ▪ Family financial problems

	<ul style="list-style-type: none"> ▪ Parent job loss ▪ Lack of funds for educational enrichment or mental/health support/services ▪ Lack of immunizations ▪ Lack of primary care physician ▪ School assistance for glasses, doctor visits, clothing, food, etc. ○ School: <ul style="list-style-type: none"> ▪ Multiple school history ▪ Sporadic school attendance ▪ Lack of staff training ▪ Lack of appropriate instruction • Current environmental/economic concerns of staff and parents • Behavior unrelated to suspected disability <ul style="list-style-type: none"> ○ Noncompliance ○ Relationships at school ○ Motivation ○ Attention span ○ Overactive ○ Aggression (verbal or physical) ○ Social skills ○ Lack of effort/refusal to work
Limited English Proficiency	<ul style="list-style-type: none"> • Language/academic screening • Student file(s): <ul style="list-style-type: none"> ○ Home Language Survey ○ ACCESS Assessment ○ History of English language instruction ○ Current language/academic concerns of staff and parents ○ Relevant work samples ○ Relevant assessment results ○ Social-developmental history ○ Language history information: <ul style="list-style-type: none"> ▪ Which languages ▪ When learned ▪ Receptive/expressive ▪ Which environments ▪ How much schooling in which languages ▪ Languages used by family members ▪ Languages used in community ○ Tests/measures related to nondiscriminatory assessment: <ul style="list-style-type: none"> ▪ Bilingual evaluation/evaluator ▪ Nonverbal assessment ▪ Consideration of language/cultural loading in test performance • Persistence to Graduation Report
Additional areas of consideration may include the following.	
Lack of Appropriate Instruction in Reading or Math evidenced by the following: A. Data demonstrating	<ul style="list-style-type: none"> • Student file(s): <ul style="list-style-type: none"> ○ Schools attended ○ Attendance history ○ Instructional history ○ Opportunities to learn ○ Grade retention

<p><i>that prior to, or part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel</i></p>	<ul style="list-style-type: none"> • School experiences of student: <ul style="list-style-type: none"> ○ Curriculum: <ul style="list-style-type: none"> ▪ Evidence-based core curriculum ▪ Evidence-based interventions ▪ Formative Assessments ▪ Existence of formal system to analyze effectiveness of core and interventions ○ Instruction: <ul style="list-style-type: none"> ▪ In reading, look for the five essential components of reading (phonemic awareness; phonics knowledge; fluency; vocabulary; comprehension) ▪ In math, look for concepts and reasoning; automatic recall of number facts; computational algorithms; functional math; and verbal problem-solving ▪ Student-Instructional match ▪ Teacher absences ▪ Time allocated for reading and math ▪ Academic learning time ▪ Number response opportunities ▪ Explicit/implicit practices ▪ Modeling instructional practices ▪ Guided practice ▪ Extra practice ▪ Explicit feedback ▪ Reinforcement (academic and behavior) ▪ Student success rate on academically relevant tasks is appropriate (90-100% for independent work) ▪ Examples & non-examples ▪ Motivation strategies • Relevant assessment results • Social-developmental history • Universal Screening • Observation, screening and other tests/measures related to possible disability needs • Targeted intervention with progress- monitoring to determine student's ability to learn when provided appropriate instruction • Systematic observation of instruction; walk-through checklist; Tiers 1 & 2 data charts/graphs
<p>Lack of Appropriate Instruction in Reading or Math evidenced by the following:</p> <p><i>B. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's</i></p>	<ul style="list-style-type: none"> • Universal screening • Student file(s): <ul style="list-style-type: none"> ○ History of repeated assessment data ○ Graphs of above data ○ Documented interventions (with instructional match) ○ Documented intervention changes ○ Fidelity checks ○ Documentation of parent notification ○ Attendance record ○ Schools attended • Work samples • Relevant assessment results • Current concerns of parents, student and staff • Social-developmental history

<p><i>parents.</i></p>	<ul style="list-style-type: none"> • Observation, screening and other test/measures related possible disability needs • Individual results/progress monitoring data from any repeated assessments administered to all students, such as Benchmarks, MAP, DIBELS, AIMSweb, COMPASS • Additional achievement/performance data (i.e., results of classroom assessments, teacher observations, grades, behavior data) • Evaluation reports • Report cards and progress reports sent to parents • Communication sent from teacher to parents regarding assessments in the classroom • Targeted intervention with progress monitoring to determine student's ability to learn when provided appropriate instruction • Systematic observation of instruction; Tiers 1 & 2 data charts/graphs
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Steven L. Beshear
Governor



Dr. Terry Holliday
Commissioner of Education

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Policy Letter #2010-11-01

**Establishing Student Eligibility
For IDEA Services**

Kentucky Department of Education
Division of Learning Services (DLS)
August 30, 2010

Rationale

Over the past two years, I have become increasingly concerned over IDEA eligibility practices that the Division of Learning Services (DLS) staff have observed in local school districts. Due to districts' failure to follow IDEA procedures in federal and state law, Kentucky's percentage of students identified as having disabilities under IDEA has significantly increased since 2000.

At the same time, critical outcomes for students with disabilities have failed to keep pace with educational outcomes for general education students. The achievement gap between students with and without disabilities is significant and continues to increase in many districts. Graduation rates for students with disabilities are lower, and dropout rates higher, as compared to non-disabled students.

Part of the failure to ensure positive outcomes for IDEA students is general education's lack of understanding in appropriately teaching students with diverse learning needs. Students who do not learn in the "typical" manner begin lagging behind their classmates at an early age. If inappropriate instruction continues and educational progress remains delayed, diverse learners are often inappropriately placed in special education.

Once in special education, students' access to the general education curriculum is frequently limited. This continues to affect the special education students' academic achievement, leading to unacceptable outcomes in graduation and dropout rates and post-school success.

KDE believes that general education requirements such as Response to Intervention (RtI) will ultimately aid school districts with teaching diverse learners. Two keys with RtI are intervening early at the first sign of difficulty and appropriately instructing students with diverse learning needs through differentiated instruction. Through the use of RtI, most diverse learners will have their needs met in general education. Special education will no longer be the "fallback position" for low-achieving students.

DLS has assumed a major role in addressing Kentucky's over-identification issues over the past two years. During that time, DLS has conducted data verification visits and initiated focused monitoring of districts with IDEA identification rates of more than 15%. Districts violating IDEA by failing to provide appropriate interventions, evaluations and eligibility determinations have been cited for IDEA violations.

Districts cited for noncompliance have one year to come into compliance with IDEA. To assist districts with correction of noncompliance, DLS and the Special Education Cooperatives (Co-ops) have been providing districts with technical assistance and training related to appropriate IDEA identification.

To further assist districts, DLS, with the help of the Co-ops, recently revised documents related to record reviews of student folders. The resulting Compliance Record Review Document sets out DLS's interpretation of IDEA. The Document is posted on the KDE web site at:

<http://www.education.ky.gov/KDE/Instructional+Resources/Exceptional+Children/Monitoring/>

The Compliance Record Review Document contains specific guidance on proper IDEA eligibility practices. It is intended to provide technical assistance to districts as well as notice to districts regarding DLS's interpretation of IDEA requirements related to student eligibility. It will also guide DLS's efforts at determining district compliance with IDEA during on-site visits and desk audits for SY 2010-11.

This Policy Letter is to be used in conjunction with the Compliance Record Review Document. The Letter contains DLS's interpretation of its regulations in the area of Identification, Evaluation and Eligibility where the language of the regulations is unclear. It is my expectation that both the Compliance Record Review Document and this Policy Letter will assist districts in achieving IDEA compliance.



R. Larry Taylor, Director
Division of Learning Services
Office of Next Generation Learners

Identification, Evaluation and Eligibility under IDEA

Interventions

The legal requirement for Kentucky's RtI-type process for all disability categories was put into Kentucky's Child Find requirement in 2007. (707 KAR 1:300, Section 3). In spite of the law being in effect for over two years, DLS continues to find little to no evidence that the following requirements are being implemented:

- Relevant research-based instruction and intervention services are provided in regular (general) education settings prior to or as part of the referral process
- Instruction and intervention services are provided by qualified personnel
- Data-based documentation of repeated assessments of achievement or measures of behavior are collected and evaluated at reasonable intervals; and reflect systematic assessment of student progress during instruction; and
- Results are provided to the child's parents

DLS has also found a lack of understanding about interventions required by the Child Find regulation. Information provided in student folders demonstrates that accommodations are persistently substituted for the required interventions.

Interventions are defined as changes to **instruction**. Alterations in physical surroundings (preferential seating), materials (large print) or curriculum adaptations (extended time, reducing the quantity of materials to be mastered by students) are accommodations. They are not interventions. See Compliance Record Review document, Item 61, pages 38-40. <http://www.education.ky.gov/NR/rdonlyres/0F89B537-EACD-4D69-99CF-6BFF35797BC0/0/RecordReviewDocumentjuly12final.pdf>

As explained in Item 61 of the Record Review, districts not providing appropriate interventions prior to or during the referral process are in violation of 707 KAR 1:300, Section 3. Any students, including preschoolers, identified for IDEA services that have not received appropriate interventions have been illegally identified as eligible under IDEA.

A district found in violation of the intervention requirement by DLS will be required to implement a Corrective Action Plan (CAP) to remedy the systemic violation, as well as the individual student violation. The CAP will consist of:

- Establishing a district-wide process to ensure compliance with federal and state requirements for determining eligibility; and,
- Re-determining the individual student's eligibility using the new, compliant process

If the student is found ineligible for IDEA services after going through the district's new eligibility process, including documentation of research-based interventions, the student must no longer receive IDEA services. The district *may* also be required to repay IDEA funds that were obtained in violation of IDEA.

The individual student remedy will undoubtedly cause hardship for the local district. Parents and school staff will not understand the reason the student, once "eligible" under IDEA, is no longer able to receive services. District administrators will be equally unhappy as they look for money to repay IDEA funds to KDE. To avoid students from being illegally identified in the first place, districts must immediately begin implementing a process which ensures IDEA compliance for determining eligibility.

KDE is in the process of reorganizing its agency structure. As part of the reorganization, emphasis has been placed on diverse learners and differentiating instruction for all students. This change will further enhance technical assistance and resources currently available to districts from KDE.

Information related to research-based instruction and interventions may be found at the *What Works Clearinghouse* at <http://ies.ed.gov/ncee/wwc/reports/default.aspx> ??

Evaluation

❖ *Triangulation of data*

IDEA eligibility must be established through multiple sources of information. Just as a stool cannot stand on one leg, IDEA eligibility cannot stand on one piece of evidence. This means information regarding student eligibility must be triangulated.

The purpose of triangulation is to increase the credibility and validity of results. In the case of IDEA eligibility, triangulation means there are multiple data sources that substantiate the existence of a disability. Data triangulation includes triangulation of time, space and persons. An Admissions and Release Committee (ARC) can be confident of an eligibility determination, if different methods of evaluation that take place in varied settings, by multiple evaluators and at different times, lead to the same result.

DLS has observed the following inappropriate evaluation practices in which triangulation was not utilized while reviewing student folders for eligibility:

- One piece of evidence, such as a doctor's statement, is used to determine eligibility for OHI
- Only an IQ score or an adaptive behavior score is used to determine eligibility for MMD. This occurs when either the IQ score or the adaptive behavior score is not two standard deviations below the mean and the ARC relies upon only the lower score to establish eligibility, even though both scores are required to be two standard deviations below the mean
- On reevaluation of a student with a Mild Mental Disability, a new adaptive behavior score that is higher than the original score is completely disregarded by the ARC, in order for the student to continue to receive special education services

Districts with IDEA identification rates of more than 15% must begin an immediate shift in thinking about IDEA eligibility. **Rather than looking for any piece of information to support IDEA eligibility, ARCs must begin requiring proof that the student is IDEA-eligible.** This means districts must review their evaluation practices and require their ARCs to triangulate data.

❖ *Observations*

The requirement for observations as part of the Child Find and evaluation processes is found in two sections of Kentucky's IDEA regulations:

- 707 KAR 1:300, Section 4(14)(b) and (c), *Evaluation and Reevaluation Procedures*
- 707 KAR 1:310, Section 1(3), *Determination of Eligibility* (Behavioral Observations)

In addition to the regulatory requirements, observations also play a key role in answering the question of whether the disability has an *adverse effect* on the student's educational progress.

During its review of student folders, DLS noted the critical evaluation piece of observations was missing from numerous student eligibility determinations. Many districts do not routinely require student observations as part of the eligibility process. Even if listed in the evaluation plan or cited in a psycho-educational assessment, there is often little to no evidence showing the observations occurred, or that the observation information was carefully considered by the ARC.

In omitting observations as part of evaluation planning, ARCs are misinterpreting the two sections of Kentucky's IDEA regulations cited above. DLS's analyses of the observation requirements are set out in a. and b. below, for the two separate observation regulations.

a. Review of existing observation data, "Child Find, Evaluation and Reevaluation"- 707 KAR 1:300, Section 4(14)(b) and (c)

Section 4(14) of the Kentucky regulation states:

(14) As part of an initial evaluation, if appropriate, or as part of any reevaluation, the ARC and other qualified professionals, if necessary, shall review existing evaluation data on the child including: ...

(b) Current classroom-based, local, or state assessments and classroom-based observations; and,

(c) Observations by teachers and related services providers

Immediately following this regulation is Section 4(15), which refers to the referral phase of the Child Find process. It states:

(15) "On the basis of the review" (of existing data) "and input from the parents, the ARC shall identify what additional data, if any, are needed to determine:

(a) Whether the child has a particular category of disability and the educational needs of the child, or in the case of a reevaluation of the child, whether the child continues to have a disability, and the educational needs;

(b) The present levels of academic achievement and related developmental needs of the child; ..."

707 KAR 1:300Section 4(15)(a) and (b)

By reading the two sections together, DLS interprets the regulations as requiring ARCs to review current classroom-based assessments and observations, and observations by teachers and related services providers, as part of the referral process. As a result of the review of existing data, ARCs during evaluation planning will determine additional data needed to determine if the student qualifies for services under IDEA, then, if eligible, the IEP services required by the student.

DLS's position is bolstered by its review of federal law. 707 KAR 1:300, Section 4(14) is based on the federal requirement found at 34 C.F.R. §300.305(a), *Additional requirements for evaluations and reevaluations*. In its comments to the federal regulations, the Office of Special Education Programs (OSEP) explained its regulation as follows:

Observation data will generally be a part of the existing data reviewed for any child suspected of having a disability. Section 300.305(a)(1) requires the eligibility group to review existing evaluation data, including classroom-based observations and observations by teachers and related services providers. (Emphasis added.)

OSEP's comments affirm DLS's belief that observations are a required part of student evaluation under IDEA.

DLS has contacted OSEP for additional guidance in defining "existing evaluation data. OSEP has advised DLS that existing evaluation data may take many forms. It may also include informal as well as formal observations. OSEP provided the following examples as sources of classroom-based observations that the ARC may use in its review of existing data:

- Disciplinary information
- Office referrals
- Anecdotal information based on a teacher's observations presented at a Teacher Assistance Team may be reduced to writing

Examples of observation data from teachers or related services providers referenced in (c) of 707 KAR 1:300, Section 4(14) include data from AIMSweb and DIBELS.

In rare circumstances, current observation data may not be available. A medically fragile child living in a hospital, a three-year old student moving to Kentucky from another state or a student who has been home-schooled probably will not have existing evaluation data.

Absent unusual circumstances which are documented by the ARC, **DLS is requiring observations set out in the Child Find process [707 KAR 1:300, Section 4 (14)] to be part of the evaluation information used to determine IDEA eligibility.**

b. Behavioral Observations, "Determination of Eligibility"- 707 KAR 1:310, Section 1(3)

The second observation requirement found in Kentucky's special education law is at 707 KAR 1:310, Section 1(3), *Determination of Eligibility*. The regulation states:

(3) In making eligibility determinations, an LEA shall draw upon information from a variety of sources, **which may include:**

- (a) Response to scientific, research-based interventions;
- (b) Vision, hearing, and communication screenings;
- (c) Parental input;
- (d) Aptitude and achievement tests;
- (e) Teacher recommendations;
- (f) Physical condition;
- (g) Social or cultural background;
- (h) Adaptive behavior; or
- (i) Behavioral observations.**

(Emphasis added.)

Clearly, every source of information listed above will not be needed to determine eligibility for every student. For example:

- “Aptitude and achievement tests” are not a part of evaluation information used to determine eligibility for a First Steps toddler entering preschool, since 3-year old children have not participated in formal standardized testing
- Information on “physical condition” may not be needed for students with intellectual disabilities
- “Adaptive behavior” information is not necessary for a student suspected only of having a speech/language impairment

However, omitting this same information when determining eligibility for the following disability categories would be inappropriate and would violate Kentucky’s IDEA regulations:

- “Aptitude and achievement tests” are required to determine student eligibility for a Specific Learning Disability
- “Physical condition” information is necessary for students suspected as Other Health Impaired (OHI) or as having an Orthopedic Impairment (OI)
- “Adaptive behavior” information is required when ARCs are considering if a student has a Mild Mental Disability or a Functional Mental Disability

Districts have incorrectly interpreted the regulatory language at 707 KAR 1:310, Section 1(3)(i) as making behavioral observations a permissible part of the evaluation process. By not requiring behavioral observations in evaluation planning, ARCs are omitting essential sources of data needed in making accurate eligibility decisions under IDEA.

DLS recently contacted OSEP for guidance, to assist districts in understanding the observation requirement. According to OSEP, the “behavior” observations requirement is meant to be construed broadly.

Behavior observations mean more than requiring a functional behavioral assessment for students with problematic behaviors. Behavior observations also include:

- Observing student responses to teaching, learning and instruction
- Looking at and diagnosing what works during instruction to the student
- Determining what triggers negative behaviors, as well as positive responses to instruction

Even though every source of information listed in 707 KAR 1:310, Section 1(3) is not required for every student, OSEP’s guidance makes it clear that observations are a necessary source of information and must be included in eligibility determinations. Information gleaned from observations must be considered with other data about the student. The data must then be triangulated and a decision reached regarding eligibility.

In developing the evaluation plan, the ARC must consider the information needed to support the existence of the disability for the individual student. If a student is inattentive and OHI is suspected as a disability, behavioral observations must be done. Likewise, a student with complex behavioral issues will have multiple behavioral observations. A student having difficulty with written expression must be observed, to note her responses to the teacher’s instructions.

As noted earlier, data triangulation requires the observations be across time and settings, and by multiple evaluators.

Behavioral observations may also be part of the data used to establish the crucial "adverse effect" requirement in Kentucky special education law. By using observations to compare a student's performance to peers, the ARC has additional information that allows it to determine whether the student's educational performance is significantly and consistently below the level of similar-aged peers as required by the regulations.

DLS's position is that behavior observations are required as part of the evaluation for every category of suspected disability.

Additional Observation Considerations

❖ *Function of Observations*

ARCs must understand the function of observations and tailor observations to the purpose for which they are being used. For example:

- If a child is experiencing difficulties in academics, the observations must be done in academic classes
- If a child is experiencing difficulties in less-structured environments, the observations must be done in less-structured settings, such as transitions between classes, the lunch room and physical education class

Observations must be done by staff trained to do the observations. Depending on the student suspected disability, observations may be more valuable if done on different days and different times of day. As noted above in the *Triangulation of Data* discussion, spacing the time between observations ensures the observations are not affected by factors unrelated to the disability, such as:

- Illness
- Lack of sleep
- Temporary family problems
- Daily interactions with other students or teachers
- Hunger

DLS has observed records in student folders that show a lack of understanding of the reason for observations. The following practices are not acceptable:

- A school psychologist's observation of the student during psycho-educational testing is accepted by the ARC as one of the required observations.
- A student suspected of a specific learning disability in math is observed during language arts only.
- Several observations are conducted by the same person close in time on the same day, resulting in diminished quality and less information for the ARC.
- Observations of a preschool child occur at screening or during testing, rather than settings where the child's behavior of concern happens.

❖ *Number of Observations Required*

The Kentucky regulations require observations. This means a minimum of two observations must be done; however, many situations require more than the minimum of two. The number of observations conducted is based upon the needs of the child. Additional observations may also be required when the results of two observations are inconsistent.

Other individual factors affecting the number of observations required include:

- A student with challenging behavior or with behaviors shown inconsistently throughout the day may require additional observations across settings
- Students with complex behaviors may need multiple observations (for example, students suspected of having an autism spectrum disorder).
- Students taking medication may need to be observed at different times of the day

❖ *Observations for Students Suspected of a Specific Learning Disability*

DLS's position is that a minimum of two observations are required during the evaluation process. If the student is suspected of having a Specific Learning Disability, one of the two observations must comply with 707 KAR 1:310, Section 2(8), *Additional Procedures for Evaluating Children with Specific Learning Disabilities*.

Observations – Summary

Appropriate observations are designed to obtain information about the student's suspected disability that may not be available through other means. Observations serve an important purpose in triangulating data, as they document the effects of a suspected disability and provide important information about student performance, behavior and "adverse effect."

Item 67 of the Compliance Record Review Document reflects DLS's policy in this area. Beginning in SY 2010-11, for districts to comply with Item 67, ARCs must consider current classroom-based, local or state assessments and classroom-based observations; and observations by teachers and related services providers, as part of the initial evaluation process.

In most cases, the ARC will have access to existing student data, including observations. However, as explained above, in rare cases, there may be no existing data. If there was no existing data for the ARC to consider, the district may mark "Not Applicable" (NA) on the Record Review Document for Item 67, only if the ARC documents its reasons for omitting the information from the Evaluation Plan.

Conclusion

Policy Letter #2010-11-01 marks the first in a series of IDEA policy statements by the Division of Learning Services. The next letter - *Reevaluation of Students with Disabilities* - will be issued shortly. Additional letters will follow so that KDE and the Co-ops may provide general supervision and technical assistance to local school districts in their efforts to comply with IDEA requirements.

Policy Letter #2010-11-01

Eligibility Question and Answer

April 3, 2012

Note: Questions below are *verbatim*. They have not been changed by the Division of Learning Services.

Referrals and Response to Intervention (RtI)

Question 1: Is there guidance on the number of absences prior to/during the intervention process in determining a lack of appropriate instruction when documenting /accepting referrals?

Answer: KDE believes this is an individual student decision. A first grader who misses five days of critical reading instruction may fall behind in reading due to lack of appropriate instruction in reading, whereas a seventh grade student missing five days of school may not be affected to the same extent.

Even though determining the effect of missed days by a student is an individual decision, KDE believes that 10 cumulative days of absences during the school year is the threshold at which ARCs must consider whether the student's absences have resulted in a lack of appropriate instruction.

KDE does not want ARCs focused only upon the number of school absences when determining a lack of appropriate instruction. The ARC also needs to consider absences from the classroom. For example:

- A student who spends more time in the principal's office than in math class due to her behavior may not have received appropriate math instruction, even though she has no absences from school.
- A middle school or high school student who is usually tardy and consistently misses the same content class may not have received appropriate instruction in the class, even though he has zero absences.

Question 2: Part of the Procedural Safeguards states that no additional testing can happen with their child without their knowledge and written consent. Is there any conflict with this and the additional testing required for Tier 2 and 3 of RTI?

Answer: During the instructional intervention and progress-monitoring process, parent consent is not required. This is because the instruction and interventions are focusing on improving instruction, not on determining an IDEA disability. The federal IDEA regulations, found at 34 CFR 300.302, exempt screening of a student to determine appropriate instructional strategies.

If the child is referred for special education evaluations, parent permission is required as part of the usual procedural safeguards.

RtI should not be confused with the evaluation for special education services. RtI results may be used along with other assessment data to determine eligibility but should be occurring whether or not the student is being referred for special education services. Therefore, for any student receiving RtI, the answer is the same - no parental permission is required.

Even though permission is not required for RtI to occur, parents are to be involved in the RtI process.

Question 3, Part 1: We have a student who was exited from special education last year. Teachers are now considering referring her for special education. Does the district need to provide RTI prior to making the referral?

Answer: Yes, since the ARC determined the student was no longer eligible for special education last year, the RtI-like process in Kentucky regulations must be provided. The Child Find provisions in 707 KAR 1:300, Section 3, apply to a student being referred for special education services, even if she was previously in special education. Since the teachers are considering referring the student, it is preferable to do the interventions prior to referral. Otherwise, the 60 school day timeline for evaluation may interfere with the appropriate use of interventions. Conversely, if the parent is making the referral, the referral process must not be delayed to provide interventions, unless the parent agrees the interventions may be provided first, prior to evaluation.

Question 3, Part 2: What if the student was withdrawn from special education instead of being released by the ARC?

Answer: A different result occurs when the student is withdrawn from special education rather than being exited. In *Letter to Goldman* (OSEP 2009), OSEP states that a child who has an IEP and withdraws from public school to private or home school, continues to be a student covered by IDEA until one of the following occurs:

- The student exceeds the State's age limit for IDEA services
- The student graduates with a regular diploma
- The student is determined through evaluation to no longer be a child with a disability, or,
- The student moves to another State

Thus, when a student withdraws from public school, the Child Find process, including RtI, referral, evaluation and identification, is not utilized since the student remains covered by IDEA.

Note: Due to an amendment to IDEA in 2008, parents who have revoked consent for special education and related services may later request that their child be re-enrolled in special education. However, OSEP guidance states the district must treat the request for re-enrollment as a request for an initial evaluation, not a reevaluation. See *IDEA Part B Supplemental Regulations, OSEP Non-Regulatory Guidance, April 2009*.

Question 4: How would an LEA use an RtI process in identifying a child with a suspected disability who had been placed in a private school by his or her parents?

Answer: OSEP has addressed this issue in *Letter to Zirkel*, (OSEP 2011). OSEP states that even if an LEA uses RtI to evaluate a child suspected of having an SLD, IDEA does not require an LEA to use RtI for a parentally placed private school child within its jurisdiction. OSEP believes for a district to reject a referral and delay an initial evaluation on the grounds the private school did not implement RtI would be inconsistent with IDEA's evaluation requirements.

Follow-up Questions to Question 4

Question 4a: Are we to not require RtI/ KSI for all parent referrals of private school students, even for the eligibility determination phase of the referral?

Answer: The OSEP letter says no, not if in doing so, you would delay the parent's right to a timely initial evaluation. However, you are not prohibited from implementing RtI while you're evaluating the private school student. What the OSEP letter is saying is that the district cannot delay a private school referral by requiring RtI.

Some Directors of Special Education require RtI for private school students. Directors that require RtI have a well-established RtI process that is able to both require RtI for the private school student and not delay the 60 school day timeline.

Question 4b: Are we to not require RtI/ KSI for private school, parent referrals only for the suspected disability of SLD (as noted in the letter) or all disability classifications?

Answer: The OSEP letter says SLD. However, OSEP's frame of reference was SLD only, since the federal IDEA does not require RtI for all disabilities like Kentucky's law does. If asked about Kentucky's law, OSEP would most likely state that, if doing RtI for a private school student for any suspected disability would delay the parent's right to a referral, the district may decide not to require RtI.

It is preferable to do RtI if the district is able to do the interventions and instruction in a timely fashion, since RtI will provide data allowing the ARC to determine if a lack of appropriate instruction in reading/math is the reason for the student's poor performance. This is especially true if the private school is home school.

Question 4c: Are we to not require RtI/ KSI for **all parent referrals** (private or public) for evaluation as to require one and not the other seems a bit discriminatory to me?

Answer: No, the OSEP letter applies only to private schools.

The reason for the private/public school distinction is that OSEP fears requiring private schools to do RtI would delay the parent's right to have their child timely evaluated. This is not a problem in a local school district, since districts already have RtI in place

Question 4d: Are we to not require intervention data (RtI/KSI) for any parent referral before determination of eligibility for all disability classifications per Policy Letter #2010-11-01 dated August 30, 2010?

Answer: No. The OSEP letter only discusses students in private schools.

Districts must have a way to determine if the student's performance is related to lack of instruction in reading or math. Interventions are one of the best ways of determining if the student's lack of progress is due to lack of instruction. ARCs are required to rule out lack of instruction in reading or math before determining if a student is eligible under IDEA.

Question 4e: We have some students currently in the RtI/ KSI process within our private schools where we have met in an ARC and assisted with providing interventions and data collection tools to private school staff and parents for those who are in home school. Do we now call an ARC and get consent to evaluate and tell them the KSI data is not needed?

Answer: No, so long as requiring the RtI did not deny the parent's right to a timely evaluation (or to contest the ARC's decision not to do an evaluation).

KSI data is needed in determining whether the student has received appropriate instruction. A district cannot delay the evaluation to obtain the KSI data. However, if the district has told the parent that it cannot begin the referral until RtI is finished and the ARC suspects a disability, then yes, convene an ARC, begin the evaluation but keep doing the interventions you have started.

Question 4f: If a home school student (private school) parent requests an evaluation and they are unable to provide any information on what type of instruction/curriculum etc. has been provided, are we to still proceed with evaluation and eligibility determination without any data of instruction?

Answer: No. If the ARC does not suspect a disability, the district does not have to evaluate the student. The district must give the parent his/ her right to request a hearing on the evaluation decision, if the ARC decides not to evaluate.

If the private school is a home school, it should be relatively easy to provide RtI during the 60 school day timeline.

Evaluation

Observations

Question 5: The policy letter states "more than one observation by multiple evaluators." Does this mean that special education teacher cannot do both observations?

Answer: The Division of Learning Services (DLS) has stressed that establishing student eligibility for IDEA services must be done through careful consideration of multiple sources of information.

When different methods of evaluation take place...

- in varied settings,
- by multiple evaluators, and
- at different times

...that lead to the same result, an ARC can be confident in its eligibility determination.

The question above presumes only two observations are necessary. Two observations are the minimum number of observations required by regulation. Depending on the nature and severity of the child's disability, more than the minimum number of observations may be necessary for the ARC to have appropriate and sufficient information on which to base its eligibility decisions.

The intent of the policy letter was not to suggest that a special education teacher can do only one observation, but rather to stress that, through the use of multiple evaluators in varied settings at different times, the ARC will have both the quantity and quality of information it needs to make defensible eligibility decisions.

If it appears that only two observations are necessary to provide the ARC with the information it needs, then the ARC must plan for how it will ensure triangulation of the data in terms of time, space and persons.

Question 6: Can you clarify why a three-year old who moves to Kentucky may not need observations?

Answer: This illustrates the two types of observation data required by IDEA:

- Observations that are part of the existing evaluation data reviewed by the ARC under 707 KAR 300, Section 4(14)(b) and (c) ; and,
- Observations performed during formal evaluation that are a data source in determining eligibility

Observations that are existing data include information such as *RtI monitoring data, classroom assessments and work samples, teacher anecdotal notes/observations, and discipline referrals.*

In rare circumstances, current observation data may not be available since occasionally an ARC will not have access to existing data. A three-year-old student who recently moved to Kentucky from another state is an example of a situation in which existing data may not be available to the ARC.

Question 7: If behavior observations are included that are existing data (that is, three years old) can they be considered as the two observations, or do they need to be current?

Answer: The two observations must be current.

Part of the reason for reevaluation is to look at current information to decide if the student remains eligible for IDEA services. If the ARC is only looking at observations that are three years old, this would not give the ARC accurate information on whether the student is currently eligible.

Question 8: How far back does the reviewer need to go to look for the observations (start with initial, even if several years or last evaluation – thinking of older students).

Answer: Allowing the ARC to reference previous behavior observations means the ARC is permitted to go back and compare older observations with current ones, perhaps to gauge progress. However, using the “old” observations does not replace the need for current observations.

Question 9: Does an evaluation planning form need to be completed to conduct behavior observations?

Answer: If there are no current observations, the ARC would decide that additional information is needed for the reevaluation process. The evaluation planning form would be completed for observations and any other missing data. And yes, parent consent is required.

Question 10: Does the school psychologist’s report have to contain local/state assessment data? Could it be on the referral? Could it be contained in conference summary?

Answer: Local and state assessment data should be included in the data reviewed to determine eligibility. This data does not have to be in the psychologist’s report, but documentation from the ARC must show that local/state assessment data was discussed and analyzed as part of the eligibility determination decision.

Question 11, Part 1: When a student is identified as having a developmental delay in communication or motor skills only, should the student be on the caseload of the speech/language therapist or occupational therapist or on the special education teacher’s caseload?

Answer: If the disability is Speech/Language Impairment, the “teacher” is the speech/language therapist.

If the only disability is “motor skills,” no specially designed instruction is provided, and the only person working with the child is the occupational therapist, the child is not IDEA-eligible since the child does not meet the criteria of “child with a disability” under 707 KAR 1:002, Section 1 (9).

Question 11, Part 2: Can the student be served by a special education teacher such as being included in a reading group or receive instruction to address written expression?

Answer: The SDI must be related to the student’s disability. Unless there are additional facts not presented, the answer is no.

Independent Educational Evaluations

Question 12: The KARs-Independent Evaluation- states that parents are entitled to one evaluation per year at their request. If they make that request, but RtI does not support the evaluation how should the district respond?

Answer: The regulation providing parents with the right to request an Independent Educational Evaluation (IEE) applies only when parents disagree with an evaluation the school

district has conducted. Typically school districts do not formally evaluate students every year. As a result, the risk of having parents request an IEE every year is minimal.

RtI would not be a factor in supporting or disproving the need for an IEE. RtI is found in Kentucky's Child Find regulation (707 KAR 1:300, Section 3(3)) and occurs prior to or during referral for special education. It would not be a part of a special education student's current program, unless the student is suspected of having a second, separate disability.

Adverse Effect

Question 13: A student with ADHD has normal, to slightly below normal aptitude and achievement scores but consistently failing grades over time. Adverse effect is shown in areas of time on task (alertness). Does he qualify for OHI?

Answer: A child with a disability is defined in Kentucky regulations as:

- a child evaluated in accordance with Kentucky special education regulations,
- who meets one of the 14 Kentucky IDEA eligibility categories,
- where the disability has an adverse effect on the child's educational performance, and
- as a result, the child requires special education and related services.

It appears the student could benefit from appropriate general education instruction, accommodations or extra teacher help. However, unless the student requires specially designed instruction as a result of his disability, he is not be eligible for IDEA services.

Question 14: What about students with OI or EBD? Does a student have to show an adverse effect in an academic area to qualify for services?

Answer: No.

Reevaluation

Question 15: To determine continued OHI eligibility, does the ARC need a medical diagnosis every three years?

Answer: OSEP has said in a policy letter that, during the reevaluation process, eligibility must be re-determined. In other words, the student must still meet the IDEA eligibility criteria during the reevaluation phase. Although OSEP states eligibility may be able to be determined with existing data, using an existing three-year old medical diagnosis as the basis for OHI eligibility is not appropriate.

OHI is based on a medical condition. Medical conditions are more likely to change than an intellectual disability or a learning disability. Especially if the student has an ADHD diagnosis, the district needs to make sure the student has not "outgrown" the diagnosis, or that the effect of the medical condition upon the child's educational performance is no longer as severe as in the past.

Unless the district's policies and procedures require otherwise, a medical diagnosis is not required by Kentucky's regulations to qualify a student as having an Other Health Impairment. Other instruments, such as the Connors Rating Scale or BASC, coupled with student observations, may be sufficient to establish continuing eligibility.

In the past, KDE has cited a school district for relying on a three-year old medical diagnosis for ADHD during the reevaluation process. To be safe, the district should obtain documentation of a current medical condition.

Question 16: When a student ages out of Developmental Delay and does not qualify for services under a different disability category, is there any transitional period to end services?

Answer: No, since Developmental Delay is limited by age, there would be no way to continue serving the child under IDEA.

If the child has educational issues that do not rise to the level of needing IDEA services, the team could refer the child for Section 504 services and determine if the child is eligible for a 504 Plan.

Question 17: When a reevaluation is completed and the student no longer qualifies for IDEA services, can the student be transitioned out of special education over a period of time?

Answer: No. The provision for a transition period is no longer in Kentucky's IDEA regulations. A 504 Plan is a possibility, if the student has a significant disability that affects a major life activity.

Transfer Students

Question 18: A student moves from one district to another. His IEP and eligibility form label him as OHI (ADHD). Other than being stated in an integrated report (no doctor's name or mention of questionnaire), there is no evidence that he has been diagnosed with ADHD. Do we need a doctor's note stating this or do we take the former district's word to continue the OHI label? If this label can continue, what about when it comes time for reevaluation? Do we need that medical documentation then or since he has the label in the past, can it continue?

Answer: Once the student moves into the receiving district, it is that district's responsibility to ensure the student's due process folder is in compliance with federal and state regulations.

Documentation must be present to determine if the student has a chronic or acute health problem that adversely affects the child's educational performance to be eligible under the category of Other Health Impairment (OHI). It is the ARC's responsibility to determine if enough evidence and documentation is provided to determine eligibility or if more data is needed such as a doctor's note or medical report.

Question 19: If a student transfers to a school in another state and is then evaluated, does this qualify as a reevaluation or an initial evaluation?

Answer: Because of differing state-specific criteria, this would qualify as an initial evaluation. OSEP Q&A - *Larry Ringer, associate division director, Monitoring and State Improvement Planning Division* (August 31, 2006).

Appendix C

Adverse Effect

To be able to make appropriate decisions about the adverse effect of a student's disability when making eligibility determinations, the Admissions and Release Committee (ARC) must fully understand the concepts and process involved. Understanding of the concepts and process leads to well-written adverse effect statements.

Definition and Process

When making eligibility determination decisions, the ARC must address three questions:

1. Does the student have a disability?
2. Does the disability adversely affect the student's educational performance?
3. Does the student require specially designed instruction to address deficits in performance?

In order to fully meet the definition (and eligibility for special education and related services) as a "child with a disability," the student's educational performance must be adversely affected.

Adverse effect means that the progress of the student is impeded by the disability to the extent that the educational performance is significantly and consistently below the level of similar age peers. 707 KAR 1:002

Adverse effect can be described as a consistent and significant negative impact on the student's academic and/or functional performance. The decision regarding adverse effect is critical because it considers all the data and evidence used to determine there is a disability; moreover, it also reflects any other

pertinent information in an effort to connect the student's areas of difficulty and strength with their educational needs, programming and services.

Adverse Effect statements must:

- Provide evidence of how the student's performance is significantly and consistently below that of peers
- Describe the unique differences of the student that warrant specially designed instruction

Sources of Data to Support Adverse Effect Statements

The following list shows a few examples of data sources that might provide evidence of how the student's performance is significantly and consistently below that of peers:

- State testing
- Individual, norm-referenced tests of academic achievement
- Group achievement tests
- District testing
- Formative assessment (curriculum-based measures, benchmarks, progress monitoring)
- Grade retention
- Classroom work samples
- Curriculum-based assessments
- Criterion referenced assessments
- Observations of classroom performance
- Previous academic performance

- Report card grades
- Discipline records (e.g., type, frequency, suspensions/expulsions)
- Nurse/health room visits
- Truancy (e.g., school, class)
- Level of curriculum (e.g., advanced, remedial)
- Amount of teacher support required
- Amount of time and assistance needed to do homework
- Amount of time needed for in-class work
- Intervention history
- Motivation history
- Amount and degree of ongoing IEP services (at reevaluation)
- Current ongoing progress data (at reevaluation)

Documentation Requirements

WHEN must adverse effect statements be developed and documented?	WHERE must adverse effect statements be documented?
<ul style="list-style-type: none"> • At the time of eligibility determination as the ARC reviews and analyzes the student's evaluation information. 	<ul style="list-style-type: none"> • Conference Summary for ARC determining eligibility and/or • SLD Eligibility Determination Form and Written Report
<ul style="list-style-type: none"> • At the time of re-eligibility determination as the ARC reviews and analyzes the student's reevaluation information, including current progress monitoring of the IEP 	<ul style="list-style-type: none"> • Conference Summary for ARC determining re-eligibility and/or • SLD Eligibility Determination Form and Written Report
<ul style="list-style-type: none"> • During initial IEP development and included in the Present Levels, describing how the student's disability affects his/her involvement and progress in the general curriculum 	<ul style="list-style-type: none"> • IEP Present Levels
<ul style="list-style-type: none"> • During annual review of IEP and included in the Present Levels, describing how the student's disability affects his/her involvement and progress in the general curriculum 	<ul style="list-style-type: none"> • IEP Present Levels

For more information about compliance requirements about adverse effects, see [Kentucky Compliance Record Review Document](#).

Initial and Re-evaluation Record Review Requirements and Adverse Effect Compliance Record Review Document

RECORD REVIEW HEADING	RECORD REVIEW REQUIREMENTS
Contents of the IEP 707 KAR 1:320, Section 5	<p>Items 33 The ARC considered the following in developing the IEP: The child's present levels of academic achievement and functional performance, including how the disability affects involvement and progress in the general curriculum (or for preschool, participation in appropriate activities). The Present Levels includes a summary of information and data:</p> <p>Item 33 H A summary statement, included in the Present Levels, of how the child's disability affects the child's involvement and progress in the general curriculum.</p>
Initial Evaluation and Reevaluation 707 KAR 1:300	<p>Items 69a If the ARC determines additional data is not needed for a reevaluation, the ARC documents the review of existing data:</p> <p>#4 Current progress-monitoring of IEP goals to determine whether the child's educational performance continues to be significantly and consistently below the level of similar age peers. (Adverse Effect)</p>
Specific Learning Disability 707 KAR 1:002, Section 1(59) & 707 KAR 1:310, Section 1 and 2 SLD 6	<p>SLD 6 Deficits have an adverse effect on educational performance.</p> <p>Directions:</p> <ul style="list-style-type: none"> • Mark "YES" if ARC documented its review and analysis of the child's evaluation information to: <ul style="list-style-type: none"> ○ Determine that the disability adversely affects the child's educational performance ○ Show evidence of how the child's performance is significantly and consistently below that of peers. <p>Note:</p> <ul style="list-style-type: none"> • Adverse effect means that the progress of the child is impeded by the disability to the extent that the educational performance is significantly and consistently below the level of similar age peers. • Educational performance includes academic, social and functional performance. The Conference Summary/Action Notice or Eligibility Determination Form must include the ARC's discussion of the review and analysis. • Describe the unique differences of the child that would warrant specially designed instruction.

Present Levels of Academic Achievement and Performance and Adverse Effect

Needs or concerns are areas in which there is an adverse effect, meaning the student performs *significantly* and *consistently* below the performance of similar grade (academic achievement) and age (functional performance) peers as a result of the disability.

PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE	IEP DEVELOPMENT
<p>Steps for Writing the Present Levels</p> <p>Guidance Document for Individual Education Program (IEP) Development</p> <p>707 KAR 1:320, Section 5(7)(a), 34 CFR 320(a)(1)</p>	<p>Leave the box <u>unchecked</u> if the student's performance is <u>not commensurate</u> (significantly and consistently below) with similar age peers as a result of the disability.</p> <p>For each Present Level area where the student is not commensurate, describe</p> <ol style="list-style-type: none"> relative strengths, needs or concerns, baseline data if annual goals are written to address the need or concern. <p>Describe how the student's disability <i>affects the student's involvement and progress in the general curriculum</i>. Questions to consider:</p> <ul style="list-style-type: none"> How needs or concerns in present level areas affect involvement and progress in general curriculum: <ul style="list-style-type: none"> academic areas (e.g., reading, math, vocational courses) functional areas (e.g., social competence, life skills, sensory and motor skills, communication skills) transition achievement of student capacities and life goals (including how these are assessed) How does the disability impact the student's ability to demonstrate knowledge and reasoning of grade level standards? How will the student's challenges impact his/her ability to achieve proficiency? What are the student's barriers to college/career readiness? <p>The adverse effect statement may be described in each Present Level area OR as one statement that incorporates all Present Level areas impacted by the disability.</p>
<p>Additional Guiding Questions</p>	<ul style="list-style-type: none"> When citing grades from content area classes (e.g., science, social studies), does documentation establish that course requirements related to basic reading, math, writing or language skills are the source of low grades? In high school, when basic skills are often not taught directly, does documentation establish the indirect relationship between basic skill deficits and grades (e.g., low grades in English related to composition and literature, both functions of basic reading skills, reading comprehension and written expression)? In general, when grades from homogeneously grouped classes are

	<p>used, has adverse effect been compared to average performing peers at that grade level rather than within the class?</p> <ul style="list-style-type: none"> • Do the results of the criterion-referenced test indicate that the student lacks skills or knowledge typical of a developmentally appropriate average grade-level classmate? • When behavior is the concern, does documentation establish a link between behavior and acquisition of basic skills? • When refusal or lack of work production is an issue, does documentation establish a link, either direct or indirect, to basic skills as confirmed by the team member with expertise? Low test scores that result from limited cooperation can constitute an adverse effect even if the team suspects that the resulting scores are a low estimate of the student's true ability.
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Appendix D

Letter from OSEP, 2011

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

January 21, 2011

Contact Persons:

Name:	Ruth Ryder
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OSEP 11- 07

MEMORANDUM

TO: State Directors of Special Education

FROM: Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

SUBJECT: A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)

The provisions related to child find in section 612(a)(3) of the Individuals with Disabilities Education Act (IDEA), require that a State have in effect policies and procedures to ensure that the State identifies, locates and evaluates all children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services. It is critical that this identification occur in a timely manner and that no procedures or practices result in delaying or denying this identification. It has come to the attention of the Office of Special Education Programs (OSEP) that, in some instances, local educational agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation for children suspected of having a disability. States and LEAs have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.

A multi-tiered instructional framework, often referred to as RTI, is a schoolwide approach that addresses the needs of all students, including struggling learners and students with disabilities, and integrates assessment and intervention within a multi-level instructional and behavioral system to maximize student achievement and reduce problem behaviors. With a multi-tiered instructional framework, schools identify students at-risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending on a student's responsiveness.

While the Department of Education does not subscribe to a particular RTI framework, the core characteristics that underpin all RTI models are: (1) students receive high quality research-based instruction in their general education setting; (2) continuous monitoring of student performance; (3) all students are screened for academic and behavioral problems; and (4) multiple levels (tiers) of instruction that are progressively more intense, based on the student's response to instruction. OSEP supports State and local implementation of RTI strategies to ensure that children who are struggling academically and behaviorally are identified early and provided needed interventions in a timely and effective manner. Many LEAs have implemented successful RTI strategies, thus ensuring that children who do not

respond to interventions and are potentially eligible for special education and related services are referred for evaluation; and those children who simply need intense short-term interventions are provided those interventions.

The regulations implementing the 2004 Amendments to the IDEA include a provision mandating that States allow, as part of their criteria for determining whether a child has a specific learning disability (SLD), the use of a process based on the child's response to scientific, research-based intervention¹. See 34 CFR §300.307(a)(2). OSEP continues to receive questions regarding the relationship of RTI to the evaluation provisions of the regulations. In particular, OSEP has heard that some LEAs may be using RTI to delay or deny a timely initial evaluation to determine if a child is a child with a disability and, therefore, eligible for special education and related services pursuant to an individualized education program.

Under 34 CFR §300.307, a State must adopt, consistent with 34 CFR §300.309, criteria for determining whether a child has a specific learning disability as defined in 34 CFR §300.8(c)(10). In addition, the criteria adopted by the State: (1) must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has an SLD; (2) must permit the use of a process based on the child's response to scientific, research-based intervention; and (3) may permit the use of other alternative research-based procedures for determining whether a child has an SLD. Although the regulations specifically address using the process based on the child's response to scientific, research-based interventions (i.e., RTI) for determining if a child has an SLD, information obtained through RTI strategies may also be used as a component of evaluations for children suspected of having other disabilities, if appropriate.

The regulations at 34 CFR §300.301(b) allow a parent to request an initial evaluation at any time to determine if a child is a child with a disability. The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§300.304-300.311, to a child suspected of having a disability under 34 CFR §300.8. If the LEA agrees with a parent who refers their child for evaluation that the child may be a child who is eligible for special education and related services, the LEA must evaluate the child. The LEA must provide the parent with notice under 34 CFR §§300.503 and 300.504 and obtain informed parental consent, consistent with 34 CFR §300.9, before conducting the evaluation. Although the IDEA and its implementing regulations do not prescribe a specific timeframe from referral for evaluation to parental consent, it has been the Department's longstanding policy that the LEA must seek parental consent within a reasonable period of time after the referral for evaluation, if the LEA agrees that an initial evaluation is needed. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg., 46540, 46637 (August 14, 2006). An LEA must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. 34 CFR §300.301(c).

If, however, the LEA does not suspect that the child has a disability, and denies the request for an initial evaluation, the LEA must provide written notice to parents explaining why the public agency refuses to conduct an initial evaluation and the information that was used as the basis for this decision. 34 CFR §300.503(a) and (b). The parent can challenge this decision by requesting a due process hearing under 34 CFR §300.507 or filing a State complaint under 34 CFR §300.153 to resolve the dispute regarding the child's need for an evaluation. It would be inconsistent with the evaluation provisions at 34 CFR §§300.301 through 300.111 for an LEA to reject a referral and delay provision of an initial evaluation on the basis that a child has not participated in an RTI framework.

We hope this information is helpful in clarifying the relationship between RTI and evaluations pursuant to the IDEA. Please examine the procedures and practices in your State to ensure that any LEA implementing RTI strategies is appropriately using RTI, and that the use of RTI is not delaying or denying timely initial evaluations to children suspected of having a disability. If you have further questions, please do not hesitate to contact me or Ruth Ryder at 202-245-7513.

References:

Questions and Answers on RTI and Coordinated Early Intervening Services (CEIS), January 2007

¹ The Department has provided guidance regarding the use of RTI in the identification of specific learning disabilities in its letters to: Zirkel - 3-6-07, 8-15-07, 4-8-08, and 12-11-08; Clarke - 5-28-08; and Copenhaver - 10-19-07. Guidance related to the use of RTI for children ages 3 through 5 was provided in the letter to Brekken - 6-2-10. These letters can be found at <http://www2.ed.gov/policy/speced/guid/idea/index.html>.

Letter to Brekken, 6-2-2010
Letter to Clarke, 4-28-08
Letter to Copenhagen, 10-19-07
Letters to Zirkel, 3-6-07, 8-15-07, 4-8-08 and 12-11-08

cc: Chief State School Officers
Regional Resource Centers
Parent Training Centers
Protection and Advocacy Agencies
Section 619 Coordinators

Appendix E
Response to Intervention (RtI) Worksheets

Reading
Math
Written Expression

Prior to a referral for special education and while the student is still receiving interventions, (in the general education setting) these forms may be used by a district to document that a student has received appropriate instruction and intervention in reading, math and written expression.

Reading Worksheet

Student:		Grade:	
Class/Teacher Name:		Date:	

(To document that a student has received appropriate instruction and intervention in reading)

This checklist should be completed for elementary, middle, and high school students who have been referred to special education due to a suspected learning disability that affects reading. This information should generally be gathered prior to a referral to special education as part of early intervention

1. Universal Language Arts Instruction (Tier I)

- ☐ Student has participated in daily, highly effective, culturally responsive, reading/language arts instruction using evidence-based practices provided to all students in the general education classroom.

Description of Instruction Provided: General education instruction should involve a comprehensive, district-wide reading curriculum that addresses state standards and the five areas of reading (e.g., through read-alouds; systematic phonics instruction; word study and structural analysis; fluency-building activities; explicit vocabulary instruction; literature think-alouds; comprehension strategy instruction):

2. Differentiated Instruction in General Education (Tier I)

- ☐ Student has participated in differentiated reading instruction as part of Tier I general education instruction (i.e., for all students).

Description –How Core Curriculum was Differentiated to Meet Individual Student Needs:

3. Progress Monitoring Assessments (Tier I)

- ☐ Continuous progress monitoring has been provided to establish a basis for instructional decisions and to document a student's response to instruction.

Description/Source of Evidence of Progress Monitoring: ☐ ***Results attached***

Assessment (e.g., curriculum-based measurement, curriculum-based assessments, diagnostic assessments)	Skills/Competencies Targeted (e.g., phonemic awareness, phonics, fluency, vocabulary, comprehension)	Dates

4. Supplemental evidence-based interventions (Tier II – targeted interventions; Tier III – more targeted and intensive interventions)

- ☐ Interventions have been implemented based on specific student needs in one or more of the five areas of reading: phonemic awareness, phonics, fluency, vocabulary, and/or comprehension.
- ☐ Interventions have been implemented with fidelity by trained staff (i.e., delivered in the manner in which they were designed and intended to be used). Documentation is listed on this form or attached.

a. If decoding skills have been identified as an area of weakness:

- ☐ Student's phonemic awareness has been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with systematic, explicit phonics instruction.
- ☐ Student has been provided with regular opportunities to practice learned decoding skills in texts.
- ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

b. If a student's oral reading fluency has been identified as an area of weakness:

- ☐ Student's phonics skills have been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with regular opportunities to practice reading a variety of text at his/her independent level (at least 96% word accuracy and 90% comprehension).
- ☐ Student has been provided with teacher-directed fluency interventions focused specifically on improving oral reading fluency with connected text.
- ☐ **Teacher** has systematically collected progress-monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

c. If a student's reading comprehension skills have been identified as an area of weakness beyond what can be accounted for by identified decoding and/or reading fluency deficits:

- ☐ Student's vocabulary skills have been evaluated and if warranted, targeted interventions have been provided, with application to reading comprehension.

- ☐ Student's broad oral language skills (e.g., listening comprehension) have been evaluated and if warranted, targeted interventions have been provided, with application to reading comprehension.
- ☐ Student has been provided with explicit comprehension interventions (e.g., additional instruction in research-based comprehension strategies such as summarization and use of graphic organizers; additional building of background knowledge and/or knowledge of text structure) to address his/her specific comprehension needs.
- ☐ **Teacher** has systematically collected progress monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

5. Lack of sufficient progress to meet benchmark skill/grade level expectations (Tiers II/III)

- ☐ The student has had non-responsive progress in the instructional intervention(s) implemented above despite attempts to improve, individualize and intensify the intervention.

Source of Evidence: Attach teacher support and/or intervention team information **AND** complete chart below

Evidence-based interventions used as supplemental and/or intensive interventions. These interventions are in addition to what is provided for all students (i.e., Tier I)	Student's response to interventions Baseline plus additional progress monitoring measurements (CBM or other appropriate measure)	Dates of intervention implementation

(Date)

(Date)

Mathematics Worksheet

Student:		Grade:	
Class/Teacher Name:		Date:	

(To document that a student has received appropriate instruction and intervention in mathematics)

This checklist should be completed for elementary, middle, and high school students who have been referred to special education due to a suspected learning disability that affects mathematics. This information should generally be gathered prior to a referral to special education as part of early intervention.

1. Universal Mathematics Instruction (Tier I)

- ☐ Student has participated in daily general education mathematics instruction using evidence-based practices provided to the entire class by the general education teacher.

Description of Instruction Provided: General education instruction should involve a comprehensive, district-wide math curriculum that addresses state standards and all important areas of math, (e.g., through the explicit teaching of strategies that promote conceptual understanding, problem-solving, calculation skills, and procedural accuracy and fluency):

2. Differentiated Instruction in General Education (Tier I)

- ☐ Student has participated in differentiated math instruction as part of Tier I general education instruction (i.e., for all students).

Description How Core Curriculum was Differentiated to Meet Individual Student Needs in Small Group Setting:

3. *Progress Monitoring Assessments (Tier I)*

- ☐ Continuous progress-monitoring has been provided to establish a basis for instructional decisions and to document a student's response to instruction.

Description/Source of Evidence of Progress Monitoring:

☐ *Results attached*

Assessment (e.g., curriculum-based measurement, curriculum-based assessments, diagnostic assessments)	Skills/Competencies Targeted (e.g., math concepts, problem solving, calculation skills, procedural accuracy and fluency)	Dates of intervention implementation

4. *Supplemental scientific research-based interventions (Tier II – targeted interventions; Tier III - more targeted and intensive interventions)*

- ☐ Interventions have been implemented based on specific student needs in important areas of math such as math concepts, problem solving, calculation skills or procedural accuracy and fluency.
- ☐ Interventions have been implemented with fidelity by trained staff (i.e., delivered in the manner in which they were designed and intended to be used). Documentation is listed on this form or attached.

a. If calculation skills have been identified as an area of weakness:

- ☐ Student's conceptual understanding of numbers has been evaluated and if warranted, targeted interventions have been provided (e.g., additional, more explicit instruction with use of visual representations such as pictures or manipulatives).
- ☐ Student's automatic recall of facts has been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with explicit teaching of algorithms for calculation linking procedures to a conceptual understanding (e.g., written procedures for 2-digit subtraction with regrouping, long division).
- ☐ Student has been provided with regular opportunities to practice learned calculation skills in appropriate contexts, including cumulative review of previously learned skills.
- ☐ **Teacher** has systematically collected progress-monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

b. If problem-solving skills have been identified as an area of weakness beyond what can be accounted for by identified calculation deficits and/or poor reading:

- ☐ Student's math-related vocabulary and other oral language skills have been evaluated and if warranted, targeted interventions have been provided, with application to math problem solving.
- ☐ Student's specific problem-solving skills (e.g., ability to determine which operation to use to solve a problem, identifying relevant vs. irrelevant information) have been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with regular opportunities to practice learned problem-solving skills, including cumulative review of previously learned skills.
- ☐ **Teacher** has systematically collected progress-monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

5. Lack of sufficient progress to meet benchmark skill/grade level expectations (Tiers II/III)

- ☐ The student has had non-responsive progress in the instructional intervention(s) implemented above despite attempts to improve, individualize and intensify the intervention.

Source of Evidence: Attach teacher support and/or intervention team information **AND** complete chart below

Evidence-based interventions used as supplemental and/or intensive interventions. These interventions are in addition to what is provided for all students (i.e., Tier I)	Student's response to interventions Baseline plus additional progress-monitoring measurements (Curriculum Based Measurement - CBM or other appropriate measure)	Dates of intervention implementation

(Date)

(Date)

Written Expression Worksheet

Student:		Grade:	
Class/Teacher Name:		Date:	

(To document that a student has received appropriate instruction and intervention in written expression)

This checklist should be completed for elementary, middle, and high school students who have been referred to special education due to a suspected learning disability that affects written expression. This information should generally be gathered prior to a referral to special education as part of early intervention.

1. Core General Education Written Expression Instruction (Tier I)

- ☐ Student has participated in daily general education written expression instruction using scientific research-based practices provided to the entire class by the general education teacher.

Description of Instruction Provided: General education instruction should involve a comprehensive, district-wide writing curriculum that addresses state standards and all important areas of writing (e.g., through explicit teaching of basic writing skills, planning and organizational strategies, and writing knowledge; use of a writing process, with strategies for editing and revision; opportunities for practice; appropriate use of technology in writing; reading-writing connections):

2. Differentiated Instruction in General Education (Tier I)

- ☐ Student has participated in differentiated written expression instruction as part of Tier I general education instruction (i.e., for all students).

Description –How Core Curriculum was Differentiated to Meet Individual Student Needs in Small Group Setting:

3. Progress Monitoring Assessments (Tier I)

- ☐ Continuous progress-monitoring has been provided to establish a basis for instructional decisions and to document a student's response to instruction.

Description/Source of Evidence of Progress Monitoring:

☐ *Results attached*

Assessment (e.g., curriculum-based measurement, curriculum-based assessments, diagnostic assessments)	Skills/Competencies Targeted (e.g., basic writing skills, planning, text generation/content development, revision)	Dates of Intervention Implementation

4. Supplemental scientific research-based interventions (Tier II – targeted interventions; Tier III - more targeted and intensive interventions)

- ☐ Interventions have been implemented based on specific student needs in important areas of writing, such as basic writing skills, text generation, or revision/editing processes.
- ☐ Appropriately qualified and trained staff have provided the interventions, which have been implemented with fidelity (i.e., delivered in the manner in which they were designed and intended to be used). Documentation indicating frequency, duration and type of intervention is either listed on this form or attached.

a. If basic writing skills have been identified as an area of weakness:

- ☐ Student's basic writing skills (e.g., handwriting/keyboarding, spelling, capitalization, punctuation, sentence structure) have been evaluated and targeted interventions have been provided in specific areas of need.
- ☐ Student has been provided with appropriate access to and teaching about the use of technology in writing to improve basic writing skills (e.g., use of spell-checkers).
- ☐ Student has been taught strategies for reviewing and editing written work to improve basic writing skills.
- ☐ Student has been provided with regular opportunities to practice basic writing skills.
- ☐ **Teacher** has systematically collected progress-monitoring data, using Valid and reliable measures, to determine the student's response to the Interventions provided.

b. If text generation (i.e., content aspects of writing that involve translating ideas into language) has been identified as an area of weakness, beyond what can be accounted for by identified weaknesses in basic writing skills:

- ☐ Student's vocabulary and other oral language skills have been evaluated and if warranted, targeted interventions have been provided, with application to writing.
- ☐ Student's ability to plan and organize writing have been evaluated and if warranted, targeted interventions have been provided (e.g., additional, more explicit teaching of strategies for brainstorming or researching ideas).
- ☐ Student's knowledge about writing (e.g., writing for an intended audience, use of formal vs. informal language in writing, schemas for different writing tasks such as reports vs. narratives) has been evaluated and if warranted, targeted interventions have been provided.
- ☐ Student has been provided with appropriate access to and teaching about the use of technology in writing to improve text generation (e.g., use of online thesaurus to improve word choice/avoid repetition of the same word).
- ☐ Student has been taught strategies for reviewing and revising written work to improve content/text generation.
- ☐ Student has been provided with regular opportunities to practice text generation.
- ☐ **Teacher** has systematically collected progress-monitoring data, using valid and reliable measures, to determine the student's response to the interventions provided.

5. Lack of sufficient progress to meet benchmark skill/grade-level standards (Tiers II/III)

- ☐ The student has not made sufficient progress in the supplemental intervention(s) implemented above despite attempts to improve, individualize, and intensify the intervention.

Source of Evidence: Attach teacher support and/or intervention team information **AND** complete chart below

Scientific research-based interventions used as supplemental and/or intensive interventions. These interventions are in addition to what is provided for all students (i.e., Tier I)	Student's response to interventions Baseline plus additional progress-monitoring measurements for each intervention (CBM or other appropriate measure)	Dates of intervention implementation

	(Date)
	(Date)

Appendix F

Summary of Interventions & Data

Directions: This form is to be completed prior to a referral for a Special Education Evaluation. Attach the RtI worksheet(s) and progress monitoring data for each area of concern. This form and the data results must be filed in the Due Process Folder after the referral ARC.

Note: Interventionist refers to the individual(s) delivering the intervention.

Student:		DOB:		Grade:	
<p>1. Describe the <u>area being targeted</u> for intervention and <u>means of identifying</u> the need.</p> <div style="background-color: #e6f2e6; height: 70px; margin-top: 5px;"></div>					
<p>2. Indicate the <u>area(s) of suspected disability</u> (interventions must match deficit areas of the disability suspected) :</p> <div style="background-color: #e6f2e6; height: 90px; margin-top: 5px;"></div>					
<p>3. Describe the Tier I intervention(s) implemented in the general education classroom to address the area being targeted and the name of the interventionist.</p> <div style="background-color: #e6f2e6; height: 100px; margin-top: 5px;"></div>					
Dates		Frequency of Service	Amount of Time	Impact (What was the end result? What was the final level/score?)	Expected Progress (Where should the student have been at the end of this intervention?)
Begin	End				

4. Describe the **Tier II** intervention which was implemented to address the area being targeted and name of the interventionist.

Dates		Frequency of Service	Amount of Time	Impact (What was the end result? What was the final level/score?)	Expected Progress (Where should the student have been at the end of this intervention?)
Begin	End				

5. Describe the **Tier III** intervention which was implemented to address the area being targeted and name of the interventionist.

Dates		Frequency of Service	Amount of Time	Impact (What was the end result? What was the final level/score?)	Expected Progress (Where should the student have been at the end of this intervention?)
Begin	End				

6. Concerns with fidelity of implementation were observed in the following areas (**yes or no**):

Tier I (Core Instruction)?

Tier II?

Tier III?

If “yes” to any areas, please explain:

7. Describe the parental involvement in the data sharing and decision making process:

8. Additional comments:

Prepared by:

Date:

Appendix G:
Reevaluation and Determination of Continued Eligibility
707 KAR 1:300 Section 4

An LEA shall:

- ensure a reevaluation is conducted at least every three years (and not more than once a year unless the parent and the LEA agree otherwise); and
- evaluate a child with a disability in accordance with 707 KAR 1:300 before determining that the child is no longer a child with a disability.
-

Assessment tools and strategies shall be used to provide relevant information that will directly assist the ARC in determining the educational needs of the child. As part of the reevaluation, the ARC and other qualified professionals, if necessary, shall review existing evaluation data on the child including:

- (a) Evaluations and information provided by the parents;
- (b) Current classroom-based, local, or state assessments and classroom-based observations; and
- (c) Observations by teachers and related service providers.

On the basis of the review, and input from the parents, the ARC shall identify what additional data, if any, are needed to determine:

- (a) Whether the child continues to have a specific learning disability and the educational needs of the child;
- (b) The present levels of academic achievement and related developmental needs of the child;
- (c) Whether the child continues to need specially-designed instruction and related services, and
- (d) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable goals set out in the IEP and to participate, as appropriate, in the general curriculum.

If for purposes of reevaluation, the ARC determines that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the LEA shall notify the child's parents:

- (a) Of that determination and reasons for it; and
- (b) Of the right of the parents to request a reevaluation to determine whether, for purposes of services, the child continues to be a child with a disability.

ARC Reevaluation Considerations

A reevaluation may sometimes show that a child's gap in learning (in both level of performance and rate of growth) has been reduced due to interventions in special education and perhaps also in general education. If the ARC determines that the child's gap in learning would re-emerge with the discontinuation of special education services, the child should continue to be identified as being eligible for special education services as a child with a specific learning disability.

The ARC should be extremely careful in deciding that a child is no longer eligible for special education services under IDEA because this decision has ramifications for accessing support services and accommodations once IDEA eligibility ends. Reevaluation requires that members of the ARC exercise professional judgment when reviewing all of the evaluation data in light of a child's previous history as well as current progress.

The ARC may find it appropriate to conduct a more comprehensive reevaluation at major school transitions, such as the transition from elementary to middle school or middle school to high school. For example, providing a more comprehensive reevaluation during a child's high school years may help the ARC appropriately identify transition services, including courses of study that are needed to assist the child in reaching postsecondary goals.

States that change their eligibility criteria for SLD may want to carefully consider the reevaluation of children found eligible for special education services using prior procedures. 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, particularly for a child who is in the final year(s) of high school. Obviously, the group should consider whether the child's instruction 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 – Analysis of Comments and Changes to the 2006 Final Regulations, Federal Register, 71 (156), August 14, 2006, p. 46648.

Appendix H: Eligibility Determination Documentation: A Reference Guide

This document provides guidance on the documentation necessary for determining eligibility for a specific learning disability. This document may be used to train ARC Chairpersons, assist ARCs with data triangulation and guide ARCs in completing the SLD Eligibility Determination Form and Written Report.

Disability Eligibility Criteria	Supporting Documents and Resources
The student is provided with learning experiences and instruction appropriate for the student's age or state approved grade-level standards	<ul style="list-style-type: none"> • Universal Screening Data • Common Assessment Data • Progress Monitoring Data • Intervention Data • RtI Worksheets • RtI Data Summary
The student does not achieve adequately, as indicated on multiple data sources, for the student's age or grade level standards aligned with Program of Studies/KCAS.	<ul style="list-style-type: none"> • Classroom performance and grades • Intervention data and description of analysis • Common Assessment Data • Universal Screening Data • Progress Monitoring Data • Evaluation Report- Formal Evaluation Data
<p>Method A: Severe Discrepancy The student exhibits a pattern of strengths and weaknesses in performance, achievement or both relative to ability level or intellectual development</p> <p>OR</p> <p>Method B: RtI The student fails to achieve a rate of learning to make sufficient progress to meet grade level standards aligned with Program of Studies/KCAS</p>	<ul style="list-style-type: none"> • Analysis of intervention data over time • Common Assessments • Universal Screeners • Progress-Monitoring Data (Intervention Data) • Formal Academic Testing • Cognitive Assessments
The deficits in achievement are not primarily the result of vision, hearing, or motor impairments; mental disability; emotional behavioral disability; cultural factors; environmental or economic disadvantage; or limited English proficiency	<ul style="list-style-type: none"> • Hearing/Vision/Motor Screening Data • Cognitive Assessment • Behavioral Observations • Attendance Records • Office Referrals • Parent Input • Frequency of school moves
Evaluation information confirms there is an adverse effect on educational performance	<ul style="list-style-type: none"> • Analysis of intervention data over time • Current and past classroom performance • Common Assessments • Universal Screeners • Progress-Monitoring (Intervention) Data • Formal Academic Testing • Cognitive Assessments
Evaluation information confirms that a lack of instruction in reading and/or math was	<ul style="list-style-type: none"> • Attendance Records • Frequency of school moves

not a determinant factor in the eligibility decision	<ul style="list-style-type: none"> • HQ Teacher Absences
Evaluation information confirms that limited English proficiency was not a determinant factor in the eligibility decision	<ul style="list-style-type: none"> • Native Language • Languages spoken at home • Recipient of LEP Services
Observation information	<ul style="list-style-type: none"> • At least two current formal behavior observations • Anecdotal Notes • Performance across settings
Relationship of the observed behavior to the child's academic functioning	<ul style="list-style-type: none"> • Analysis of the two formal behavior observations
Educationally relevant medical findings	<ul style="list-style-type: none"> • Health and Medical Update • Parent Input • School Nurse Records
Instructional strategies used and the student-centered data collected in response to scientific, research-based intervention performance	<ul style="list-style-type: none"> • Intervention timeline and discussion of progress-monitoring data • Description on how intervention, intensity, duration, and/or frequency changed over time
Documentation of the instructional strategies, educational services, and data collected on student performance is given to the parent	<ul style="list-style-type: none"> • Description of how parents were informed of the intervention process and student performance
Supporting evidence	<ul style="list-style-type: none"> • Educational Evaluation • Outside Evaluation • Parent Input • Cognitive/Academic Achievement • Behavioral Observations • Rating Scales • Current classroom performance • Informal and Formal Assessments • Progress-monitoring data and analysis

Appendix I

Behavioral Observation Checklists for Academic Areas & Behavioral Observation Checklist

Pre-School/Kindergarten
 Grades 1-4
 Grades 5-8
 Grades 9-12

As part of the district's referral process, behavioral observations must be completed in the student's area(s) of concern. The following behavioral observation checklists may be used by a district to document behavioral observations conducted.

Behavioral Observation Checklist for Academic Areas Pre-School/Kindergarten

Student:		Grade:	
Class/Teacher Name:		Date:	
Observer Name/Title:		Time:	

The primary function of this document is to ensure appropriate and relevant documentation of a student's performance within a specific educational domain and as compared to his/her peers. You may not see all domains addressed; however, the student should be observed during times when you will be able to monitor behaviors related to the area(s) of concern. If the child is 3-5 years old and not yet in school, the observation should be conducted in the child's natural environment or early intervention program.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings, on different days, and/or at different times of the day. Multiple observation forms should be included in the evaluation documentation and considered by the Admissions and Release Committee (ARC).

Directions: First identify the area(s) of concern for the student. Behaviors that are aligned with each identified area(s) of concern should be the target of your observation. During the observation, place a check mark next to the behaviors that are observed within each domain which correlate with the noted areas of concern. Note, however, that these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern:	
<input type="checkbox"/> Oral Expression	<input type="checkbox"/> Written Expression
<input type="checkbox"/> Basic Reading Skills	<input type="checkbox"/> Reading Comprehension
<input type="checkbox"/> Reading Fluency Skills	<input type="checkbox"/> Listening Comprehension
<input type="checkbox"/> Mathematics Problem Solving	<input type="checkbox"/> Mathematics Calculation

Language (Oral Expression, Listening Comprehension, Other: _____)

- | | |
|--|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Demonstrates slow and halting speech, using lots of fillers (e.g., uh, um, and you know) |
| <input type="checkbox"/> Has difficulty modulating voice (e.g. too soft, too loud) | <input type="checkbox"/> Mispronounces words frequently |
| <input type="checkbox"/> Has trouble naming people or objects | <input type="checkbox"/> Has difficulty rhyming |
| <input type="checkbox"/> Has difficulty staying on topic | <input type="checkbox"/> Has limited interest in books or stories |
| <input type="checkbox"/> Inserts invented words into conversation | <input type="checkbox"/> Has difficulty understanding instructions or directions |
| <input type="checkbox"/> Has difficulty re-telling what has just been said | |

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- | | |
|---|--|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Dislikes and avoids reading or reads reluctantly |
| <input type="checkbox"/> Confuses similar-looking letters and numbers | <input type="checkbox"/> Has problems associating letters and sounds, understanding the difference between sounds in words or blending sounds into words |
| <input type="checkbox"/> Demonstrates poor memory for printed words | |
| <input type="checkbox"/> Has trouble naming letters | |
| <input type="checkbox"/> Has poor retention of new vocabulary | |

Notes: _____

Written Language (Written Expression)

- | | |
|--|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Dislikes and avoids writing and copying |
| <input type="checkbox"/> Has difficulty remembering shapes of letters and numerals | <input type="checkbox"/> Frequently reverses letters, numbers and symbols |

Notes: _____

Math (Math Calculation, Math Problem Solving)

- | |
|---|
| <input type="checkbox"/> Age Appropriate |
| <input type="checkbox"/> Has difficulty with simple counting and one-to-one correspondence between number symbols and items/objects |

Notes: _____

Social Emotional (All Areas)

- ☐ Age Appropriate
- ☐ Has difficulty 'joining in' and maintaining positive social status in a peer group
- ☐ Has difficulty with self-control when frustrated

Notes: _____

Attention (All Areas)

- ☐ Age Appropriate
- ☐ Has difficulty sustaining attention in work tasks or play activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- | | |
|--|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Demonstrates poor ability to color or write 'within the lines' |
| <input type="checkbox"/> Appears awkward and clumsy, dropping, spilling, or knocking things over | <input type="checkbox"/> Grasps pencil awkwardly, resulting in poor handwriting |
| <input type="checkbox"/> Has trouble with buttons, hooks, snaps, zippers and trouble learning to tie shoes | <input type="checkbox"/> Experiences difficulty using small objects or items that demand precision (e.g., Legos, puzzle pieces, tweezers, scissors) |
| <input type="checkbox"/> Creates art work that is immature for age | |

Notes: _____

Other Notes or Observed Behavior:

Behavioral Observation Checklist for Academic Areas Grades 1-4

Student:		Grade:	
Class/Teacher Name:		Date:	
Observer Name/Title:		Time:	

The primary function of this document is to ensure appropriate and relevant documentation of a student's performance within a specific educational domain and as compared to his/her peers. While all domains may not be addressed, the student should be observed during times when behaviors related to the area(s) of concern can be monitored.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings, on different days, and at different times of the day. Multiple observation forms should be included in the evaluation documentation and considered by the Admissions and Release Committee (ARC).

Directions: First identify the area(s) of concern for the student. Behaviors that are aligned with each identified area(s) of concern should be the target of your observation. During the observation, place a check mark next to the behaviors that are observed within each domain which correlate with the noted areas of concern. Note, however, that these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern	
___ Oral Expression	___ Written Expression
___ Basic Reading Skills	___ Reading Comprehension
___ Reading Fluency Skills	___ Listening Comprehension
___ Mathematics Problem Solving	___ Mathematics Calculation

Language (Oral Expression, Listening Comprehension, Other: _____)

- | | |
|---|--|
| <input type="checkbox"/> Age Appropriate
<input type="checkbox"/> Has difficulty modulating voice (e.g., too soft, too loud)
<input type="checkbox"/> Has trouble naming people or objects
<input type="checkbox"/> Has difficulty staying on topic
<input type="checkbox"/> Inserts invented words into conversation
<input type="checkbox"/> Has difficulty re-telling what has just been said
<input type="checkbox"/> Uses vague, imprecise language and has a limited vocabulary | <input type="checkbox"/> Demonstrates slow and halting speech, using lots of fillers (e.g., uh, um, and, you know)
<input type="checkbox"/> Uses poor grammar or misuses words in conversation
<input type="checkbox"/> Mispronounces words frequently
<input type="checkbox"/> Confuses words with others that sound similar
<input type="checkbox"/> Inserts malapropisms ('slips of the tongue') into conversation (e.g., a rolling |
|---|--|

stone gathers no moths; he was a man of great statue)

- ☐ Has difficulty rhyming
- ☐ Has limited interest in books or stories
- ☐ Has difficulty understanding instructions or directions

- ☐ Has difficulty with pragmatic skills (e.g., understands the relationship between speaker and listener, stays on topic, gauges the listener's degree of knowledge, makes inferences based on a speaker's verbal and non-verbal cues)

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- ☐ Age Appropriate
- ☐ Confuses similar-looking letters and numbers or similar-looking words (e.g., beard, bread)
- ☐ Has difficulty recognizing and remembering sight words
- ☐ Frequently loses place while reading
- ☐ Reverses letter order in words (e.g., saw/was)
- ☐ Demonstrates poor memory for printed words
- ☐ Reads slowly
- ☐ Has trouble naming letters
- ☐ Has problems associating letters and sounds, understanding the difference between sounds in words or blending sounds into words
- ☐ Guesses at unfamiliar words rather than using word analysis skills
- ☐ Substitutes or leaves out words while reading
- ☐ Has poor retention of new vocabulary
- ☐ Dislikes and avoids reading or reads reluctantly
- ☐ Other:

Notes: _____

Written Language (Written Expression)

- ☐ Age Appropriate
- ☐ Writing is messy and incomplete, with many cross-outs and erasures
- ☐ Has difficulty remembering shapes of letters and numerals
- ☐ Frequently reverses letters, numbers and symbols
- ☐ Uses uneven spacing between letters and words, and has trouble staying 'on the line'
- ☐ Copies inaccurately (e.g., confuses similar-looking letters and numbers)
- ☐ Spells poorly / inconsistently (e.g., the same word appears in other places in the same document)
- ☐ Has difficulty proofreading and self-correcting work

Notes: _____

Math (Math Calculation, Math Problem Solving)

- | | |
|---|--|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Has difficulty estimating quantity (e.g., quantity, value) |
| <input type="checkbox"/> Has difficulty with simple counting and one-to-one correspondence between number symbols and items/objects | <input type="checkbox"/> Has difficulty with comparisons (e.g., less than, greater than) |
| <input type="checkbox"/> Has difficulty learning strategic counting principles (e.g., by 2, 5, 10, 100) | <input type="checkbox"/> Has trouble telling time |
| | <input type="checkbox"/> Has trouble conceptualizing the passage of time |
| | <input type="checkbox"/> Has difficulty counting rapidly or making calculations |

Notes: _____

Social Emotional (All Areas)

- | | |
|--|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Has trouble knowing how to share/express feelings |
| <input type="checkbox"/> Does not pick up on other people's mood/feelings (e.g., may say the wrong things at wrong time) | <input type="checkbox"/> Has trouble 'getting to the point' (e.g., gets bogged down in details in conversation) |
| <input type="checkbox"/> May not detect or respond appropriately to teasing | <input type="checkbox"/> Has difficulty with self-control when frustrated |
| <input type="checkbox"/> Has difficulty 'joining in' and maintaining positive social status in a peer group | <input type="checkbox"/> Has difficulty dealing with group pressure, embarrassment and unexpected challenges |

Notes: _____

Attention (All Areas)

- | | |
|---|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Has difficulty organizing tasks and activities |
| <input type="checkbox"/> Has difficulty sustaining attention in work tasks or play activities | |

- ☐ Loses things consistently that are necessary for tasks/activities (e.g., toys, school assignments, pencils, books, or tools)

- ☐ Is easily distracted by outside influences
- ☐ Is forgetful in daily/routine activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- ☐ Age Appropriate
- ☐ Appears awkward and clumsy, dropping, spilling, or knocking things over
- ☐ Has limited success with games and activities that demand eye-hand coordination (e.g., piano lessons, basketball, baseball)
- ☐ Has trouble with buttons, hooks, snaps, zippers and trouble learning to tie shoes

- ☐ Creates art work that is immature for age
- ☐ Demonstrates poor ability to color or write 'within the lines'
- ☐ Grasps pencil awkwardly, resulting in poor handwriting
- ☐ Experiences difficulty using small objects or items that demand precision (e.g., Legos, puzzle pieces, tweezers, scissors)

Notes: _____

Other Notes or Observed Behavior

- ☐ Confuses left and right
- ☐ Often loses things
- ☐ Is slow to learn new games and master puzzles
- ☐ Has difficulty generalizing (applying) skills from one situation to another

Notes: _____

Behavioral Observation Checklist for Academic Areas Grades 5-8

Student:		Grade:	
Class/Teacher Name:		Date:	
Observer Name/Title		Time:	

The primary function of this document is to ensure appropriate and relevant documentation of a student's performance within a specific educational domain and as compared to his/her peers. While all domains may not be addressed, the student should be observed during times when behaviors related to the area(s) of concern can be monitored.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings, on different days, and at different times of the day. Multiple observation forms should be included in the evaluation documentation and considered by the Admissions and Release Committee (ARC).

Directions: First identify the area(s) of concern for the student. Behaviors that are aligned with each identified area(s) of concern should be the target of your observation. During the observation, place a check mark next to the behaviors that are observed within each domain which correlate with the noted areas of concern. Note, however, that these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern	
___ Oral Expression	___ Written Expression
___ Basic Reading Skills	___ Reading Comprehension
___ Reading Fluency Skills	___ Listening Comprehension
___ Mathematics Problem Solving	___ Mathematics Calculation

Language (Oral Expression, Listening Comprehension, Other: _____)

- | | |
|---|---|
| <input type="checkbox"/> Age Appropriate
<input type="checkbox"/> Has difficulty modulating voice (e.g., too soft, too loud)
<input type="checkbox"/> Inserts invented words into conversation
<input type="checkbox"/> Has difficulty re-telling what has just been said
<input type="checkbox"/> Uses vague, imprecise language and has a limited vocabulary
<input type="checkbox"/> Demonstrates slow and halting speech, using lots of fillers (e.g., uh, um, and you know) | <input type="checkbox"/> Uses poor grammar or misuses words in conversation
<input type="checkbox"/> Mispronounces words frequently
<input type="checkbox"/> Confuses words with others that sound similar
<input type="checkbox"/> Inserts malapropisms ('slips of the tongue') into conversation (e.g., a rolling stone gathers no moths; he was a man of great statue)
<input type="checkbox"/> Has limited interest in books or stories
<input type="checkbox"/> Has difficulty understanding instructions or directions |
|---|---|

- ☐ Has difficulty with pragmatic skills (e.g., understands the relationship between speaker and listener, stays on topic,

gauges the listeners degree of knowledge, makes inferences based on a speaker's verbal and non-verbal cues)

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- | | |
|--|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> Age Appropriate <input type="checkbox"/> Frequently loses place while reading <input type="checkbox"/> Confuses similar-looking words (e.g., beard, bread) <input type="checkbox"/> Reverses letter order in words (e.g., saw/was) <input type="checkbox"/> Demonstrates poor memory for printed words <input type="checkbox"/> Has weak comprehension of ideas and themes | <ul style="list-style-type: none"> <input type="checkbox"/> Guesses at unfamiliar words rather than using word analysis skills <input type="checkbox"/> Reads slowly <input type="checkbox"/> Substitutes or leaves out words while reading <input type="checkbox"/> Has poor retention of new vocabulary <input type="checkbox"/> Dislikes and avoids reading or reads reluctantly |
|--|--|

Notes: _____

Written Language (Written Expression)

- | | |
|---|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> Age Appropriate <input type="checkbox"/> Writing is messy and incomplete, with many cross-outs and erasures <input type="checkbox"/> Uses uneven spacing between letters and words, and has trouble staying 'on the line' <input type="checkbox"/> Copies inaccurately (e.g., confuses similar-looking letters and numbers) | <ul style="list-style-type: none"> <input type="checkbox"/> Spells poorly and inconsistently (e.g., the same word appears differently other places in the same document) <input type="checkbox"/> Has difficulty proofreading and self-correcting work <input type="checkbox"/> Fails to develop ideas in writing so written work is incomplete and too brief |
|---|--|

Notes: _____

Math (Math Calculation, Math Problem Solving)

- ☐ Age Appropriate
- ☐ Has difficulty learning strategic counting principles (e.g., by 2, 5, 10, 100)
- ☐ Poorly aligns numbers resulting in computation errors
- ☐ Has difficulty estimating quantity (e.g., quantity, value)Has difficulty with comparisons (e.g., less than, greater than)
- ☐ Has trouble telling time
- ☐ Has trouble conceptualizing the passage of time
- ☐ Has difficulty counting rapidly or making calculations
- ☐ Has trouble interpreting graphs and chart

Notes: _____

Social Emotional (All Areas)

- ☐ Age Appropriate
- ☐ Does not pick up on other people's mood/feelings (e.g., may say the wrong things at the wrong time)
- ☐ May not detect or respond appropriately to teasing
- ☐ Has difficulty 'joining in' and maintaining positive social status in a peer group
- ☐ Has trouble knowing how to share/express feelings
- ☐ Has trouble 'getting to the point' (e.g., gets bogged down in details in conversation)
- ☐ Has difficulty dealing with group pressure, embarrassment and unexpected challenges

Notes: _____

Attention (All Areas)

- ☐ Age Appropriate
- ☐ Fails to pay close attention to details or makes careless mistakes in schoolwork or other activities
- ☐ Has difficulty sustaining attention in work tasks or play activities
- ☐ Has difficulty organizing tasks and activities
- ☐ Loses things consistently that are necessary for tasks/activities (e.g., toys, school assignments, pencils, books, or tools)
- ☐ Is easily distracted by outside influences
- ☐ Is forgetful in daily/routine activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- | | |
|--|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Grasps pencil awkwardly, resulting in poor handwriting |
| <input type="checkbox"/> Has limited success with games and activities that demand eye-hand coordination (e.g., piano lessons, basketball, baseball) | <input type="checkbox"/> Dislikes and avoids writing and drawing tasks |

Notes: _____

Other Notes or Observed Behavior

- | | |
|--|--|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Often loses things |
| <input type="checkbox"/> Confuses left and right | <input type="checkbox"/> Is slow to learn new games and master puzzles |
| <input type="checkbox"/> Finds it hard to judge speed and distance (e.g., hard to play certain games, drive a car) | <input type="checkbox"/> Has difficulty listening and taking notes at the same time |
| <input type="checkbox"/> Trouble reading charts and maps | <input type="checkbox"/> Has difficulty generalizing (applying) skills from one situation to another |
| <input type="checkbox"/> Is disorganized and poor at planning | |

Notes: _____

Behavioral Observation Checklist for Academic Areas Grades 9-12

Student:		Grade:	
Class/Teacher Name:		Date:	
Observer Name/Title:		Time:	

The primary function of this document is to ensure appropriate and relevant documentation of a student's performance within a specific educational domain and as compared to his/her peers. While all domains may not be addressed, the student should be observed during times when behaviors related to the area(s) of concern can be monitored.

In order to obtain a full and accurate picture of the student's performance, it may be necessary to observe the student more than once, in different settings, on different days, and at different times of the day. Multiple observation forms should be included in the evaluation documentation and considered by the Admissions and Release Committee (ARC).

Directions: First identify the area(s) of concern for the student. Behaviors that are aligned with each identified area(s) of concern should be the target of your observation. During the observation, place a check mark next to the behaviors that are observed within each domain which correlate with the noted areas of concern. Note, however, that these checklists are not exhaustive. In the notes section, write any additional observed behavior, including strengths, which may be relevant to the student's evaluation.

Check area(s) of concern	
___ Oral Expression	___ Written Expression
___ Basic Reading Skills	___ Reading Comprehension
___ Reading Fluency Skills	___ Listening Comprehension
___ Mathematics Problem Solving	___ Mathematics Calculation

Language (Oral Expression, Listening Comprehension, Other: _____)

- | | |
|--|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Age Appropriate <input type="checkbox"/> Has difficulty modulating voice (e.g., too soft, too loud) <input type="checkbox"/> Uses vague, imprecise language and has a limited vocabulary <input type="checkbox"/> Demonstrates slow and halting speech, using lots of fillers (e.g., uh, um, and, you know) <input type="checkbox"/> Uses poor grammar or misuses words in conversation | <ul style="list-style-type: none"> <input type="checkbox"/> Confuses words with others that sound similar <input type="checkbox"/> Inserts malapropisms ('slips of the tongue') into conversation (e.g., a rolling stone gathers no moths; he was a man of great statue) <input type="checkbox"/> Has difficulty understanding instructions or directions <input type="checkbox"/> Has difficulty with pragmatic skills (e.g., understands the relationship between speaker and listener, stays |
|--|---|

on topic, gauges the listener's degree of knowledge, makes inferences

based on a speaker's verbal and non-verbal cues)

Notes: _____

Reading (Basic Reading Skills, Reading Comprehension, Reading Fluency Skills)

- | | |
|--|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Reads slowly |
| <input type="checkbox"/> Frequently loses place while reading | <input type="checkbox"/> Guesses at unfamiliar words rather than using word analysis skills |
| <input type="checkbox"/> Confuses similar-looking words (e.g., beard, bread) | <input type="checkbox"/> Substitutes or leaves out words while reading |
| <input type="checkbox"/> Demonstrates poor memory for printed words | <input type="checkbox"/> Dislikes and avoids reading or reads reluctantly |
| <input type="checkbox"/> Has weak comprehension of ideas and themes | |

Notes: _____

Written Language (Written Expression)

- | | |
|---|---|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Spells poorly and inconsistently (e.g., the same word appears differently other places in the same document) |
| <input type="checkbox"/> Writing is messy and incomplete, with many cross-outs and erasures | <input type="checkbox"/> Has difficulty proofreading and self-correcting work |
| <input type="checkbox"/> Uses uneven spacing between letters and words, and has trouble staying 'on the line' | <input type="checkbox"/> Fails to develop ideas in writing so written work is incomplete and too brief |
| <input type="checkbox"/> Copies inaccurately (e.g., confuses similar-looking letters and numbers) | |

Notes: _____

Math (Math Calculation, Math Problem Solving)

- ☐ Age Appropriate
- ☐ Has difficulty learning strategic counting principles (e.g., by 2, 5, 10, 100)
- ☐ Poorly aligns numbers resulting in computation errors
- ☐ Has difficulty estimating quantity (e.g., quantity, value)
- ☐ Has difficulty with comparisons (e.g., less than, greater than)
- ☐ Has trouble telling time
- ☐ Has trouble conceptualizing the passage of time
- ☐ Has difficulty counting rapidly or making calculations
- ☐ Has trouble interpreting graphs and charts

Notes: _____

Social Emotional (All Areas)

- ☐ Age Appropriate
- ☐ Does not pick up on other people's mood/feelings (e.g., may say the wrong things at the wrong time)
- ☐ May not detect or respond appropriately to teasing
- ☐ Has difficulty dealing with group pressure, embarrassment and unexpected situations
- ☐ Has difficulty 'joining in' and maintaining positive social status in a peer group
- ☐ Has trouble 'getting to the point' (e.g., gets bogged down in details in conversation)

Notes: _____

Attention (All Areas)

- ☐ Age Appropriate
- ☐ Fails to pay close attention to details or makes careless mistakes in schoolwork or other activities
- ☐ Has difficulty sustaining attention in work tasks or play activities
- ☐ Has difficulty organizing tasks and activities
- ☐ Loses things consistently that are necessary for tasks/activities (e.g., toys, school assignments, pencils, books, or tools)
- ☐ Is easily distracted by outside influences
- ☐ Is forgetful in daily/routine activities

Notes: _____

Gross and Fine Motor Skills (All Areas)

- ☐ Age Appropriate
- ☐ Has limited success with games and activities that demand eye-hand coordination (e.g., piano lessons, basketball, baseball)
- ☐ Grasps pencil awkwardly, resulting in poor handwriting

Notes: _____

Other Notes or Observed Behavior

- | | |
|--|--|
| <input type="checkbox"/> Age Appropriate | <input type="checkbox"/> Often loses things |
| <input type="checkbox"/> Confuses left and right | <input type="checkbox"/> Is slow to learn new games and master puzzles |
| <input type="checkbox"/> Finds it hard to judge speed and distance (e.g., hard to play certain games, drive a car) | <input type="checkbox"/> Has difficulty listening and taking notes at the same time |
| <input type="checkbox"/> Trouble reading charts and maps | <input type="checkbox"/> Has difficulty generalizing (applying) skills from one situation to another |
| <input type="checkbox"/> Is disorganized and poor at planning | |

Notes: _____

Behavioral Observation Checklist for Behavioral Concerns

Student:		Grade:	
Class/Teacher Name:		Date:	
Observer Name/Title:		Time:	

Target behavior of concern identified in ARC evaluation plan: _____

Physical environment: (Check all that apply and note the amount of time spent in each location)

- | | | |
|--|--|---------------------------------------|
| <input type="checkbox"/> At desk | <input type="checkbox"/> Seated on floor | <input type="checkbox"/> Cafeteria |
| <input type="checkbox"/> At listening center | with group | <input type="checkbox"/> Gym |
| <input type="checkbox"/> At learning center | <input type="checkbox"/> At chalkboard | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> At table | <input type="checkbox"/> Playground | |

Task (defined by teacher) for the student to perform: _____

Observation Method to be Used:

- ☐ Method 1: Interval Recording of Targeted Behavior or Academic Engaged Time (on-task)
☐ Method 2: Frequency/Duration of Targeted Behavior
☐ Method 3: Anecdotal Observation

Method 1: Interval Recording of Targeted Behavior or Academic Engaged Time (on-task)

Interval Length:	15 Seconds	20 Seconds	30 Seconds
Observation Target:	Academic Engaged Time (on-task)	Target Behavior (Listed Above)	

Mark “+” when student or peer is on-task or when the targeted behavior occurs.
 Mark “-” when student or peer is off-task or when the targeted behavior does not occur.

Student									
Peer									

Student									
Peer									

Percentage time on-task / occurrences of targeted behavior for **student**: (“+” divided by total intervals)

Percentage time on-task / occurrences of targeted behavior for **peer**: (“+” divided by total intervals)

In the teacher/supervisor/caregiver’s judgment, was the student’s behavior typical for him/her?

Observer Comments: _____

Time Period Observed: _____ Minutes _____ Seconds

Frequency/Duration for **student**: _____ Frequency/Duration for **peer**: _____

Observer _____

Comments: _____

Time Period Observed: _____ Minutes

The following individuals participated in review sessions and provided valuable feedback on the document. The Kentucky Department of Education would like to thank them for their time and valuable contributions.

Directors of Special Education

Heather Alger	Jenny Miller-Horn
Tracy Creech	Karen Nasser
Jason Coguer	Christy Nofsinger
Rhonda Colvin	Lisa Swanson
Glenna Cummins	Cheryl Pile
Michelle Gadberry	Terry Ray
Patty Grable	Alisha Richardson
Christina Grace	Jason Simpson
Laura Hellmann	Wayne Sizemore
Dena James	Shelly Weatherford
Debbie King	Brad Yearsley
Barry Lee	

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