

# Wisconsin Specific Learning Disabilities (SLD) Rule

*Excerpts from "A Technical Guide for Determining the Eligibility of Students with Specific Learning Disabilities" Developed by Scott A. Brown, Education Consultant, WI DPI, November 2012*

## **Parentally Placed Private School Students**

Local Education Agencies (LEAs) must identify, locate and evaluate all, students suspected of having a disability irrespective of where the student is receiving instruction (Wis. Stats §115.777). Public schools lack the authority to require private schools to provide intensive intervention or produce progress monitoring data that meets the standards of the SLD rule. Districts may not refuse to accept a written referral because a student has not received a particular type or amount of instruction or has not received intensive intervention prior to the referral. (Rule 61-62 and Initial Guidance Q & A, 60)

Thus, even when all schools in the district have begun using progress monitoring data from intensive intervention to determine insufficient progress, an IEP team may continue to use significant discrepancy to determine insufficient progress for parentally placed private school students. As with any special education evaluation, an LEA must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the referred student, including information provided by the parent. (Initial Guidance Q & A, 58)

All eligibility criteria apply, including the requirement to consider the exclusionary factor of "appropriate general education instruction." The IEP team may not identify a student as having specific learning disability if it determines the findings of inadequate classroom achievement and insufficient progress were due to a lack of appropriate instruction in the area(s) of concern under consideration. The IEP team may obtain information from parents and teachers about the curricula used and the student's progress with various teaching strategies when considering whether the student received appropriate general education instruction. (Initial Guidance Q & A, 59)

## ***History of the Rule***

At the federal level, the focus of research in SLD identification has shifted from the use of discrepancy to the collection and analysis of direct evidence from instruction and intensive intervention.

With the 2006 changes to IDEA 2004, states can no longer require the use of significant discrepancy between intellectual ability and achievement as part of SLD determination. Another change is that states must permit the use of a process based on the student's response to scientific, research-based intervention. These changes required Wisconsin DPI to revise their SLD rule. Wisconsin DPI analyzed the relationship of Response to Intervention (RtI), Coordinated Early Intervening Services (CEIS) and SLD. Wisconsin DPI's revised SLD rule was finalized in September 2010. The revised rule includes a three year transition period for ending the use of "significant discrepancy", which will be December 1, 2013.

## ***Overview of the Rule***

According to the Wisconsin Rule, the impairment of Special Learning Disabilities (SLD) means the student demonstrates *inadequate classroom achievement AND insufficient progress*. These two criteria are considered through the lens of *exclusionary factors*. The IEP team must consider multiple sources of data, including data from *systematic observation and formal and informal evaluation*. The rule also includes *documentation requirements*. (Rule 3)

## **Components of the Rule**

**Special Learning Disability (SLD)** - Specific Learning Disability is "a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, motor disabilities, cognitive disabilities, emotional disturbance, cultural factors, environmental or economic disadvantage." (PI n.36(6)(a))

Students with non-educational diagnoses such as those listed in the definition may be considered for eligibility under IDEA but must meet Wisconsin eligibility criteria for the "impairment" of SLD and demonstrate a "need for special education" as a result of that impairment prior to being identified as a student with a disability. (Rule 2-3)

**Inadequate Classroom Achievement** - After intensive intervention, the student does not achieve adequately for his or her age, or meet state-approved grade level standards in one or more of the *eight achievement areas* of SLD when provided with age-appropriate learning experiences and instruction. (Rule 4)

**Eight Achievement Areas** - (Rule 28)

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skill
- Reading fluency
- Reading comprehension
- Mathematics calculation
- Mathematics problem solving

**Assessments** - Assessments used to measure classroom achievement must be individually administered, norm-referenced, valid, reliable, and diagnostic of impairment in one or more of the eight potential areas of SLD.

- Norm referenced is an assessment that judges and ranks student performance against the performance of peers.
- Valid is an assessment that measures what it is intended to measure.
- Reliable is an assessment that is reliable consistently achieves the same results with the same or a similar cohort of children.
- Diagnostic of impairment is an assessment which has a sufficient number of items to identify strengths and weaknesses in a student's current knowledge and skills for the purpose of identifying a suitable program of learning. (Rule 29)

To determine whether the referred student received appropriate instruction in the area of concern, the IEP team reviews both student-specific and grade level information for all students in the same grade as the student being evaluated. Examples of specific data the IEP team may review include:

- Evidence that explicit, systematic universal (core) instruction with differentiation was provided regularly in general education in the area of concern for the referred student,
- Evidence that universal (core) instruction was delivered according to its design and methodology,
- Evidence that instruction was provided by qualified personnel,
- Data indicating that universal (core) instruction was sufficiently rigorous to assist the majority of students, including a comparable peer group for culturally and linguistically diverse students, in achieving grade level standards, and
- Data that the student attended school regularly for instruction.

Grade level information may also be used to verify appropriate instruction in the area of student concern. Performance data for all students in the same grade level as the referred student may help establish that the core instruction in the area of student concern. Such data may include:

- State assessment results,
- District-wide assessments,
- Grade level common assessments. (Rule 23-24)

**Insufficient Progress** - Insufficient progress is defined as not making "sufficient progress to meet age or state-approved grade-level standards in one or more of the eight areas of potential specific learning disabilities under subd. 1 when using a process based on the child's response to *intensive, scientific research-based or evidence-based interventions*. (P111.36(6) (c) 2.b)

**Intensive Intervention** - Intervention is defined as "the systematic use of a technique, program or practice designed to improve learning or performance in specific areas of pupil need." (PI n.02(6t). Intensive Intervention is further defined to mean an intervention that:

- Is used with individual or small groups of students,
- Is focused on single or small numbers of discrete skills,
- Provides substantial numbers of instructional minutes in addition to those provided to all pupils,
- Is culturally appropriate, and
- Is implemented consistent with its design, and closely aligned to student need. (PI n.02(6m) and P111.36(6)^4)

The IEP team determines if the standards for an intensive intervention are met. A general education

paraprofessional (or volunteer) may support, reinforce or follow up on instruction provided by and under the supervision of an appropriate licensed general education teacher. (Rule 27)

Two interventions meeting the standard as being *scientific research-based* or *evidence-based* must be implemented for each area of concern. These two interventions must be implemented with *adequate fidelity*. The IEP team analyzes *progress monitoring data* (which is collected weekly using probes) to determine whether or not the student's response to intensive intervention was sufficient. (Rule 37)

**Scientific research-based intervention** as defined in 20 U.S.C 7801 (37), means:

- Employs systematic, empirical methods that draw on observation or experiment,
- Involved rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn,
- Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators,
- Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference to random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls,
- Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication, or at a minimum, offer the opportunity to build systematically on their findings, and
- Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective and scientific review. (Rule 38)

Examples of scientific research-based interventions include: Accelerated Math, Accelerated Reader, Corrective Reading, Early Intervention in Reading, Excel Math, Odyssey Math, Reading Recovery and Saxon Math. Other examples can be found using the Wisconsin Intensive Intervention Selection Tool found on the Wisconsin RtI Center website - [www.wirticenter.com/intervention2/](http://www.wirticenter.com/intervention2/)

**Evidence-based intervention** - means scientific research-based interventions with substantial evidence of their effectiveness through multiple outcome evaluations. (PI 11.02 (i)(4e) (Rule 38)

**Adequate Fidelity** - Intensive interventions are provided in a manner highly consistent with their design and for at least 80% of the recommended number of weeks, sessions, and minutes per session. (P111.02(1)) (Rule 39)

**Progress Monitoring Data** - Progress monitoring is "a scientifically based practice to assess pupil response to interventions." (PI 11.02 (10)) It requires the use of scientifically based tools, such as *probes*, to measure progress. To establish a data collection process: establish baseline, begin the intervention and collect weekly or more frequent progress monitoring data, and use the baseline and progress monitoring data collected at least weekly to analyze progress. (Rule 40-41)

Schools may need to consider other data sources if it is the case that reliable and valid progress data cannot be collected because of the absence of intensive, scientific research-based or evidence-based intervention or scientifically-based progress monitoring tools for an area of concern appropriate for the student's grade. In such cases IEP teams will consider and document *empirical evidence* such as:

- Formal and informal testing,
- Portfolios,
- Grading rubrics,
- District developed formative grade level assessments,
- Unit assessments, and
- Criterion-based assessments and statewide or district assessments. (Rule 43)

Extensive information on progress monitoring tools are available at [www.wisconsinRtIcenter.org/educatprs/Rtj-for-my-school/tools.html](http://www.wisconsinRtIcenter.org/educatprs/Rtj-for-my-school/tools.html).

**Probes** - Probes are "brief, direct measures of specific academic skills, with multiple equal or nearly equal forms, that are sensitive to small changes in student performance and that provide reliable and valid measures of pupil performance during intervention." (PI 11.02(9)) Locally developed progress monitoring tools are not likely to meet the required standard. The criteria are:

- Reliable and valid,

- Quick and way to use,
- Sensitive to small increments of student improvement,
- Available with multiple alternate forms, and
- Evidence-based.

One type of probe is a *curriculum based measurement (CBM)*. Some examples of CBMs are DIBELS, EasyCBM, SuperKids Advanced Computation Worksheets, AIMSweb, EdCheckup, and STEEP. Other CBMs can be located at [vmw,intelj^entioncentral.org](http://vmw.intelj^entioncentral.org) or the WI DPI website. (Rule 40-41)

**Exclusionary Factors** - inadequate classroom achievement and insufficient progress cannot be primarily due to...

- Other impairments,
- Environmental, cultural or economic factors,
- Limited English proficiency, or
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- Lack of appropriate instruction in any of the eight areas of achievement being considered.

For a student to be found eligible as having SLD, other impairments such as sensory and motor impairments, other health impairments and emotional behavioral disabilities, may not be the primary reason for the finding of inadequate classroom achievement or insufficient progress. A student who has been identified with a Cognitive Disability cannot also be identified with a SLD. (Rule 22)

**Systematic Observation** - Systematic observation is a method of measuring classroom behaviors related to a student's learning from direct observation in a natural setting. It is planned in advance, data is collected during the observation, and the results are analyzed and discussed by the IEP team. The observer must be someone other than the person who is delivering the intervention. Two observations are required for a first time evaluation.

1. During routine classroom instruction in each area of concern being evaluated.
2. During intensive intervention. (Rule 51)

**Formal Data** - Sources of formal data include:

- Standardized achievement tests,
- Individually administered norm-referenced tests,
- Data from intensive intervention, and
- Classroom assessment data linked to standards. (Rule 6)

**Informal Data** - Sources of informal data are:

- Student's performance during classroom instruction, and
- Student work products (Rule 6)

**Documentation Requirements** - The IEP team is required to consider and document:

- Whether the student meets the impairment criteria for specific learning disability, and the basis for the decision.
- The relevant behavior, if any, noted during the required systematic observation and the relationship of the observed behavior to academic functioning.
- Educationally relevant medical findings, if any,
- The signature of each IEP team member indicating agreement with the determination of disability or submission of a separate statement.
- If found to have the impairment of SLD, documentation of the need for special education. (Rule 6-7)

**Timeline** - When a written referral is received the parent is notified in writing of the referral. Within 15 business days after receiving a referral, the IEP team must complete a review of existing evaluation data to determine if additional data is needed. (Rule 9) Parent must be notified of the results of that review. The evaluation must be completed and an eligibility decision made within 60 calendar days of receiving parental consent for evaluation, or sending the notice that no additional assessment is needed. A special education referral cannot be denied or delayed to allow a school to implement, or finish implementing, an intervention unless there is mutual agreement with the parents to extend the timeline. (Rule 10) The IEP team must develop an IEP within 30 calendar days after the eligibility determination is made. (Rule 15)

### **References**

- Initial Guidance Implementing Wisconsin Criteria for Specific Learning Disability (SLD) Frequently Asked Questions about Making SLD Eligibility Decisions.  
Wisconsin DPI, September 2012. <http://i/sped.dpi.wLgov/files/sped/pdf/sld-faq.pdf>.
- Programs for Students with Specific Learning Disabilities, Wisconsin DPI Website, [http://i/sped.dp.LwLgov/sped\\_Id](http://i/sped.dp.LwLgov/sped_Id).
- Wisconsin's Specific Learning Disabilities (SLD) Rule: A Technical Guide for Determining the Eligibility of Students with Specific Learning Disabilities. Scott A. Brown, Education Consultant, Wisconsin DPI, November 2012. [http://i/sped\\_.dpi.wi.gov/files/sped/pdf/sld-guide.pdf](http://i/sped_.dpi.wi.gov/files/sped/pdf/sld-guide.pdf).