

# Evaluation

## SPECIFIC LEARNING DISABILITY

September 15, 2020

Model operating procedures created by



Student Solutions

and

Thompson  
& Horton<sub>LLP</sub>

ATTORNEYS | COUNSELORS

**Disclaimer:** This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



Specific Learning Disability

**CONTENTS**

SPECIFIC LEARNING DISABILITY ..... 1

    What is Required ..... 1

        Eligibility Criteria ..... 1

        Evaluation ..... 2

        Determinant Factors ..... 2

        Observation ..... 2

        Participation in the Rtl Process/Rtl Model ..... 3

        Pattern of Strengths and Weaknesses Model..... 3

        Exclusionary Factors ..... 3

        Additional Documentation of SLD ..... 4

    Additional Procedures ..... 4

    Evidence of Implementation..... 5

    Resources ..... 6

CITATIONS ..... 6



## **SPECIFIC LEARNING DISABILITY**

### **What is Required**

A student must be assessed under the IDEA in all areas of suspected disability. Specific Learning Disability or “SLD” is one of the areas of eligible disabilities under the IDEA.

SLD is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. SLD includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. SLD does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of an intellectual disability, or emotional disturbance, or of environmental, cultural, or economic disadvantage.

### **Eligibility Criteria**

A student with an SLD impairment is one:

- Who has been determined through a variety of assessment tools and strategies to meet the criteria for SLD;
- Who does not achieve adequately for the student’s age or to meet state-approved grade-level standards, in one of more of the following areas: oral expression, written expression, listening comprehension, basic reading skills, reading fluency skills, reading comprehension, mathematics calculations or problem solving;
- Whose lack of adequate achievement is indicated by performance on multiple measures such as in-class tests, grade average over time, norm- or criterion-referenced tests, statewide assessments, or a process based on the student’s response to evidence-based intervention;
- Who does not make sufficient progress under the additional criteria of the RtI model or the student meets the additional criteria under the Pattern of Strengths and Weaknesses Model;
- Whose lack of adequate performance is not primarily the result of exclusionary factors referenced below; and
- Whose lack of adequate achievement is not due to Determinant Factors listed below.



## Evaluation

To assess for SLD, the District or Campus Assessment Personnel will comply with the general evaluation procedures. See [EVALUATION PROCEDURES]. In addition, the group of qualified professionals that collects or reviews evaluation data in connection with the determination of the student's disability based on an SLD will include the student's general education teacher, or if the student does not have a general education teacher, a general education classroom teacher qualified to teach children of this age—or if the student is less than school age, an individual qualified by the Texas Education Agency to teach children of this age. The group must also include at least one person qualified to conduct individual diagnostic examinations of children (i.e., a licensed specialist in school psychology, a speech-language pathologist, or a remedial reading teacher).

## Determinant Factors

To ensure the student's underachievement is not due to lack of appropriate instruction in reading or math, as part the evaluation, the District or Campus Assessment Personnel will consider data that demonstrates the student was provided appropriate instruction in reading and/or math in the general education settings delivered by qualified personnel. The District or Campus Assessment Personnel must also consider data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of progress of the student during instruction, which was provided to the parent, as well as formal evaluation scores (IQ, achievement, cognitive functioning/processing, etc.). The data-based documentation may include, but is not limited to, response to intervention (RtI) progress monitoring results, in-class tests on grade-level curriculum, or other regularly administered assessments. Assessment is administered at reasonable intervals if administered consistent with the assessment requirements of the student's specific instructional program.

## Observation

In determining whether a student has an SLD, District or Campus Assessment Personnel must either use information from an observation in routine classroom instruction and monitoring prior to the referral or have at least one member of the Assessment team conduct an observation of the student's academic performance in the regular classroom as part of the evaluation. For the student less than school age or out of school, District or Campus Assessment Personnel must observe the student in an environment appropriate for a student of that age.

The documentation of the determination of an SLD eligibility must contain a statement of the relevant behavior, if any, noted during the observation of the student, and the relationship of that behavior to the student's academic functioning.



## Participation in the Rtl Process/Rtl Model

If the student suspected of having a SLD participated in a process that assesses the student's response to evidence-based intervention (Rtl), the documentation of the determination of eligibility must contain a statement of:

- The instructional strategies used and the child-centered data collected; and
- The documentation that the parent of the student was notified about the state's policies regarding the amount and nature of performance data of the student that would be collected, and the general education services that would be provided; strategies for increasing the student's rate of learning; and the parent's right to request an evaluation.

The Rtl model may be used to determine that a student meets eligibility criteria for SLD. When applying this model, a finding that the student is eligible under SLD must include a determination that the student did not make sufficient progress to meet age or state-approved grade-level standards when provided Rtl. Lack of sufficient progress is indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessment of achievement at reasonable intervals, reflecting progress of the student during classroom instruction.

## Pattern of Strengths and Weaknesses Model

The pattern of strengths and weaknesses model may also be used to determine that a student meets eligibility criteria for SLD. When applying the pattern of strengths and weaknesses model to find the student is eligible for an SLD, a determination must be made that the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both. A determination must also be made that the pattern is relative to age, state-approved grade-level standards, or intellectual development. In addition, a determination must be made that the pattern is evident as indicated by significant variance among specific areas of cognitive function such as working memory and verbal comprehension, or between specific areas of cognitive function and academic achievement. Finally, a determination must be made that the pattern is relevant to the identification of a SLD using appropriate assessments.

## Exclusionary Factors

District or Campus Assessment Personnel must determine that its findings are not primarily the result of a visual, hearing, or motor disability; an intellectual disability; an emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency. The documentation of and SLD eligibility must also explain the effects of any of these exclusionary factors on the student's achievement level.



## Specific Learning Disability

### **Additional Documentation of SLD**

The documentation of the determination of eligibility must contain a statement of:

- Whether the student has an SLD;
- The basis for making the determination (must include an assurance that the determination was made in accordance with proper evaluation procedures); and
- The educationally relevant medical findings, if any.

Each member of the group of qualified professionals must certify in writing whether the report reflects the member's conclusion, and if not, a separate statement presenting the member's conclusion. See [EVALUATION PROCEDURES].

### **Additional Procedures**

A referral for a specific learning disability evaluation may be indicated when the Campus Personnel and/or parent of the student suspects that learning issues are a result of a deficit in the basic psychological processes that manifests itself in the imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. Common characteristics that may suggest SLD include academic challenges (particularly in reading, writing, and mathematics), difficulty paying attention, poor motor skills, processing deficits, oral language deficits, cognitive functioning deficits, and social skills deficits.

In determining the presence of a specific learning disability, the ARD Committee should consider and use data from campus-level interventions that are part of the RtI process. The ARD Committee should also use data from individually administered, formal intellectual and academic achievement tests to determine if a pattern of strengths and weaknesses exists. The data from these sources are combined with teacher information, parent information, grades, state assessment results, attendance, and educational history as a basis for the ARD Committee's determination of the presence of a SLD. Should a student demonstrate reasonable progress in response to the RtI process, the student should not be identified as SLD.

District or Campus Assessment Personnel may consider significant discrepancies between intellectual ability and achievement—but the discrepancy may not be the sole factor – in determining whether the student has a SLD. Any consideration of a discrepancy should utilize a standard regression procedure and not a sole difference procedure.



## Specific Learning Disability

A student's failure to pass the statewide assessment may not automatically result in a referral to determine if the student has a SLD and does not necessarily indicate that the student has a SLD. The determination of a learning disability will include a variety of information sources and measures, and the District will not base the determination on a single measure.

When evaluating a student identified as an English Language Learner being evaluated for a SLD, District and Campus Assessment Personnel should use a cross-battery approach. The Assessment Personnel should consider that using a translator or interpreter to administer an evaluation for SLD may alter the validity of the results and should therefore be used with caution.

It is important to address the unique educational needs of children with specific learning disabilities resulting from dyslexia, dyscalculia, and dysgraphia during ARD Committee meetings. If a student's dyslexia, dyscalculia, or dysgraphia is the condition that forms the basis for the determination that a student has a SLD, the ARD Committee should consider referencing or using dyslexia, dyscalculia, or dysgraphia in the student's IEP, particularly where the ARD Committee determines that Service Providers would need to know about the condition underlying the student's disability. See [DYSLEXIA].

If the student does not meet the eligibility criteria for SLD, or any other eligibility criteria under the IDEA, or does not need special education or related services due to his/her disability, Campus Personnel should refer the student to the Campus or District Personnel responsible for compliance with Section 504 to determine whether the student is eligible for accommodations or services as a student with a disability under Section 504.

## **Evidence of Implementation**

- RtI Progress Monitoring
- Documentation of Interventions
- Section 504 Documentation, if any
- Standardized Assessment Information
- Data of Appropriate Instruction Provided
- Notice of Evaluation
- Consent for Evaluation
- Referral Information
- Assessment Plan
- Documentation of Observation(s)
- Input from General Education Teacher
- Eligibility Statement
- FIE



## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Specific Learning Disability Framework - Region 18](#)

[Response to Intervention and Learning Disability Eligibility- Texas Education Agency](#)

[Response to Intervention - Texas Education Agency](#)

[Learning Disability - SPEDTEX](#)

[Learning Disabilities Association of America](#)

[National Center for Learning Disability](#)

[Texas Center for Learning Disabilities](#)

[OSEP Letter to Massanari \(Sept. 24, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Aug. 15, 2007\) - U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Oct. 23, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Unnerstall \(Apr. 25, 2016\) - U.S. Department of Education](#)

[OSEP Letter to Delisle \(Dec. 20, 2013\) - U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Mar. 6, 2007\) – U.S. Department of Education](#)

[OSEP Letter to Zirkel \(Apr. 8, 2008\) - U.S. Department of Education](#)

## **CITATIONS**

20 U.S.C. 1021, 7801(20); 34 CFR 300.8(c), 300.304(c), 300.308(a)-(b), 300.309(a)-(b), 300.310(a)-(c), 300.311(a); 19 TAC 89.1040(c)