Illinois State Board of Education
Special Education Department

Special Education Eligibility and Entitlement within a Response to Intervention Framework: Frequently Asked Questions

This document is intended to provide non-regulatory guidance on the subject matter listed above. For specific questions, please contact the Illinois State Board of Education.

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Special Education Eligibility and Entitlement within a Response to Intervention Framework: Frequently Asked Questions

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Introduction

This document is designed as a supplement and companion tool for the Illinois State Board of Education (ISBE) "[Illinois Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention (RTI) Framework: A Guidance Document](#)." The guidance document is intended to provide districts with a framework for collecting and using RTI data to support special education eligibility decision-making; this Frequently Asked Questions (FAQ) document provides additional detail and examples. It is important to note that the FAQ is intended to provide technical assistance and should not be a substitute for appropriate professional and/or legal advice on specific matters.

The questions contained in the FAQ were developed, in part, on questions and issues raised by stakeholder groups and individuals during the review of the initial draft of the ISBE guidance document and the review of factors and considerations for English Learners subsequently added to the document. The responses to the questions draw on current research and effective practices in implementing a three-tiered model of instruction, assessment, and intervention, as well as the federal [Individuals with Disabilities Education Act (IDEA) regulations](#) and ISBE's [rules governing special education](#), also referred to as Part 226, and [transitional bilingual education](#).

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

A. Response to Intervention versus Multi-Tiered System of Support

A-1.   What is RTI? What is MTSS? How are they the same/different?

Every Student Succeeds Act was passed in 2015. It allowed districts to use funding to support a Multi-tiered System of Supports (MTSS).   When this new legislation was passed, there was confusion regarding which process to use. Response to Intervention (RTI) has been thought of as a process specific to identifying students with disabilities due to its mention in IDEA, whereas MTSS is often seen as a broader approach to meeting the academic, behavior, and social-emotional needs of students. The federal Office of Special Education and Rehabilitative Services defined RTI as a specific example of an MTSS in a Dear Colleague letter dated October 23, 2015. Both processes are data-based and use a multi-tiered approach to meet the needs of students. Below is a graphic produced by the CEEDAR Center at the University of Florida that provides an illustration of how RTI fits under the MTSS model. As illustrated in the graphic, MTSS provides a global approach to support all students, whereas RTI provides support to students with academic difficulties that might result in the need for special education services under the specific learning disability category. Although RTI is used to make special education eligibility decisions, it is not solely a special education process.
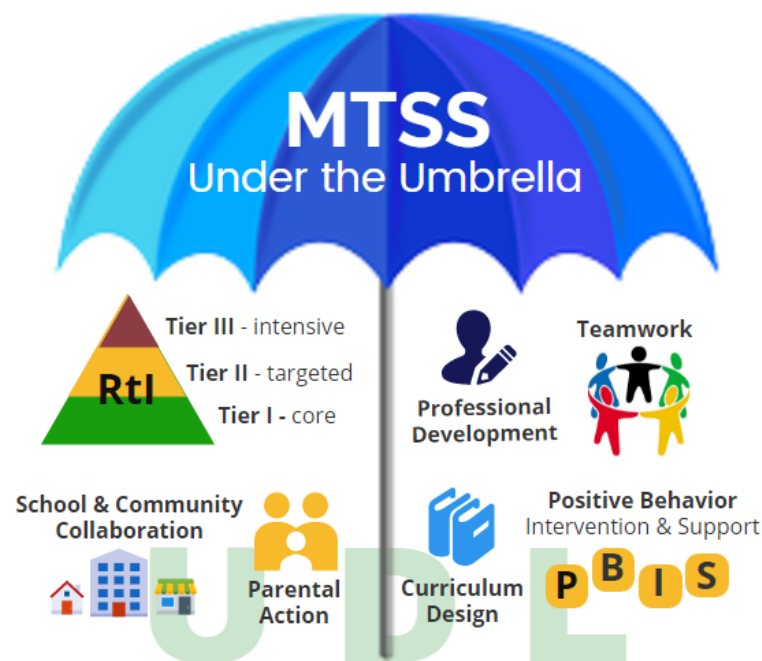
A-2.   What do Tier 1, Tier 2, and Tier 3 supports include within an RTI framework?

As illustrated in the graphic on the previous page, supports are provided in tiers.

- Tier 1 is defined as whole class instruction utilizing high quality, universally designed core instruction that provides meaningful environmental supports. Core instruction should be of high quality and culturally and linguistically responsive.
- Tier 2 is defined as small group supplemental instruction utilizing evidence-based interventions to meet academic needs. Supplemental instruction should be of high quality and culturally and linguistically responsive.
- Tier 3 is defined as intensive instruction that is individualized and data-based. Tier 3, while focused on individual student needs, can be implemented in small groups or individually, utilizing evidence-based interventions that are data-driven and are provided in high dosages with high intensity to meet the academic needs of students.

Tier 1 instruction must be implemented using scientific, research-based curriculum and strategies, such as a Universal Design for Learning approach. This instruction is the foundation for all systems of support and where universal screening data is gathered from reliable and valid assessment tools to identify students in need of support. Instruction at this level should meet the academic needs of 80 percent of the students. Tier 2 and Tier 3 interventions should supplement not supplant Tier 1 instruction. In addition to this, a student must have Tier 1 and Tier 2 supports in place before implementing Tier 3 intensive interventions. Instructional practices at all levels of support should include evidence-based practices that are implemented with fidelity and include considerations for cultural and linguistic responsiveness, according to the Center on Multi-Tiered Systems of Support (formerly known as National Center on Response to Intervention).

Teaming Structures Across the Tiers

	Schoolwide (Core/Tier 1)	Targeted (Tier 2)	Intensive (Tier 3)	Individualized Education Program (IEP) Team
Key Questions	Is the core programming meeting the academic or behavioral needs of most students (e.g., 80% of students)?	Are the targeted supports meeting the academic or behavioral needs of students receiving targeted interventions?	Are the intensive supports meeting the academic or behavioral needs of students with intensive needs?	Are the special education supports and services appropriate and meeting academic or behavioral needs of students with IEPs?
Relevance to Data-Based Individualization	X	X	✔	✔
Team Membership	School/building leadership team, with subcommittees focused on academics and behavior (as needed)	Grade-level or problem-solving teams with representatives from school leadership team subcommittees (as needed)	Student-level team with representatives from problem-solving teams, and personnel with content and data analysis expertise	Similar to intensive support team, with additional members required by IDEA for a multidisciplinary team
Roles and Responsibilities	Develop plan, support implementation, and monitor the effectiveness of Core/Tier 1 programming	Develop plan, support implementation, and monitor the effectiveness of Targeted/Tier 2 programming	Develop plan, support implementation, and monitor the effectiveness of Intensive/Tier 3 programming	Determine special education eligibility, develop an IEP aligned with an intensive support plan, monitor the effectiveness of Intensive programming, and evaluate progress toward IEP goals
Data Sources	Benchmark/universal screening assessments, district assessments, state assessments, discipline referrals	Benchmark/universal screening assessments, progress monitoring measures, behavior "point sheets," discipline referrals	Academic diagnostic assessments, functional behavior assessment, individual student data across academics and behavior (e.g., work samples, anecdotal or observational data)	Use data from Tiers 1–3 with requirements for special education eligibility and programming (e.g., psychoeducational assessments, speech/language assessments, medical assessments and diagnoses)
Frequency of Data Collection/Data Review	Academics and behavior: Three times per year	Academics: One or more times per month

Behavior: One or more times per week | Academics: One or more times per week

Behavior: One or more times per day | Progress may use data collected in various tiers of support or may be specific to IEP goals; IEP must be reviewed at least annually |

The above graphic from the National Center on Intensive Intervention (NCII) at American Institutes for Research provides a visual representation of how to implement support to students in an MTSS framework.

A-3.   Can students receive support for academic and behavioral difficulties concurrently?

Yes. A student who is exhibiting academic and behavioral needs may receive support from multiple systems of support. As previously stated, RTI is a multi-tiered system of support used to identify students who have academic difficulties that could potentially lead them to special education services to address a specific learning disability. This framework is an example of MTSS. Within the MTSS framework, behavioral interventions may also be utilized through programs, such as positive behavior interventions and supports, as illustrated in the MTSS umbrella graphic found in question A-1 on page 5.   Decisions about the levels of support should be individualized and based on data that is collected. It can be difficult for teams to identify if the student is exhibiting behavioral concerns due to academic weaknesses or vice versa. By looking at the student's data and providing support in both areas, the team can make educated decisions about the supports the student requires to be successful.

B. Essential Components of RTI Data-Based Decision-Making

B-1.   What is a universal screening tool and what are scientific, research-based screening tools?

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

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

"The National Center on Intensive Intervention at American Institutes for Research has established a standard review process to evaluate the scientific rigor of academic and behavior assessment tools and interventions that can be used as part of a data-based individualization program for educating students with disabilities who require intensive intervention due to persistent learning and behavior problems.

Reviews are conducted by Technical Review Committees (TRCs) made up of national content and methodological experts using rigorous evidence standards. TRCs, in conjunction with NCII staff and advisers, are responsible for the development of review materials, including establishing technical standards and rating rubrics."

-National Center on Intensive Intervention Tool Charts Review Process

"The academic screening tools chart is composed of evidence-based screening tools that can be used to identify students at risk for poor academic outcomes, including students who require intensive intervention. The chart displays ratings on technical rigor in the areas of classification accuracy, reliability, and validity, and it provides information on the representativeness of the sample, whether a bias analysis was conducted, and key usability features."

-National Center on Intensive Intervention Tool Charts User Guide

B-2.   How can the universal screening data be used to make decisions about placement in tiered interventions?

Universal screening data is just one piece of evidence to be utilized to identify placement into tiered interventions. Universal screening data is gathered to ensure that not only is the core curriculum meeting the needs for 80 percent or more of the students receiving instruction, but the data also serve to identify students at risk for academic difficulties. This data is analyzed in conjunction with classroom-based, school-based, and district-level assessment data to identify if a student needs intervention for academic deficits above what is being provided at Tier 1. If 80 percent of the student's academic needs are being met by the Tier 1 supports, those who fall under the cut score could be at risk for academic failure and could potentially benefit from placement in Tier 2 or Tier 3 supports for intervention. Decisions regarding placement into interventions should be made through a team-based approach and should take into consideration multiple data sources.

B-3.   How long must an intervention be implemented?

In general, decisions about the duration, type, and number of intervention sessions must be based on an individual student's performance data; therefore, there is no prescribed length of time for intervention implementation. The decision regarding how long an intervention needs to be in place should be driven by data and made by the problem-solving team.   Accordingly, it is important that the team create an intervention plan to consider each individual student's needs and use a data-based individualized approach (e.g., utilizing assessment data, evidence-based interventions, and progress monitoring data) to determine the length of time to implement interventions and plan revisions to interventions when progress is not being adequately made based on the student's individualized goal. A student who is not making adequate progress in the intervention being provided does not necessarily suggest that the student needs special education services. The data could simply suggest that the intervention is not correct to fit the student's academic needs and that an adjustment needs to be made to better fit such needs. The following links provide tools to assist team members in making decisions about adjusting interventions.

- [Intensive Intervention Meeting Facilitator's Guide](#)
- [Intensive Intervention Meeting Participant Guide](#)
- [Clarifying Questions to Create a Hypothesis to Guide Intervention Changes: Question Bank](#)

B-4.   What information is available to learn more about a process to use data to tailor the provision of interventions?

"[Data-Based Individualization (DBI)](#) is a research-based process for individualizing and intensifying interventions" for "students with severe and persistent learning and behavioral needs," according to NCII. The process integrates evidence-based intervention, assessment, and strategies using five interactive steps:
   1. *Validated Intervention Program: The Foundation*
      The DBI process builds on an evidence-based and standardized intervention delivered with fidelity.

a. Does the intervention target the student's academic and behavioral needs?
b. Is the intervention based on the best available evidence?
c. Does the intervention align with core instruction?
d. Has the intervention been shown to work with most students?
e. Are procedures in place to ensure the intervention is delivered as planned?

2. *Progress Monitor: Did the intervention work?*
    At this step, staff regularly collect and analyze progress monitoring data to determine if the student is responding to the validated intervention.
    a. Does the tool meet technical standards for progress monitoring and match the desired academic or behavioral outcome?
    b. Were data collected regularly and with a consistent approach?
    c. Were progress data graphed?
    d. Was the goal set using a validated approach?
    e. Was the intervention effective for most students?

3. *Diagnostic Data: Why didn't the intervention work?*
    At this step, staff use diagnostic data to develop a hypothesis about why the student is struggling.
    a. Do multiple data sources confirm slow progress?
    b. Have both academic and behavioral explanations been considered?
    c. What do these data suggest about what needs to change?

4. *Intervention Adaptation: What change Is needed?*
    The hypothesis, along with educator expertise, is used to develop an individual student plan for modifying or adapting the intervention to better meet the student's individual needs.
    a. Does the adaptation address the hypothesis?
    b. Does the plan address both academic and behavioral concerns when needed?
    c. Are procedures in place for implementing and monitoring the adapted intervention?
    d. Are only a few adaptations made at one time?

5. *Progress Monitor: Did the change work?*
    Continue to collect, graph, and analyze progress monitoring data to determine if the student is responding to the adapted intervention.
    a. Are data collected according to the plan?
    b. Does the graph indicate when adaptations were made?"

B-5.   What are the best ways to establish and document the fidelity of implementation integrity of instruction and/or intervention?

There are several different ways to ensure implementation integrity of an evidence-based intervention, including, but not limited to, professional development, the use of evidence-based intervention strategies/programs, guided practice and feedback, and treatment integrity checks. Effective RTI systems require that schools establish and maintain consistently high levels of fidelity in the implementation of instruction, interventions, and progress monitoring. This means

that instruction is delivered, and individual intervention plans are created and carried out consistently and as intended.

The following are examples of instruction and intervention integrity tools:

- [Intensive Intervention Implementation Review Log](#)
- [Culturally and Linguistically Responsive Response to Intervention within Multi-tiered System of Supports: Fidelity of Implementation Rubric](#)
- [Implementing Structured Data Meetings: A year-round Tool for Optimizing Instructional Planning for English Learners](#)
- [RTI Fidelity of Implementation Rubric](#)
- [Student Intervention Plan](#)
- [Student-Level Data-Based Individualization Implementation Checklist (Data Meeting Plan Fidelity Checklist)](#)

B-6.   What are scientific, research-based progress monitoring tools for reading, math, and writing?

Progress monitoring is a type of formative assessment. It generally refers to the frequent assessment of student performance over time. Progress monitoring allows teams to determine how students are progressing toward established goals in a timely manner. Progress monitoring data can also be utilized to identify the effectiveness of instruction as well as identify when an instructional change needs to be made to improve students' academic progress. The collection of ongoing and frequent data on student performance is essential in helping determine a student's Response to Intervention. It is critical that schools and districts utilize scientific, research-based progress monitoring tools when making instructional decisions. There are two types of progress monitoring that can be used. Mastery measurement is used when teachers are assessing mastery of a specific skill. General outcome measurement, more commonly called curriculum-based measurement, is the assessment of the acquisition of skills across an entire school year. Within this type of measurement, there are measures of curricular sampling as well as performance indicators. Curricular sampling measures include items taught throughout the year. Performance indicators are predictive of an area of performance in reading and/or math (e.g., word reading fluency, oral reading fluency, math fact fluency).

[According to the NCII's Tool Chart Submission and Review Process](#), "The National Center on Intensive Intervention has established a standard process to evaluate the scientific rigor of tools and interventions that can be used as part of a data-based individualization program for educating students with disabilities who require intensive intervention due to persistent learning and behavior problems. The review process consists of five steps: (1) Identification of Tools and Interventions for Review; (2) First- and Second-Level Review; (3) Interim Communication with Vendors; (4) Third-Level Review; (5) Finalization and Publication of Result.

The academic progress monitoring tools chart consists of evidence-based progress monitoring tools that can be used to assess students' academic performance, to quantify a student rate of

improvement or responsiveness to instruction, and to evaluate the effectiveness of instruction. The chart displays ratings on technical rigor of performance level standards (reliability and validity) and growth standards (sensitivity, alternate forms, and decision rules), and it provides information about whether a bias analysis was conducted and key usability features."

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

In addition, there are a number of websites that provide detailed instructions and calculation aides for determining slope of progress, such as the RTI Action Network and Vanderbilt University's IRIS Center.

B-7.   How frequently should progress be monitored?

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

B-8.   Is there a requirement regarding the number of data points that must be collected prior to a referral for a special education evaluation?

Although there are no specific guidelines to the number of data points needed for special education eligibility, there is research to support how to identify if changes to an intervention plan is necessary. According to Bailey, T. R., Colpo, A. & Foley, A.:

> "The Four-Point Method offers teachers an easy method for analyzing whether students are making progress toward their goal (IRIS Center, 2020). For the most accurate estimate of progress, teachers need as least six data points that are graphed against the goal line, or the line between the baseline and goal. The decision rules for the Four-Point Method are straightforward. If the last four data points are on or above the goal line, the teacher should continue the current program. If the last four data points are below the goal line, the student is identified as not on track to meet their goal and the teacher should engage in the problem-solving process to adapt or modify the intervention. For a more sensitive approach to analysis, teachers may use trend line analysis (NCII, 2012). A trend line, which requires at least eight data points to calculate, is a line on a graph that represents a line of best fit through a student's data points. Many published data systems calculate the trend line, although teachers can draw it by hand. The trend line is compared against the goal line to help inform responsiveness to intervention. When teachers frequently analyze

progress monitoring data for students receiving an intervention, they can determine whether students are making adequate progress to achieve their goal. It is essential to ensure that interventions have been delivered with fidelity as prescribed by the students' intervention plan before an adjustment to the plan needs to be made."

Other factors to consider include the following:

- The student's baseline performance level.
- The student's prior history of effective/ineffective interventions.
- The stability of the student in the current school and instructional environment (e.g., length of time the student has been enrolled, regular school attendance).
- The intensity of the interventions. (i.e., Tier 2, Tier 3, duration, and length of time).

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

It is important to note that in the case of students who have or are suspected of having a specific learning disability (SLD), ISBE's rules governing special education prohibit a district from using a student's participation in a process that determines how a student responds to scientific, evidence-based interventions as a basis for denying a parent's request for an evaluation. [See 23 IAC 226.130(b).] Accordingly, the team must consider a parent's request and follow the required procedures for determining whether a special education evaluation is necessary. (See Question D-3.)

B-9.   What is a significant deficit? What is insufficient progress?

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

As discussed in the ISBE "Illinois Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention Framework Guidance" document, within the context of RTI, there are three key factors involved when determining significant discrepancy and inadequate progress:

1. The student has one or more significant academic skill deficits compared to age-level peers or grade-level benchmarks.
2. The student is making insufficient progress in response to research/evidence-based interventions or is making adequate progress but that progress is only possible when the student has been provided and continues to need curriculum, instruction, and

environmental interventions that are significantly different from any provided general education peers and of an intensity or type that exceed general education resources.

3. The learning difficulties are not <u>primarily</u> the result of lack of appropriate instruction in reading and math or limited English proficiency, and additionally for SLD, are not <u>primarily</u> the result of a visual, hearing, or motor disability; an intellectual disability; an emotional disability; cultural factors; or economic disadvantage.

By applying the established district criteria and decision-making rules, a school team may describe a student's academic performance as a significant academic deficit when he or she does not achieve adequately according to age or to meet a state-approved grade-level standard <u>and</u> fails to make sufficient progress when using a process based on the response to scientific, evidence-based interventions. Inadequate progress is tied directly to this second component and is present when evidence-based, intensive interventions fail to result in the student demonstrating improved academic performance as measured via frequent progress monitoring, resulting in a learning trajectory that will lead to the student meeting the peer and/or grade-level standard. This should be aligned with the student's academic goal that was set based on baseline data gathered. The goal set should be individualized and can be based on benchmark standards, rate of improvement (ROI) standards, and/or by using the student's previous ROI. It is most appropriate to use benchmark goals to monitor progress of a student in Tier 2 interventions. Whenever interventions are not successful, whether that occurs before or after special education eligibility, teams are expected to use the RTI/problem-solving process to refine, modify, and/or change intervention programs until a successful intervention is found. In the case of a student who is already eligible for special education, it is important to keep in mind that changes in interventions being delivered in accordance with the student's Individualized Education Program (IEP) must be made in accordance with procedural safeguard requirements. (See <mark>Question E-5</mark> for further details.)

B-10. Should we compare a student's performance to that of age-level peers or to grade-level standards when determining discrepancy/gap and rate of progress? What about a student who has been retained?

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

In terms of grade retention, it is first recommended that districts and schools review the research on the effectiveness of grade retention in addressing the needs of students whose skills are below the age-appropriate grade-level benchmark(s). Research completed in various studies shows mixed results when analyzing data of students who were retained. Some studies conducted show a positive impact, while others show a negative impact that has led to future dropout rates being

higher when compared to students who were not retained. Therefore, schools and districts are strongly encouraged to utilize more effective alternatives to grade retention (e.g., scientific research-based instructional and intervention strategies) to address the skill needs of students. In those instances when a student has been retained, school teams should consider the fact that he/she has not been exposed to the same instruction as his/her age-level peers and will take the state assessment for the grade level in which he/she is currently enrolled. Therefore, it is recommended that grade-level standards be used to determine the student's discrepancy/gap and rate of progress.

B-11.   When implementing an RTI model, how is the criterion for "repeated assessments of achievement at reasonable intervals" established for a student who has recently moved into the district and is suspected of having a specific learning disability?

When a student moves into a district, it is recommended that universal screening (as defined in the ISBE "Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention Framework Guidance" document and discussed in the response to Question B-1) be conducted to assist in determining the student's current level of performance and educational needs. These data should be shared with the student's parents. If universal screening is administered to all students in the district (including students who move into the district) and these data are utilized for provision of tiered early intervening services with results reported to all parents on a regular basis, the criterion for "repeated assessments at regular intervals" is established.

If a team determines that, based on the universal screening data, the performance level of a student who has recently moved into the district demonstrates significant skill deficits as defined by locally established criteria (see Question B-9 on page 14) in comparison with age-level peers or grade-level standards, and the team suspects that student may be a student with a disability, the team should initiate an evaluation. The evaluation process would be no different for this student than for any other student, except that the early intervening period (i.e., where supplemental instruction and interventions with regular progress monitoring occurs) might be concurrent with the evaluation. As part of the evaluation, the new district should make efforts to obtain information regarding instructional history and assessment results from the student's previous district. This process is applicable whether an IEP team is implementing an RTI process to meet the Part 226 requirement for using such a process as part of the evaluation procedures for determining SLD eligibility or has chosen to utilize an RTI process for other suspected disabilities.

B-12.   How can we ensure that assessments we use are appropriate for English Learners (ELs)?

Any assessment procedure for ELs should a) reflect authentic language and literacy use; b) provide scaffolds for oral or written language input through visuals, diagrams, manipulatives, or other supports; and c) be situated in meaningful contexts. Further, English assessments should be aligned to the student's English language proficiency level as determined by ACCESS for ELLs®

or at a minimum, allow for differentiation according to language proficiency levels. It is essential that the assessment tool clearly distinguishes between measurement of language proficiency and measurement of content area skill and concept attainment. Generally, the language of assessment should correlate with the language of instruction, and in the case of two-language learners/emerging bilingual students, assessment would incorporate each of the students' languages to the extent possible. Additionally, the norm group should be checked to be sure that it consisted of ELs similar to the ELs being assessed. If the assessment does not meet these standards of appropriateness and is used nonetheless, the resulting scores should be presented in the context of their reduced and compromised validity and reliability.

C. Scientific, Research-Based Curriculum, Instruction, and Evidence-based Interventions

C-1. How do we determine that our core curriculum is scientifically research-based?

In order to determine whether its core curriculum is scientifically research-based, a district may embark on a process of inquiry to assess the degree to which the curriculum is aligned with national and state standards and effective instruction (pedagogy) research. To assist districts in this process, a district could utilize the Curriculum Evaluation Tool (CET) created by ISBE's Learning Standards and Instruction Department. This tool is not specific to one core curricular area, but it can be utilized during curriculum adoptions as well as curriculum audits to ensure fidelity of implementation.

C-2. What are some additional considerations that may be unique to ELs in terms of their opportunity to learn*?*

"All students should receive comprehensive, evidence-based language and literacy instruction as part of the core curriculum. In cases where high numbers of ELs are identified as not meeting grade-level expectations or as needing supplemental instruction, evaluation of the core curriculum is an initial step educators need to take to ensure that all students receive adequate opportunities to learn."

-- Project ELITE[2], Project ELLIPSES, and Project LEE (2018)

Educators must also have knowledge of language acquisition in order to accurately identify students with potential learning disabilities. Thus, those providing instruction should be bilingual teachers with their bilingual approval or endorsement or, in the instance of low-incidence languages within Transitional Programs of Instruction (TPI), highly qualified teachers holding English as a Second Language (ESL) approval or endorsement. In the instance of there being very few such students or where parents have refused language instruction support services, it is important for districts to provide the necessary support for classroom teachers to acquire the relevant knowledge and skills specific to teaching ELs and essential to providing effective instruction and support to these students. Districts should use data that has been gathered to create a thorough plan for meeting the instructional needs of EL students at each tier.

C-3.   In the context of integrity in the implementation of the curriculum, what does the phrase "limited access to EL services" mean?

Limited access to EL services could include, but is not limited to, situations such as the following: a) when parents have refused language assistance instructional program services for their children or have withdrawn their children from such services before the students have attained a score of English proficient in their annual language proficiency assessments; b) when ELs who, through a decision by the school's or district's administration, were not provided either a Transitional Bilingual Education (TBE) program or TPI, as defined in 23 IAC 228; c) when the instructional program design for serving ELs has changed numerous times over the course of an EL's educational career; d) when an EL experiences the cumulative effects of being taught by personnel without appropriate bilingual/ESL credentials; e) when an EL's early childhood program did not assess for English proficiency to identify language support needs; or f) when an EL began in an English-only Head Start or prekindergarten program before entering a bilingual kindergarten.

C-4.   Is it permissible to use a "standard protocol" intervention approach rather than a problem-solving approach at Tier 2?

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

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

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

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

standard protocol interventions (evidence-based and a high probability of success for remediating the targeted skill) apply to individualized interventions.

In summary, problem-solving is used across the tiers but in slightly different ways, with more standardized interventions integrated at Tiers 2 and 3. The National Center for Intensive Intervention has created [standards-relevant instruction examples](#) to illustrate how core instruction can be differentiated across the tiers.

C-5.   What are resources for identifying scientific, research-based instruction and evidence-based interventions?   Do computer-based interventions qualify as evidence-based interventions?

Scientifically research-based was replaced by "evidence-based interventions" under the Every Student Succeeds Act (ESSA). The American Rescue Plan (ARP) Act defines the term "evidence-based" as having the meaning in Section 8101(21(A) of ESSA (PL 114-95).

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WHAT IS AN "EVIDENCE-BASED" INTERVENTION?
(from section 8101(21)(A) of the ESEA)

</div>

 "…the term 'evidence-based,' when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that –

(i)   demonstrates a statistically significant effect on improving student outcomes or other *relevant outcomes* based on –

(I) *strong evidence* from at least one well-designed and well-implemented experimental study
(II) *moderate evidence* from at least one well-designed and well-implemented *quasi-experimental* study; or
(III) *promising evidence* from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii)
 (I) *demonstrates a rationale* based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other *relevant outcomes*; and
(II) includes ongoing efforts to examine the effects of such activity, strategy, or intervention."

The table on the next page provides further guidance regarding evidence-based interventions.

Table 1. Summary of Recommended Study Criteria for Each Evidence Level

	Strong Evidence	Moderate Evidence	Promising Evidence	Demonstrates a Rationale
Study Design	Experimental study	Quasi-experimental study	Correlational study with statistical controls for selection bias	Provides a well-specified logic model informed by research or evaluation
WWC Standard	Meets WWC Evidence Standards without reservations (or is the equivalent quality)	Meets WWC Evidence Standards with or without reservations (or is the equivalent quality)	N/A	N/A
Favorable Effects	Shows a statistically significant and positive (i.e., favorable) effect of the intervention on a student outcome or other relevant outcome	Shows a statistically significant and positive (i.e., favorable) effect of the intervention on a student outcome or other relevant outcome	Shows a statistically significant and positive (i.e., favorable) effect of the intervention on a student outcome or other relevant outcome	Relevant research or an evaluation that suggests that the intervention is likely to improve a student outcome or other relevant outcome
Other Effects	Is not overridden by statistically significant and negative (i.e., unfavorable) evidence from other findings in studies that meet WWC Evidence Standards with or without reservations (or are the equivalent quality)	Is not overridden by statistically significant and negative (i.e., unfavorable) evidence from other findings in studies that meet WWC Evidence Standards with or without reservations (or are the equivalent quality)	Is not overridden by statistically significant and negative (i.e., unfavorable) evidence from other findings in studies that meet WWC Evidence Standards with or without reservations (or are the equivalent quality)	An effort to study the effects of the intervention, ideally producing promising evidence or higher, will happen as part of the intervention or is underway elsewhere
Sample Size and Overlap	Includes a large sample and a multi-site sample, overlapping with populations and settings proposed to receive the intervention	Includes a large sample and a multi-site sample, overlapping with populations or settings proposed to receive the intervention	N/A	N/A

Source: Non-regulatory Guidance: Using Evidence to Strengthen Education Investments (U.S. Department of Education) When addressing the implementation of computer-based interventions for Tier 2 and Tier 3, it is essential to ensure that those interventions are evidence-based and show a pattern of success for the population being targeted.

Intervention Resources

Websites that offer scientific, research-based instruction and evidence-based intervention information in multiple subject areas are listed below.

- **What Works Clearinghouse – U.S. Department of Education**
  - *Beginning Reading*
  - *Adolescent Literacy*
  - *English Language Learners*
  - *Early Childhood Education*
  - *Elementary School Math*

- o *Middle School Math*
- o *Dropout Prevention*
- o *Character Education*
- o *Behavior*
- o *Writing*
- o *Oral Expression*

- **IRIS Center**
  - o *Reading, Literacy, Language Arts*
  - o *Math*
  - o *Differentiated Instruction*
  - o *Content Instruction*
  - o *Behavior*
  - o *Diversity*
  - o *Early Intervention/Early Childhood*

- **American Institutes for Research**
  - o *Literacy*
  - o *Math*
  - o *Science of Learning and Development*
  - o *Special Education*
  - o *English Learners*
  - o *MTSS/RTI*
  - o *Mental Health*
  - o *Social Emotional Learning*
  - o *Disability and Rehabilitation*
  - o *Early Childhood Education*

- **CEEDAR Center**
  - o *Culturally Responsive Teaching*
  - o *Classroom and Behavior Management*
  - o *English Language Learners*
  - o *Mathematics*
  - o *Writing*
  - o *Reading*
  - o *Literacy*
  - o *MTSS/RTI*
  - o *Sensory*

- **National Center on Intensive Intervention**
  - o Reading
  - o *Math*
  - o *English Learners*
  - o *Behavior*

Websites with scientific, research-based instruction and evidence-based intervention information by specific area are listed below.

- **Reading and Writing**
  - [Vaughn Gross Center for Reading and Language Arts](#)
  - [Literacy for Leaders](#)
  - [National Center on Improving Literacy](#)

- **Math**
  - [The Meadows Center: Mathematics and Science Institute for Students with Special Needs](#)

- **Oral Expression and Listening Comprehension**
  - [American Speech-Language-Hearing Association - Compendium of EBP Guidelines and Reviews and Evidence-Based Systematic Reviews](#)

- **ELs**
  - [WIDA](#)
  - [English Learner Tool Kit](#)
  - [National Association for Bilingual Education](#)
  - [Project LEE](#)
  - [Project ELITE](#)
  - [MTSS for Els](#)

C-6.   Is Tier 3 ONLY special education?

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

TIER I All students receive instruction on the core curriculum.

TIER II Students who are below grade level receive additional instruction in small groups.

TIER III Students who are unresponsive to Tiers I and II also receive individualized instruction.
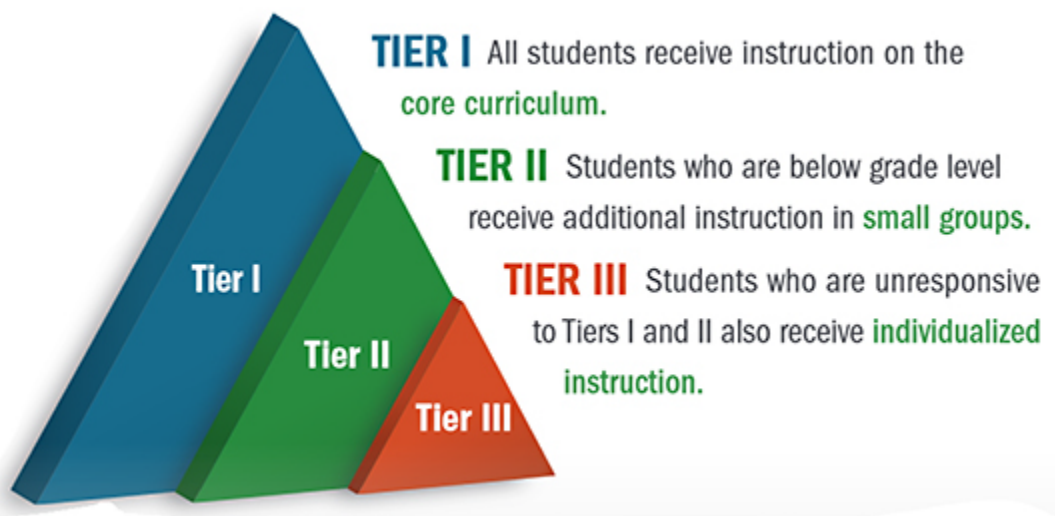
Source: REL Midwest

D. Special Education Evaluation

D-1.   When is a special education evaluation initiated in an RTI process?

The point at which a special education evaluation is initiated depends on the student's individual intervention plan and progress status based on the student's participation and success in the RTI process. Per federal regulations and 23 IAC 226, a referral for special education can be initiated at any time for a student who is suspected of having a disability. If an IEP team is considering special education eligibility, it is important that questions are formulated and the review of comprehensive student progress monitoring data and progress through the RTI process are an integral part of the referral process. When a student is participating in an RTI process, data showing that the student has a significant skill deficit and is making insufficient progress, even when provided with intense, evidence-based interventions, could lead the team to suspect that the student has a disability and make a referral for evaluation. Another possible consideration in determining the need for a referral for evaluation is the student's need to receive ongoing and specialized supports and services in order to participate and make progress in the general education curriculum. These procedures are applicable whether an IEP team is implementing an RTI process to meet the Part 226 requirement for using such a process as part of the evaluation procedures for determining SLD eligibility or has chosen to utilize an RTI process for other suspected disabilities.

It is important to note that in the case of students who have or are suspected of having a specific learning disability, ISBE's rules governing special education prohibit the district from using a student's participation in a process that determines how he or she responds to scientific, research-based interventions as a basis for denying a parent's request for an evaluation. [See 23 IAC 226.130(b).] Accordingly, the team must consider a parent's request and follow the required procedures for determining whether a special education evaluation is necessary. (See Question D-3.)

D-2.   How can the requirement for a full and individual evaluation be met in an RTI model?

Federal regulations require a "full and individual evaluation" to be completed before the initial provision of special education and related services; this requirement does not change in an RTI process. Further, in accordance with 34 CFR 300.304(b), in conducting the evaluation, school districts must use a variety of assessment tools and strategies that may assist in determining whether the student is a student with a disability. The student must also be "assessed in all areas related to the suspected disability, including, if appropriate *[emphasis added]*, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities." [See 34 CFR 300.304(c)(4).]   In addition, the evaluation must be sufficiently comprehensive to identify all of the student's special education needs. [See 34 CFR 300.304(c)(6).] Depending on their nature and scope, it is possible that data generated during the RTI process could fulfill the requirements of a "full and individual evaluation."

D-3.   What constitutes a "sufficiently comprehensive evaluation"? Can existing evaluation data be used to meet the requirements of a comprehensive evaluation? When are additional data necessary beyond the use of existing data when using RTI in determining eligibility?

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

In accordance with the federal regulations,

"(b) Conduct of evaluation. In conducting the evaluation, the public agency must —

>   (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining —

>>   (i) Whether the child is a child with a disability under § 300.8; and

>>   (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

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(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(c) Other evaluation procedures. Each public agency must ensure that —

(1) Assessments and other evaluation materials used to assess a child under this part —

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided."

Screening data collected as components of Tier 1 activities and Tier 2 and 3 assessment data (e.g., classroom observations, the results of a curriculum-based evaluation) and progress monitoring data documenting student response to intervention are part of the comprehensive evaluation and may be sufficient for determining entitlement for special education services as stated in the regulations at 34 CFR 300.305(a).

(a) *"Review of existing evaluation data.* As part of an initial (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must –
   (1) Review existing evaluation data on the child, including –
      (i) Evaluations and information provided by the parents of the child;
      (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
      (iii) Observation by teachers and related services providers; and
   (2) On the basis of that review, and input from the child's parents, identify what additional data, if any [emphasis added], are needed to determine –
      (i) (A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or
          (B) In the case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
      (ii) The present levels of academic achievement and related developmental needs of the child;
      (iii) (A) Whether the child needs special education and related services; or
           (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services…
      (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum..."

The term "if any" allows the team the discretion to determine if further data are required. In a system where RTI is being implemented, existing data collected during the RTI process will be used as an important source of evaluation information when determining special education eligibility. The school team, which includes a student's parents, will decide whether these data are sufficient to determine eligibility or if additional evaluation data are needed. The team members may decide that the collection of additional data is necessary when they do not feel that they have enough data to meet the eligibility requirements (e.g., there is insufficient

evidence regarding the comparison between the target student and his/her age-level peers or grade-level standard, a pattern of student performance over time has not been established, there is insufficient evidence/documentation for the implementation integrity of the evidence-based interventions, they have not been able to identify the instructional characteristics that produce a positive impact on the student's performance, or one or more of the exclusionary criteria have not been ruled out).

D-4.   Can a review of existing data meeting and an eligibility meeting occur at the same time?

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

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

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

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

D-5.   Can parents request an evaluation while their child is involved in an RTI process?

Yes. The right for parents to request a special education evaluation at any time has not changed, nor have the requirements associated with the district's response to such a request as outlined in 23 IAC 226.110. Therefore, parents can request a special education evaluation at any time prior to, during, or following their child's involvement in an RTI process. Within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted. If the district does not agree that a special education evaluation is warranted, a written notice must be provided to the parents that informs them of this decision and explains

the reasons why it has been determined an evaluation is not warranted in accordance with 34 CFR 300.503(b). The parent can challenge the district's decision by requesting mediation and/or a due process hearing to resolve the dispute over the student's need for an evaluation. If an evaluation is to be conducted the following steps must take place:

- The district shall convene a team of individuals (including the parent) having the knowledge and skills necessary to administer and interpret evaluation data. The composition of the team will vary depending upon the nature of the child's characteristics, abilities, and other relevant factors.
- The team shall identify the assessments necessary to complete the evaluation in accordance with 34 CFR 300.305 and shall prepare a written notification for the parents as required under 34 CFR 300.304(a). For each domain, the notification shall either describe the needed assessments or explain why none are needed.
- The district shall ensure that the notification of the team's conclusions is transmitted to the parents within the 14-school day timeline applicable under 23 IAC 226.110(c)(3), along with the district's request for the parents' consent to conduct the needed assessments.

Once written parental consent is obtained, the 60-school day timeline begins for completing the evaluation, determining eligibility, and if the student is eligible, developing an IEP. If there are fewer than 60 school days left in the school year, the eligibility determination shall be completed prior to the first day of the following school year. When determining SLD eligibility, this timeline may be extended by "mutual written agreement of the student's parents and a group of qualified professionals." [See 34 CFR 300.309(c).] Also, given the Part 226 requirement for the use of a process that determines how a student responds to scientific, research-based interventions as part of the evaluation procedures for SLD, if the student has not been involved in an RTI process and SLD is the suspected area of disability, appropriate evidence-based interventions must be initiated in the area(s) of difficulty and the student's progress regularly monitored during the evaluation period.

D-6.   If a parent requests an "immediate" evaluation during or prior to the RTI process, how does the school fulfill its obligation to complete the evaluation within the 60-school day timeline and still meet the requirement to use an RTI process as part of the evaluation procedures for SLD?   What if the parent requests a "traditional" evaluation using the ability/achievement discrepancy model?

If a parent requests an immediate evaluation, the same procedures discussed in the response to D-5 apply. If a decision is made to conduct an evaluation, the school team should explain the RTI process and the services the student will receive during the evaluation period. Schools may not use the RTI process as a reason not to conduct an evaluation of a student suspected of having an SLD [23 IAC 226.130(b)] or to try to convince parents not to request an evaluation; however, it is expected that parents will be informed of the requirement that an RTI process must be part of the evaluation procedures for SLD. If parents request a "traditional assessment" using an ability/achievement discrepancy model, the team must determine if such an assessment is necessary and appropriate in order to evaluate the student and determine eligibility. In Illinois,

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assessment of an ability/achievement discrepancy is neither required nor sufficient for determining the existence of an SLD.

D-7.   When is informed parental consent sought for evaluation when RTI is used?

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

Informed parental consent is not required for activities such as universal screening, intervention delivery, and progress monitoring that are implemented during the RTI process as part of the general education program. Specifically, federal regulations clearly state that screening of a student to "determine appropriate instructional strategies for curriculum implementation" is not considered an evaluation for special education eligibility and, therefore, informed parental consent is not required. It is important, though, that parents be fully informed of these activities and receive regular reports of student progress. For example, one of the requirements for SLD eligibility determination is that "data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction" [34 CFR 300.309(b)(2)] must be completed and the results provided to the student's parents. Thus, regular communication and sharing of data with parents is critical.

D-8.   Who should make up the multi-disciplinary team when an RTI process is used as part of the evaluation procedures to determine special education eligibility?

The requirements for membership of the multidisciplinary team formed for the purpose of determining eligibility using an RTI process are the same as those set forth at 34 CFR 300.306. If the suspected disability is SLD, then the additional requirements for team membership at 34 CFR 300.308 also apply. The team should be composed of the students' parents/guardians, general education teacher, special education teacher, LEA representative, a member who can interpret the instructional implications of evaluation results, intervention teacher, and/or related service personnel.

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

If the student in question is not currently receiving interventions through an RTI process and the public agency agrees to initiate a special education evaluation, the student should be referred to the RTI problem-solving team so evidence-based interventions can be initiated as part of the evaluation procedures (see D-6 regarding a parent request for immediate evaluation) and

eligibility group members identified. This information is applicable whether an IEP team is implementing an RTI process to meet the Part 226 requirement for using such a process as part of the evaluation procedures for determining SLD eligibility or has chosen to utilize an RTI process for other suspected disabilities.

D-9.   How will we determine the existence of an SLD in the areas of oral expression, listening comprehension, and written expression where no formal RTI is being done? What data collection, research-based curriculum and interventions, benchmarking, etc. are supposed to be used for these areas?

In order to identify a student as having an SLD in the areas of oral expression, listening comprehension, and/or written comprehension, a district should collect benchmarking data (to determine what is typical educational achievement and progress) in these three areas and develop a three-tiered system of increasingly intensive interventions targeting these three areas. Resources are found in C-5 to help find information on data collection; scientific, research-based practices; and evidence-based interventions.

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

The implementing regulations of IDEA 2004 [see 34 CFR 300.309(a)] eliminated the IQ/achievement discrepancy criterion for SLD, so districts that previously conducted intelligence testing to fulfill this criterion no longer need to do so. Intelligence tests also are not necessary for intervention planning, as screening, progress monitoring, and diagnostic/prescriptive assessments collected as part of the RTI process can provide the information needed.

D-10.   Does cognitive processing need to be assessed as part of an SLD eligibility evaluation?

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

> "The Department does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD. Further, in many cases, these assessments have not been used to make appropriate intervention decisions … In many cases, though, assessments of cognitive processes simply add to the

testing burden and do not contribute to interventions. As summarized in the research consensus from the Office of Special Education Programs Learning Disability Summit (Bradley, Danielson, and Hallahan, 2002), 'Although processing deficits have been linked to some specific learning disabilities (e.g., phonological processing and reading), direct links with other processes have not been established. Currently, available methods for measuring many processing difficulties are inadequate. Therefore, systematically measuring processing difficulties and their link to treatment is not yet feasible ... Processing deficits should be eliminated from the criteria for classification ...' (p.797)." (Federal Register, Vol. 71, No. 156, p.46651)

D-11.   With regard to ruling out cultural factors as the primary reason a student is experiencing difficulty, what constitutes culturally responsive instruction?

Culturally responsive teaching and learning standards are defined in the Illinois Administrative Code. Culturally responsive teachers understand the role of culture in how individuals think, learn, and communicate, according to Effective Practices for English Learners: Brief 5.

CULTURALLY RESPONSIVE CLASSROOMS: WHAT IT IS…

- English learners communicating in their native language with children from similar cultural and linguistic backgrounds
- Calling on all students frequently, giving ample feedback and praising
- Implementing a challenging curriculum
- Providing intensive time on task
- Genuine respect for students and belief in student capability
- Students seeing themselves reflected in the stories being read to teach critical concepts
- Utilizing families' funds of knowledge

elite² English Learner Institute for Teaching and Excellence®   www.elitetexas.org

Source: Del Valle Independent School District

D-12.   When ruling out limited English proficiency, what about ELs who may have had limited access to language assistance instructional programs?

If an EL has had limited access to a language assistance instructional program such as TBE or TPI (see C-3 for examples of limited access), it is essential that the school team keep in mind that ELs may not have developed the expected academic proficiency in English and in their home

language due primarily to inconsistencies in the language assistance instructional program being offered or in the student's participation in such a program. Such inconsistencies could result in the student having language fragmentation rather than a language disability. In these situations, the team would recommend evidence-based interventions to support these students in both languages as they work to determine if the student is an EL who may also need special education services or a student who needs more intensive support as an EL.

With regard to the design of the language assistance instructional program itself, it is also important to remember that this includes meaningful content, appropriate EL methodology, deliberate plans for language of instruction/language allocation, model of instruction, sufficient frequency and duration of daily instructional services, and whether gaps in content instruction occurred within a typical instructional day.   These factors can all greatly influence ELs' performance.

D-13. Given the requirement at 23 IAC 226.130 for use of an RTI process as part of the evaluation procedures for SLD, can the results of independent evaluations be used to determine eligibility for SLD?

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

> "The parent, however, would not have the right to obtain an IEE at public expense before the public agency completes its evaluation simply because the parent disagrees with the public agency's decision to use data from a child's response to intervention as part of its evaluation to determine if the child is a child with a disability and the educational needs of the child."
>
> -- Federal Register, Vol. 71, No. 156, p. 46689

As provided in 34 CFR 300.502(b)(2) and beyond, "If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either —

> (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

> (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

> (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation—

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

(e) Agency criteria.

(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense."

In addition to the guidelines set forth in 34 CFR 300.502, additional rights and requirements also apply under 23 IAC 226.180, which are outlined as follows:

"a)   If the parents disagree with the district's evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect shall be submitted in writing to the local school district superintendent.

b)   When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:

<li style="list-style-type: none;">

<li value="1">an individual whose name is included on the registry of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 with regard to the relevant types of evaluation; or
<li value="2">another individual possessing the credentials required by Section 226.840.

<ol type="a" start="3">
<li style="list-style-type: none;">
c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840, the parent and the school district shall agree on the qualifications of the examiner and the specific evaluations to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.

<li style="list-style-type: none;">
d) Within 10 days after receiving a report of an independent evaluation conducted at either public or private expense, the district shall provide written notice stating the date upon which the IEP Team will meet to consider the results." (Also see Section 226.530.)

D-14. How is RTI used when conducting evaluations of parentally placed private school students or students who are home-schooled? Can an LEA require a private school to implement an RTI process before the LEA evaluates a parentally placed private school child?

When evaluating students who are parentally placed in a private school or who are home-schooled, the same processes of reviewing existing assessment data and determining what, if any, additional data need to be collected for educational decision-making are used. (See Question D-3.) Many private schools regularly collect assessment data that a school district may review and include in their determination of a student's response to instruction and intervention (e.g., state and local program evaluation assessments, universal screeners, curriculum-embedded assessments). Some private schools provide supplemental and intensive interventions within their setting and monitor progress toward a goal. Any of these data may be useful in determining whether appropriate instruction was provided, determining discrepancy/gap from age-level peers or grade-level standard, and/or for assessing response to ongoing instruction. Students who are home-schooled may also have similar assessment data available for use in an RTI model.

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

When existing data are not available, the district is responsible for collecting necessary data in order to determine a student's response to instruction and intervention as part of the evaluation.

Universal screening measures utilized in the district might be administered and the resulting scores compared to same age/grade students in the district, and/or the team may choose to provide limited consultation or interventions and progress monitoring.

Regarding an LEA requiring a private school to implement an RTI process before the LEA evaluates a parentally placed private school child, the answer is no. IDEA and its implementing regulations at 34 CFR 300.301 through 300.311 establish requirements for an LEA when conducting an initial evaluation to determine if a child qualifies as a child with a disability under Part B. These requirements do not apply to private schools. Specific learning disability is a statutory term and is also defined in 34 CFR 300.8(c)(10). [See also 20 U.S.C. 1401(30).] Examples include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. [See 34 CFR 300.8(c)(10).] IDEA requires states to adopt criteria for determining whether a child has a specific learning disability, and these criteria must permit, among other things, the use of a process based on the child's response to scientific, research-based intervention. [See 34 CFR 300.307(a)(2).] Thus, although IDEA permits an LEA to use RTI in evaluating a child suspected of having a specific learning disability, it does not require the LEA to use RTI. Even if a state's criteria permit an LEA to use RTI in evaluating a child suspected of having a specific learning disability, IDEA does not require an LEA to use RTI for a parentally placed child attending a private school located in its jurisdiction. Further, it would be inconsistent with the IDEA evaluation provisions in 34 CFR 300.301 through 300.311 for an LEA to delay the initial evaluation because a private school has not implemented an RTI process with a child suspected of having a learning disability and has not reported the results of that process to the LEA.

D-15. How are reevaluations conducted when using RTI?

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

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

Regardless of whether or not the initial evaluation included the use of an RTI process, it is presumed that the initial eligibility process was valid and that the disability remains unless data exist that indicate otherwise. Such data could include evidence showing a change in the student's ability to benefit from the general education curriculum without special education and related

services. The U.S. Department of Education commented on this issue in the context of reevaluations and state SLD eligibility criteria that have been revised to include an RTI process:

> "States should consider the effect of exiting a child from special education who has received special education and related services for many years and how the removal of such supports will affect the child's educational progress… Obviously, the group should consider whether the child's 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."
>
> -- Federal Register, Vol. 71, No. 156, p. 46648

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

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

E. Eligibility and Entitlement

E-1.   I have heard the terms "eligibility" and "entitlement" used. How are they different?

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

E-2.   Can we use RTI to determine eligibility for disability categories other than SLD?

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

E-3.   Can more timely procedures be used to determine eligibility?

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

E-4.   Is RTI just a way to avoid providing special education services?

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

E-5.   What happens if the school team has made changes to the interventions based on student data but has not been able to identify an intervention that results in a positive rate of improvement for a student? Does that mean the student is eligible for special education services?

The focus of the entire three-tiered problem-solving system is to identify successful interventions that result in acceptable rates of learning. A student may receive intensive interventions that yield an acceptable rate of learning, but the types and amount of resources necessary to maintain this rate are beyond what can be supported by general education alone. Another student may receive appropriate, intensive interventions that do not produce acceptable rates of progress within the expected time period.   In both cases, the team should examine the student's educational progress by reviewing progress monitoring data and evidence that the scientific or evidence-based interventions were directly linked to the student's area of deficit, delivered with integrity, and implemented for a sufficient amount of time to allow changes to occur in the student's skill level. The team can then use the results of this review to make a decision about

the need to conduct a special education evaluation in accordance with all relevant laws, statutes, regulations, and rules. If an evaluation is conducted, the educational progress data will also be an important source of evaluation information in determining if the student has a disability that requires special education and related services.

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

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

E-6.   Why doesn't the "Illinois Special Education Eligibility and Entitlement Procedures and Criteria within a Response to Intervention Framework Guidance" document delineate more specific/prescriptive eligibility criteria for SLD, such as how discrepant a student must be to be found eligible for special education services?

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

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

E-7.   Can a student's eligibility for SLD be determined by establishing a pattern of strengths and weaknesses in performance, achievement, or both, as allowed under 34 CFR 300.309(2)(ii)?

Because 34 CFR 300.309(a)(2)(ii) permits (but does not require) the eligibility team to consider whether a student exhibits a pattern of strengths and weaknesses in performance, achievement, or both to determine SLD eligibility, teams in Illinois have the option of examining data for this purpose if they consider such information relevant to an identification of SLD. Establishing a pattern of strengths and weaknesses, however, is neither required nor necessary to determine SLD eligibility in Illinois; therefore, if a student is not found eligible based on data gathered from implementing evidence-based interventions, then it is not possible to subsequently find the student eligible based on a pattern of strengths and weaknesses.

E-8.   Can a student's eligibility for SLD be determined by establishing a severe discrepancy between intellectual ability and achievement since this option is allowed under ISBE's rules governing special education at 23 IAC 226.130(d)?

ISBE's rules governing special education allow districts, **in addition to** using an identification process that determines how a student responds to scientific, research-based intervention, to also use a severe discrepancy between intellectual ability and achievement as part of the evaluation procedures. Teams, therefore, have the option of conducting an assessment to establish such a discrepancy if they consider that information relevant to an identification of SLD; however, the words "in addition to" that appear in the rule at 23 IAC 226.130(d) clearly indicate that ability/achievement discrepancy alone is neither required nor sufficient to determine eligibility. If a student, therefore, is not found eligible based on the students' response to evidence-based interventions, then the student may not be found eligible based solely on an ability/achievement discrepancy.

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

E-9.   In an RTI system, what happens to students who are gifted and talented but still have learning difficulties? Will they qualify for special education services under SLD?

If students who are considered to be gifted and talented (defined in Illinois as those who "(i) exhibit high performance capabilities in intellectual, creative, and artistic areas; (ii) possess an exceptional leadership potential; (iii) excel in specific academic fields; and (iv) have the potential to be influential in business, government, health care, the arts, and other critical sectors of our economic and cultural environment" (105 ILCS 5/14A-10) are experiencing learning difficulties,

then they would be provided interventions within the RTI three-tiered system of increasingly intensive interventions. If a student who is gifted and talented exhibits a significant discrepancy from age-level peers or grade-level standards in terms of academic achievement in one of the eight areas listed in 34 CFR 300.309 (see Question E-8), has a level of educational progress as measured by rate of improvement in response to evidence-based interventions that is significantly lower than age-level peers or grade-level standards, and exhibits instructional needs beyond what can be met with general education resources alone, then the student would be eligible for special education services as a student with an SLD. Providing interventions or services within an RTI framework requires that all students experiencing a specific academic or behavioral skill deficit be provided with interventions to address the targeted areas of deficit.

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