



# **Procedure for Determining Eligibility of a Specific Learning Disability (SLD)**

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*These guidelines are intended to provide a framework for local districts in complying with state rules and federal regulations regarding SLD eligibility. Specific questions and interpretations should always be directed to supervisors to ensure alignment with individual student circumstances and district-specific implementation.*

## Part 1. Introduction

The purpose of this document is to assist local districts in understanding and implementing the Michigan Administrative Rules for Special Education (MARSE) and the federal Individuals with Disabilities Education Act (IDEA) 2004 regarding the identification of students with Specific Learning Disabilities (SLD). It encourages districts to develop well-informed and legally sound long-term plans for their identification practices. This document is not intended to mandate a single approach but rather to provide guidance on permissible methods. The intended audience includes special education directors and Multidisciplinary Evaluation Team (MET) representatives involved in evaluating students suspected of having an SLD during initial evaluations or reevaluations.

The U.S. Department of Education defines Specific Learning Disability as follows (see Appendix A for the complete definition):

A specific learning disability is “a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia that adversely affects a student’s educational performance. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; intellectual disability; emotional disturbance; or of environmental, cultural, or economic disadvantage.” 34 CFR § 300.8(c)(10)

The 2006 reauthorization of the Individuals with Disabilities in Education Improvement Act (IDEIA) outlined three methods that states may consider when identifying SLD, as detailed in Subsections 300.307 & 300.309 of the federal regulations:

- The child exhibits a **pattern of strengths and weaknesses (PSW)** in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development.
- The child does not make **sufficient progress in response to scientific, research-based intervention (Rtl)** to meet age or State-approved grade-level standards.
- Other **alternative research-based procedures**.

### A Little Background

The Elementary and Secondary Education Act (ESEA) of 2001 emphasized continuous improvement in education through accountability, student outcomes, parent involvement, data-driven planning, and the use of scientific, research-based methods and interventions.

The 2004 reauthorization of IDEA intentionally linked federal special education legislation with ESEA, emphasizing data-driven decision-making in determining eligibility for special education services.

Prior to the 2004 reauthorization of IDEA, Michigan's identification of SLD was primarily based on the severe discrepancy model, as defined in the MARSE. However, IDEA 2004 expressly prohibits states from requiring the use of this model. Consequently, the MARSE was revised in 2006 to offer districts choices in determining SLD eligibility, including methods based on scientific, research-based interventions and patterns of strengths and weaknesses.

In March 2017, the Michigan Department of Education (MDE) released updated criteria to assist Intermediate School Districts (ISDs) and Local Education Agencies (LEAs) in complying with both IDEA and MARSE. The MDE guidance allows flexibility in choosing between the pattern of strengths and weaknesses (PSW) and response to intervention (RtI) methods.

It is imperative that a school district does not delay or deny an otherwise appropriate referral or a request for an evaluation based on the district's use of a response to a scientific, research-based intervention process.

## Part 2. Initial Evaluations

An initial evaluation for suspected SLD must be conducted within **30 school days** of receiving informed parental consent in accordance with Rule 340.1721b of the Michigan Administrative Rules for Special Education (MARSE). However, if it is determined that more time is needed to complete a comprehensive evaluation, a **written agreement to extend the thirty (30) school day timeline** for completing the evaluation and scheduling the Individualized Education Program (IEP) Team meeting must be obtained from the parent *prior* to the original due date. This aligns with the requirements outlined in MARSE. Informed parental consent must be obtained *before* any evaluation activities commence (IDEA Sec. 300.300).

The initial evaluation process begins with a **Review of Existing Evaluation Data (REED)** meeting. The REED team, which includes the parent and relevant professionals, reviews existing data to determine:

- Whether the student is suspected of having a disability.
- The present levels of academic achievement and related developmental needs of the student.
- Whether any additional data are needed to determine:
  - Whether the student is a child with a disability.
  - The educational needs of the student.
  - The content of the student's individualized education program (IEP).

Based on the REED, an **Evaluation Plan** is developed, outlining the specific assessments and procedures that will be used to gather any necessary additional data. This plan must be individualized and comprehensive to the student's needs and the suspected areas of disability.

The evaluation for SLD eligibility must be conducted by a **Multidisciplinary Evaluation Team (MET)**, which, according to MARSE R 340.1713(3), must include at least:

- The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of their age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of their age.
- At least 1 person qualified to conduct individual diagnostic examinations of children and who can interpret the instructional implications of evaluation results, such as a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

### Part 3. Patterns of Strengths & Weaknesses (PSW)

The Pattern of Strengths and Weaknesses (PSW) model is one permissible method for determining SLD eligibility in Michigan, consistent with IDEA Sec. 300.309(a)(2)(ii). This approach involves determining if a student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to their:

- Age;
- State-approved grade-level standards; or
- Intellectual development.

This pattern must be determined by the MET to be relevant to the identification of an SLD, utilizing appropriate assessments consistent with IDEA §§ 300.304 and 300.305. The areas to consider for this pattern include the eight areas listed in IDEA Sec. 300.309(a)(1):

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

The identification of strengths and weaknesses requires the use of technically sound instruments and a variety of assessment tools and strategies. Cognitive assessments *may* be used as part of a PSW evaluation to identify potential processing disorders and to contribute to

the understanding of the student's cognitive strengths. However, they are **not mandated** by federal or Michigan regulations for SLD identification. The focus remains on the *pattern* observed in relation to academic performance and achievement.

**Suggested Parameters for Establishing an Academic Strength:** (Convergence of data and percentile criteria are guidelines for the evaluator. Professional judgement remains at the discretion of the evaluator.)

- Criterion-referenced assessments at or above grade level.
- Norm-referenced test scores and benchmark assessments at or greater than the 25th percentile (e.g., NWEA, M-STEP).
- Curriculum assessment scores at or greater than 80%. For unit or teacher-made tests, an average score of at least the three most recent assessments is recommended.
- Classroom observations indicating adequate understanding of content in comparison to other students in the classroom.
- Grades of A's or B's or 'meets/exceeds' expectations.
- If using cognitive assessments, at least two index scores within the average range.
- Adaptive measures in the normal range.
- At least one data point must be from the category of academic achievement with respect to grade OR age level expectations.
- At least one data point must be from the category of classroom performance relative to grade level and/or age level expectations.

For initial evaluations using the PSW model, an area of weakness is typically identified when there are at least three weaknesses identified within one or more of the eight categories of SLD eligibility. No single benchmark or measure is sufficient; the student should evidence inadequacy on multiple measures. The student's level of intellect must not be used to exclude the student from SLD eligibility if they otherwise qualify and require special education services.

**Suggested Parameters for Establishing an Academic Skill Deficit:** (Convergence of data and percentile criteria are guidelines for the evaluator. Professional judgement remains at the discretion of the evaluator.)

At least one measure needs to reflect a comparison to Michigan (or national) benchmarks or norms in order to provide some consistency across schools and districts in the interpretation of an academic skill deficit. .

- Curriculum-Based Measurement (CBM) results that include at least six data points at or below the ninth percentile may be considered significant.
- Criterion Referenced Measures (CRMs) with results at or below 50 percent of the grade-level expectancy (with clearly defined grade-level criteria).
- Individually administered norm-referenced test scores at or below the ninth percentile may represent an academic deficit.

For re-evaluations, it is generally not necessary to re-establish strengths unless a new area of weakness is being considered. Weaknesses should be considered in the context of percentile scores, the accommodations provided, and the level of special education support required. Classroom performance should always be observed in comparison to peers.

## Part 4. Response to Intervention (RTI)

Response to Intervention (RtI) is another permissible method for determining SLD eligibility in Michigan, consistent with IDEA Sec. 300.309(a)(2)(i) and (b). RtI involves a multi-tiered system of support providing high-quality, research-based instruction and interventions matched to individual student needs. Student progress is monitored frequently at each tier to inform instructional decisions.

Key components of an effective RtI process include:

- **Universal Screening:** Assessing all students to identify those at risk for academic difficulties.
- **Multiple Tiers of Intervention:** Providing increasingly intensive levels of support (e.g., Tier 1: core instruction, Tier 2: targeted interventions, Tier 3: intensive interventions).
- **Progress Monitoring:** Regularly assessing student performance to evaluate the effectiveness of interventions and make data-based decisions. Data should be collected at reasonable intervals (e.g., every 3-5 weeks) and shared with parents.
- **Fidelity of Implementation:** Ensuring that interventions are implemented as intended.
- **Data-Based Decision Making:** Using progress monitoring data to determine the need for more intensive interventions or referral for a comprehensive evaluation.

For SLD eligibility determination using RtI, the MET must determine that the student:

- Does not achieve adequately for their age or to meet state-approved grade-level standards in one or more of the areas identified in IDEA Sec. 300.309(a)(1) when provided with learning experiences and instruction appropriate for their age or grade-level standards.
- Does not make sufficient progress to meet age or state-approved grade-level standards in one or more of these areas when using a process based on the student's response to scientific, research-based intervention.

Documentation is critical in the RtI process. The MET must have data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents (IDEA Sec. 300.309(b)). This documentation should demonstrate that the lack of progress is not due to lack of appropriate instruction.

Data collected during the RtI process, including the types of interventions used, the intensity and duration of interventions, the fidelity of implementation, and the student's progress monitoring data, can be used as part of the comprehensive evaluation for SLD.

## Part 5. Evaluation Process (General Requirements for Both PSW & RTI)

Regardless of the method used to determine SLD eligibility (PSW or RtI), schools must adhere to all regulatory requirements in the IDEA, MARSE, and Michigan laws, policies, and procedures for special education. The following criteria apply to all methods:

- **Determinant Factor:** A student must not be determined to have a disability if the determinant factor is:
  - Lack of appropriate instruction in reading (including phonemic awareness, phonics, vocabulary development, reading fluency and oral reading skills, and reading comprehension strategies as defined in ESEA).
  - Lack of appropriate instruction in math.
  - Limited English proficiency.
- **Full and Individual Evaluation:** A full and individual initial evaluation is required, conducted by the MET (MARSE R 340.1713(3)). Evaluation includes reviewing parent information, existing data, and assessment results (IDEA Sec. 300.304-306).
- **Interpretation of Evaluation Data:** In interpreting evaluation data, the MET must:
  - Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
  - Ensure all information is documented and carefully considered.
- **Parent Involvement:** Parents are integral to the evaluation process, providing information and participating as members of the IEP team in eligibility determination, needs assessment, and IEP development.
- **Review of Existing Evaluation Data (REED) and Evaluation Plan:** The REED process and development of an individualized Evaluation Plan are essential first steps for both initial evaluations and reevaluations.
- **Performance on State & District Standards:** Student progress based on standards (e.g., M-STEP, local benchmarks) is a fundamental consideration.
- **Rate/Level of Progress:** Academic interventions and progress monitoring data are crucial for understanding a student's learning trajectory. Parents must be provided with this information at reasonable intervals.
- **Documentation of Appropriate Instruction:** Schools must employ data-based documentation of the student's progress during instruction in the area of suspected disability, demonstrating effective instruction, meaningful parent involvement, and parent awareness of concerns.



## Part 6. Cognitive Measures

As mentioned in Part 3, cognitive assessments *may* be part of a comprehensive evaluation, particularly within a PSW model, to explore potential cognitive processing strengths and weaknesses that may relate to learning. However, federal and Michigan regulations **do not require** cognitive assessments for the determination of SLD eligibility. The focus should be on the pattern of academic achievement and performance relative to age, grade-level standards, or intellectual development.

If cognitive measures are used, they must be technically sound (IDEA Sec. 300.304(b)(3) and (c)(1)(iii)), and no single measure can be the sole determinant of an SLD (IDEA Sec. 300.304(b)(2)). The MET should consider the relative contribution of cognitive factors alongside academic and behavioral factors.

## Part 7. Exclusionary Factors

The MET is required to consider what are commonly referred to as “exclusionary” factors. It must be clearly understood that a student to whom one of these factors applies might still be appropriately determined as SLD eligible. The issue is one of “primary cause” for the SLD. With the changes in SLD eligibility criteria, serious consideration of these factors has become even more important. The IDEA requires that the determination of SLD eligibility must not be determined based on findings that are primarily the result of:

- Lack of appropriate instruction in reading, including the essential components of reading instruction [as defined in section 1208(3) of the ESEA].
- Lack of appropriate instruction in math.
- Limited English proficiency.

### Lack of Appropriate Instruction

The team needs to consider:

- The instruction that the student has been receiving;
- The qualifications and training of the person delivering the instruction; and
- The student’s access to that instruction.

Since the determination of SLD eligibility requires documentation that a student demonstrates a skill deficit and insufficient progress, there should be evidence that appropriate instruction in the area(s) of concern has been provided, including fidelity of instruction and intervention implementation.

The team will also want to determine whether a student's access to core instruction, as well as to scientific, research-based interventions, is impacted by:

- Poor attendance;
- Frequent moves between schools; or
- Other factors.

If a determination of SLD eligibility cannot be made due to lack of appropriate instruction, attempts must be made to ensure that appropriate instruction is provided and that the student's response to that instruction is documented.

The MET must determine that the student's learning difficulties are **not primarily the result of** (IDEA Sec. 300.309(a)(3) and MARSE R 340.1713(1)):

- A visual, hearing, or motor disability.
- An intellectual disability.
- Emotional disturbance.
- Cultural factors.
- Environmental or economic disadvantage.
- Limited English proficiency.

These factors should be considered and, to the extent possible, ruled out as the primary cause of the learning difficulties *prior* to or during the comprehensive evaluation. The evaluation process, whether using PSW or RtI, involves reviewing data related to academic achievement and classroom performance relative to grade and age-level expectations, including progress monitoring, classroom grades, benchmark assessments, individual testing, teacher feedback, and classroom observations.

A **classroom observation** is required in all areas identified as a weakness to understand the student's learning in the instructional environment (IDEA Sec. 300.304).

The use of criterion-referenced or curriculum-based measures can be valuable in both PSW and RtI approaches to link eligibility determination to instruction.

## Part 8. Required Documents to Be Given to Parents

The school district must document that parents received specific information concerning their student's participation in any response to a scientific, research based intervention process. The information provided to parents must meet all of the IDEA regulation requirements specified at 34 CFR § 300.311. The information parents must receive includes:

- Amount and nature of student performance data that will be collected and general education services that will be provided.
- Strategies for increasing the student's rate of learning.
- Parent's right to request an evaluation.

## Appendix

### Federal Regulations: Specific Learning Disability (34 CFR § 300.8(c)(10))

(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance (as defined in § 300.8(c)(4)), of autism spectrum disorder (as defined in § 300.8(c)(1)), or of environmental, cultural, or economic disadvantage.

## References

- [Individuals with Disabilities Education Act \(IDEA\) of 2004](#)
- [34 CFR Part 300 \(Regulations for IDEA\)](#)
- [Michigan Administrative Rules for Special Education \(MARSE\)](#)
- [Michigan Department of Education \(MDE\) Guidance on Specific Learning Disability Eligibility \(March 2017\)](#)
- [Kent Intermediate School District: Patterns of Strengths and Weaknesses Guidelines \(March 2012\)](#)
- [Oakland Schools Guidance: Eligibility Determination for a Specific Learning Disability \(August 2011\)](#)