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## Technical Assistance Paper

DR. ERIC J. SMITH  
Commissioner of  
Education



## Questions and Answers: State Board of Education Rule 6A-6.03018, Florida Administrative Code, Exceptional Student Education Eligibility for Students with Specific Learning Disabilities

### Summary:

The purpose of this technical assistance paper (TAP) is to provide technical assistance regarding the recent revision of State Board of Education Rule 6A-6.03018, Florida Administrative Code, Exceptional Student Education Eligibility for Students with Specific Learning Disabilities, including changes in the definition, general education intervention procedures and activities, evaluation requirements, eligibility criteria, documentation of determination of eligibility, and implementation requirements.

**Contact:** Heather Diamond  
Program Specialist  
(850) 245-0478  
[heather.diamond@fldoe.org](mailto:heather.diamond@fldoe.org)

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DR. FRANCES HAITHCOCK  
CHANCELLOR OF PUBLIC SCHOOLS

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**A. Definition of Specific Learning Disability (SLD)**

**A-1. Why are dyslexia, dysgraphia, and dyscalculia included in Florida's definition of SLD?**

These specific types of learning disabilities are examples of disabilities that may fall within the category of SLD in Florida if all of the eligibility criteria detailed in this rule are met. Dyslexia is a type of reading disability, dysgraphia is a type of written language disability, and dyscalculia is a type of math disability. Eligibility for special education has always been twofold in that 1) the existence of a disability must be evident and 2) the student's need for resources available through special education must be evident. Not all students who are diagnosed with a disability meet SLD eligibility criteria, or require the resources provided through special education services in order to progress adequately and meet grade level expectations.

**A-2. What is the school's responsibility to students with pre-existing diagnoses of disabilities such as dyslexia, dysgraphia, and dyscalculia?**

Schools should recognize that these disabilities *do* exist and may or may not require the school to monitor progress and adjust instruction and interventions. As with all students, the school's responsibility is to maintain the student's progress and performance by matching the student's unique needs to resources available through general education. Some students who have pre-existing diagnoses may also have educational needs beyond what can be provided within general education programs. These students may require sustained and substantial effort with intense, individualized interventions in order to achieve and maintain adequate progress. Students who meet all of the eligibility criteria set forth in the rule can be found eligible for special education and related services; however, a diagnosis alone is not sufficient to establish special education eligibility. Students who are not found eligible for special education may qualify for a Section 504 Plan. Ultimately, the individual student's needs and the resources required to meet those needs are identified through the problem-solving/response to intervention process. Matching the student's instructional needs to intervention supports based on these findings is the responsibility of the school, regardless of the presence or nonpresence of a particular diagnosis such as dyslexia.

**A-3. Are there unique tests that schools administer that relate to certain types of specific learning disabilities like dyslexia, dysgraphia, or dyscalculia?**

No. These types of disabilities are neurological and may require educational treatment through targeted instruction and intervention practices. A physician's diagnosis can be used as part of the problem-solving process and eligibility decisions. Any assessments that the school-based problem-solving team determines are relevant to inform instruction and/or intervention for the purpose of improving the student's rate of progress and performance may be administered. Otherwise, there are no requirements that specific types of tests are necessary. The school's ultimate purpose is to determine the student's educational needs and

match resources to that need in order to improve learning and behavioral outcomes. Actions conducted for the purpose of labeling and categorizing may not directly contribute to the school's ultimate purpose. The emphasis is first on determination of specific educational needs, then subsequently on the determination that a disability exists.

**A-4. How should schools communicate with parents about these disabilities?**

In communications with parents and students, schools should explain the relationship between a particular type of disability and the school's focus on determining and providing for the specific academic instruction and intervention needs. It should be made clear that the category referred to as "SLD" encompasses many types of disabilities, including but not limited to dyslexia, dysgraphia, and dyscalculia. Schools should also acknowledge physicians' diagnoses of dyslexia, dysgraphia, and dyscalculia are important to the school in considering all factors relevant to the student's educational needs and validate that such diagnoses are helpful for access to research, advocacy, and support networks. Regardless of the specific type of disability, the student should receive instructional supports and interventions specific to his or her needs.

**B. General Education Intervention Procedures and Activities**

**B-1. Why is there a focus on effectiveness of core instruction provided through general education resources?**

Rule 6A-6.0331, Florida Administrative Code (F.A.C.), requires districts to develop and implement coordinated general education intervention procedures for students who need additional academic and behavioral support to succeed in the general education environment and permits districts to carry out activities that include the provision of educational and behavioral evaluations, services, and supports in implementing such procedures. In Florida, response to intervention (RtI) establishes the framework to implement coordinated instructional and intervention supports by focusing on providing effective core instruction and then on identifying the services and supports needed for students to experience success. The RtI process requires schools to look at individual difficulties in the context of overall instruction/intervention effectiveness. An individual Progress Monitoring Plan (PMP) is one tool that can be used to document this process. If significant numbers of students or disaggregated subgroups are not experiencing success, the effectiveness of the core instruction should be evaluated.

**B-2. Why are graphic representations of a student's RtI required?**

Data demonstrating rate of progress and levels of performance in comparison with multiple subgroups are used to monitor student progress throughout a student's education, in both general and special education programs. Graphic representations are a means of effectively presenting raw data to parents, students, and education professionals involved in problem identification, analysis, and intervention planning and they convey the degree to which a child responds to the interventions being provided. Fewer conflicts arise when all parties are able to

fully understand the data regarding the school's implementation of interventions and the student's responses to these interventions over time. When the school makes instructional adjustments based on their child's response to the interventions, parents are reassured that the school is taking active responsibility for meeting the student's needs.

**B-3. What are acceptable ways to graphically reflect the student's response to intervention?**

If the method of graphically reflecting the student's response data is functional for the users (including the parents, students, and educators), then it is an "acceptable" method because it can be justified as useful and meaningful in the process of decision making and improving outcomes for the student. The required graphic representations should include student response data, aim lines, and trend lines and should allow for group comparisons. Consideration should be given to the necessity of retaining and archiving progress-monitoring graphs for future use.

**B-4. How frequently should a student's progress be monitored?**

Data collection should match the severity of the problem. In general, students receiving intensive, individual interventions (commonly described as tier 3 interventions) should be monitored weekly until enough data points are gathered to obtain a reliable slope. In contrast, students receiving targeted interventions (commonly described as tier 2 interventions) may be monitored biweekly or even monthly.

**B-5. How often should graphic representations of the student's response to intervention be shared with parents?**

Graphic representations of a student's level of performance and rate of progress should be made available to parents each time the problem-solving team uses the data to make decisions.

**B-6. How do schools verify and document that instruction and interventions were "well-delivered" with reliable "evidence of implementation fidelity"?**

If instruction and interventions are effective in addressing the targeted behavior or skill measurable by positive student response, then evidence exists demonstrating that the instruction was well-delivered. Documentation that the same instruction and interventions are effective for large numbers of other students in the same setting helps establish that instruction and interventions are being well-delivered, especially if they are effective with students from similar demographic backgrounds.

Well-delivered instruction and interventions have documentation of implementation fidelity, to include:

- The level of support/training provided to the implementer
- The frequency and intensity of intervention

- Evidence that the intervention followed protocol and was delivered for a sufficient period of time to generate sufficient data to determine a student’s response to the intervention (i.e., degree of effectiveness in addressing the problem)

Implementation fidelity means the quality of the instruction delivered and is evident through documentation of the specific instructional interventions used, the support provided to the individual(s) implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration and frequency of intervention implementation (e.g., number of weeks, minutes per week, sessions per week), and the student-centered data collected. Verification should occur through multiple approaches that include direct observations of core instruction, intervention implementation, and fidelity of intervention. It is the responsibility of the school-based problem-solving team (including the administrator) to determine who will monitor fidelity as part of the intervention planning process.

It is important that intervention fidelity be observed at each tier of the general education instruction/intervention process. Teams should plan for the observation and documentation of intervention fidelity in advance. The problem-solving team should determine which member of the team will conduct a direct observation of the intervention. Direct observations record the presence of critical elements of instruction/intervention in real time, while instructional behavior rating scales are completed after observing an entire instructional session. In addition to observations and lesson plans, completed procedural checklists may assist in assessing treatment and problem-solving team integrity (e.g., walk-throughs, Differentiated Accountability Plan, Problem Solving/RtI Project Documentation of Intervention Fidelity). Finally, providing professional support to the person delivering the interventions increases implementation fidelity. This support includes review of the student’s response to intervention, identification and resolution of any barriers to the implementation of the intervention, and a review of the critical components of the intervention. Self-reports may be used to record the amount of instruction/intervention delivered and permanent products evidencing the occurrence of instruction/intervention sessions may be reviewed. Examples may be found at <http://www.aea11.k12.ia.us:16080/idm/checkists.html>.

## **C. Evaluation/Reevaluation**

### **C-1. What is a “comprehensive” evaluation?**

The comprehensive evaluation includes all the existing information on the student (e.g., graphic representations of the student’s rate of progress and level of performance using progress-monitoring tools; observations; reports; parent input; local, state, and district assessments; etc.) as well as any additional assessments that the group of qualified professionals determines necessary to: (1) determine whether a student is a student with a disability and (2) identify the special education needs of the student. Rule 6A-6.0331(5)(g), F.A.C., requires that an evaluation be sufficiently comprehensive to identify all of a student’s exceptional education and related services needs. A comprehensive evaluation uses a variety

of assessment tools and strategies, does not rely on a single measure or assessment, assesses the student in all areas related to the suspected disability, and identifies the student's individual educational needs. It is important to note that psycho-educational testing is not the same as a comprehensive evaluation. Though in isolated cases psycho-educational testing may be a helpful part of the comprehensive evaluation process, school-based problem-solving teams must make the determination of what type of information is needed to inform the problem-solving effort and what type of assessments would provide that information on a student-by-student basis.

**C-2. How is RtI integrated into a comprehensive evaluation for students not enrolled in public school?**

For some students, only minimal information may be available, and some or all of this information will be gathered after the referral for evaluation has been made. The school district will work with the current educators of the student to gather as much of this information through the intervention and assessment process as possible, recommend any additional assessments as necessary, and make the eligibility decision to the best of the team's ability. In the event that collaboration with the private or virtual school staff or the parent of a home education student is minimal, despite multiple attempts, the team may simply not have the evidence required to determine eligibility.

**C-3. How are students transferring from another state or district most efficiently provided with the level of instruction/intervention that they need?**

For students transferring from other districts or states, only minimal information about what has been provided and how the student responds may be available, and some or all of this information will be gathered after the student enrolls in the new school. However, any information that can be gleaned through records and/or collaboration with the previous educators and parent(s) of the student should be used to recommend comparable supports that can be implemented during the transition and any additional assessments that may be necessary.

**C-4. Is the school required to obtain a “positive” response to the intervention from the student, prior to the comprehensive evaluation, before it can determine eligibility?**

No, although obtaining a positive response is the continual goal and ideally occurs prior to determining eligibility so that the student's needs are known, documented, and may be used to inform the individual educational planning (IEP) process.

Consistent with Rule 6A-6.03018, F.A.C., eligibility can be determined if: 1) there is documentation that the student has received scientific, research-based instruction delivered with fidelity by qualified personnel, 2) the student does not make adequate progress when given individualized interventions of sufficient intensity and duration to satisfactorily address discrepancies in level of performance and rate of progress, and 3) discrepancies in level of performance

and rate of progress are not primarily the results of one of the exclusionary factors.

The two primary purposes of comprehensive evaluation are: 1) to determine whether the student is a student with a disability, and 2) to determine the educational needs of the student (34 Code of Federal Regulations [CFR] § 300.301(c); Rule 6A-6.0331(3)(c), F.A.C.). An evaluation is incomplete if it only establishes the existence of a disability without determining the special education needs of the student. The evaluation procedures require that the evaluation be “sufficiently comprehensive to identify all of a student’s exceptional student education (ESE) needs, whether or not commonly linked to the disability category in which the student is classified” (Rule 6A-6.0331(5)(g), F.A.C.).

Determining what intervention(s) the student responds to, and to what degree, is essential for establishing the “need” for exceptional education and identifying the specific exceptional education needs. Ideally, the student will be *responding positively* to the intervention(s) and the team may determine that it is necessary to sustain the intensive interventions through the provision of special education and related services. However, some cases will require making a decision that the student needs resources available through special education because the student has *only minimal (poor or questionable)* response to the interventions that have been provided so far, but it is clear that the student will require tier 3 level services on an on-going basis. In either case, it is expected that the problem-solving process and pursuit of the intervention(s) that will close the gap will continue at the intensive level for students who are found eligible for special education. For further explanation of *poor*, *questionable*, and *positive* levels of student response to interventions provided, see question E-5.

**C-5. What is meant by “intensive interventions are effective but require sustained and substantial effort”?**

Interventions that require sustained and substantial effort are interventions that effectively improve a student’s level of performance and rate of progress; however, when the intervention is faded (i.e., the intensity of the intervention is reduced), the level of performance and rate of progress decline significantly. Progress-monitoring data provide evidence of the effectiveness of the intervention but may also indicate that maintenance of growth requires intensive supports, which may reflect exceptional education services.

**C-6. Are schools responsible for providing general education interventions for students who demonstrate continued need for supportive interventions but do not qualify to receive special education services?**

Yes. In accordance with Rule 6A-6.0331(1), F.A.C., the district is responsible for developing and implementing a coordinated system of supports that address the academic and behavioral needs of students in order for students to be successful in the general education environment. Approximately 15–20 percent of students in our schools will need additional support on an ongoing basis to make adequate progress. The majority of these students are not identified as eligible for services

as a student with a disability under the IDEA or Section 504. The on-going work of the problem-solving teams will focus on solutions for these students through general education resources.

**C-7. If schools are to continue problem-solving efforts until the student successfully responds to instruction/interventions, how is the school to respond when a parent requests an evaluation?**

If a parent requests an evaluation, the problem-solving/response to intervention process should continue concurrently with the evaluation. If, at the end of the 60-day evaluation timeline, the group of qualified professionals does not have enough evidence to determine eligibility, the group can propose an extension of the evaluation timeline or conclude that the eligibility decision must be made with the currently available information. The school's responsibility is to meet the student's instructional/intervention needs as informed by the student's on-going response to what is being implemented and adjusted accordingly. Thus the problem-solving/response to intervention cycle continues with or without an eligibility determination.

**C-8. What is meant by "appropriate period of time"?**

The instructional strategies/interventions must be delivered for a period of time sufficient to gather enough data to determine effectiveness. The determination of what is an appropriate period of time cannot arbitrarily be established but must be decided individually based on a number of factors, including:

- Discrepancy in level of performance and rate of progress
- Intensity of the intervention
- Length of the implementation in a standard protocol intervention
- Rate of progress that can be realistically expected

These decisions are the responsibility of the group of qualified personnel who know the student and are knowledgeable about instruction and intervention. The length of time necessary to respond to interventions may vary as a function of age, skill, and prior experience. Although response to a specific intervention can be determined in a relatively short period (if the measure is sensitive to changes in growth and there are enough data points to establish a reliable slope/trend line), the problem-solving cycle is a process that requires persistent, on-going effort.

Ultimately, it is the student's response to intervention that will determine the length of time that the student should be exposed to the specific interventions. If a student evidences a positive response to intervention, then the intervention should be continued. If a student is improving, but not at a rate necessary to ultimately reach grade-level standards, then increasing the intensity of the intervention should be considered. However, if a student is evidencing a poor response to intervention, then the school-based team should return to the problem-solving process to identify alternative interventions.

**C-9. Can a student be found eligible for services as a student with an SLD if the problem-solving team does not have enough information about the student’s response to intervention at the end of the 60-day timeline to determine whether the student needs specially designed instruction?**

No. A student cannot be found eligible unless there is sufficient information acquired to establish the existence of a disability and need. Problem-solving/RtI does not “start” and “end” like the traditional “pre-referral” process. It is an on-going, cyclical way of work that applies to all students enrolled in school and continues for students who are receiving special education and related services. Even in circumstances where minimal data are available at the time of consent to evaluate, 60 school days (which is approximately three months of school) should provide sufficient time to collect the RtI data necessary to determine whether the student needs specially designed instruction. If the team has insufficient RtI, or other evaluation data required to make decisions about eligibility and need, the 60-day timeline can be extended by “mutual written agreement.” This extension is a unique allowance for the SLD evaluation process and is specifically established in the IDEA regulations.

**C-10. What impact will the extension of the 60-day timeline by “mutual written agreement of the student’s parents and a group of qualified personnel” have on the State Performance Plan requirement for meeting the 60-day timeline?**

In accordance with IDEA, the option to extend the timeline by mutual agreement is *unique* to the program for specific learning disabilities. Students for whom the 60-day timeline is extended by mutual written agreement will not be counted in the 60-day timeline data. Districts will need to individually track these students and report the number of students whose timeline has been extended by mutual agreement and the number of days beyond the 60-day timeline within which the evaluation is completed.

**C-11. How do teams identify well-delivered scientific, research-based instruction?**

Teams are encouraged to use interventions that meet federal guidelines for scientifically based research (Sec. 9101 (37) of the No Child Left Behind Act of 2001 and Rule 6A-6.03411(ff), F.A.C.). Scientific, research-based interventions are those that involve the application of rigorous systematic and objective procedures to obtain reliable and valid knowledge relevant to educational activities and programs. In addition, scientific, research-based interventions involve research that employs systematic methods that draw on observation or experiment and rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn. It is the responsibility of the team selecting the evidence-based interventions to ensure that those interventions were validated through students with similar demographics to the student targeted for the interventions and that the instructional conditions were similar.

For reading, there should be evidence that the intervention addresses the essential components of reading instruction. The What Works Clearinghouse and the Florida Center for Reading Research (FCRR) are examples of centers that evaluate research for practitioners. The intervention should have evidence of validity for the specific population, problem, and setting to which it is applied. It is also important to note that implementation fidelity and sufficiency should be documented and shared with parents as often as this information is used to make decisions.

**C-12. How does the school determine the “date of evaluation” if the evaluation includes on-going progress monitoring?**

The date of the evaluation is the date the group reviews all of the available information on the student, including response to intervention data. Response to intervention is not an “evaluation” in the traditional sense but an evaluation of all available data collected over time. There will be a date when the team decides to consider the question, “Is this student eligible for special education?” In order to answer the question, the team must also determine whether sufficient data exist to make this decision and, if not, what specific data must be gathered and how it will be gathered. If more information is needed, a new “evaluation date” is set so that the additional information can be added to the body of evidence for review. **The date of evaluation will be the same as the date the eligibility decision is made.**

**C-13. How will reevaluations be conducted? Is the RtI process required as a part of the reevaluation process? How is the due date for reevaluation determined?**

As with any reevaluation, the individual educational plan team must review existing evaluation data on the student, including information provided by the parent. The team must also review current classroom-based, local, or state assessments and classroom-based observations conducted by teachers and related services providers and determine if additional information is needed. The purpose of reviewing this collection of information is to decide (1) whether the student continues to be a student with a disability in need of special education and related services, (2) the present levels of academic performance and related developmental needs of the student, and (3) whether any additions or modifications to the special education and related services are required (Rule 6A-6.0331(8)(a), F.A.C.). With few exceptions (e.g., students with visual impairments), there is no requirement that a formal assessment be administered or that any particular procedure be followed.

Because RtI is integrated into the instructional/intervention process for all students in Florida, the progress-monitoring, intervention fidelity, and response to intervention data should be collected as frequently for students served through ESE programs as for students served through general education receiving intensive, individualized interventions. The RtI data are essential to documenting the continuing need and would be part of the existing evaluation data reviewed by the IEP team as part of the reevaluation process. The RtI data should assist the team in determining the degree to which the student has benefited from special education services.

A reevaluation of the student must be conducted at least every three years. The due date for the first reevaluation is three years after the date of the initial evaluation, which in many cases will also be the date of determination of eligibility. The due date for subsequent reevaluations is determined in the same way as for all other disability categories.

**C-14. What is the benefit of making a student dually eligible for SLD and other ESE categories?**

For a student already determined eligible for ESE, it is often unnecessary to add another label in order to address his or her needs. Addressing all the educational needs of the student is the purpose of the IEP, regardless of label. Thus the academic, behavioral, or other needs of an ESE student should be determined through the problem-solving process and be addressed on the IEP. Unless the IEP team believes that the current classification is incorrect, the student only receives speech services, or there is some benefit in identifying the secondary disability, there is little to be gained by adding a label.

If a team were to explore eligibility for the SLD program, the student would need to meet all the eligibility criteria for an SLD, including data documenting the provision of scientific, research-based instruction/interventions and graphic representations of the RtI data. An emotional/behavioral disability should be ruled out as the primary cause for the learning difficulty. Therefore, there would need to be documentation that the student's academic difficulties are not primarily the result of the emotional/behavioral disability.

Students should be identified as a student with a disability using the most appropriate category. The question to ask is, "What access to instructional strategies would be gained by establishing additional labels that could not be addressed on the student's IEP with the current eligibility classification?" If there is subsequent information suggesting that the initial classification was inaccurate, a reevaluation to determine the correct disability would be appropriate.

**C-15. When might it be appropriate to change a student's classification from Intellectually Disabled to SLD?**

Because an intellectual disability is an exclusionary factor in determining whether a student has a specific learning disability, there would need to be a determination that the student is no longer eligible as a student with an intellectual disability. In some instances, after implementing evidence-based interventions and collecting data on the student's response to intervention, a student previously identified with an intellectual disability might be found eligible as a student with a specific learning disability if the group documents that the student is unable to make adequate progress with general education interventions and support and determines that a learning disability exists. As a reminder, provision of services is based on student need, *not* on a label, so that a student who is no longer eligible as a student with a disability would get the needed interventions regardless of whether he or she continued to be eligible for special education.

## **D. Criteria for Eligibility**

### **D-1. What are the eligibility criteria for SLD?**

A group of qualified professionals and the parent can determine eligibility for a specific learning disability if there is evidence of the following three criteria:

- 1) The student does not achieve adequately (for age- or grade-level standards) when provided with instruction and learning experiences appropriate for his or her grade placement.
- 2) The student does not make adequate progress based on a response to intervention process, or interventions are effective but require sustained and substantial effort that exceed what can be offered through general education resources (*districts may also require a pattern of strengths and weaknesses in addition to the RtI process until July 1, 2010*).
- 3) Discrepancies in level of performance and rate of progress are not *primarily* the result of one of the following factors:
  - A visual, hearing, or motor disability
  - Intellectual disability
  - Emotional/behavioral disability
  - Cultural factors
  - Irregular pattern of attendance and/or high mobility rate
  - Classroom behavior
  - Environmental or economic factors
  - Limited English proficiency

### **D-2. How does the group determine that the student “does not achieve adequately” in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving?**

There should be multiple measures from multiple assessment instruments and procedures, such as standardized assessment batteries and curriculum-based progress-monitoring instruments, establishing the level of performance discrepancy in each area of concern. Progress-monitoring measures are needed to assess the student’s response to intervention and measure the rate of progress and to document that inadequate achievement persists with appropriate instruction and intervention over time. The student’s level of performance and rate of progress are significantly discrepant from age- or grade-level standards/expectations and from the performance of peers using a combination of curriculum-based screening measures and progress-monitoring measures (e.g., Florida Assessments for Instruction in Reading), individual and group norm-referenced tests, and both district and state assessments. The Department of Education is not establishing a “cut-off” score, but, in most cases, a student whose performance is in the broad average range and whose slope of progress is similar to that of demographically similar peers would not need special education. Appendix A of the district’s ESE Policies and Procedures document lists selected evaluation instruments that can be

used to assess reading, math, written language, and oral language achievement relative to age peers.

**D-3. What are examples of ways to identify “level of performance and rate of progress”?**

Level of performance is established by comparing an individual student to grade- or age-level benchmarks and peer performance using universal screening measures, district and state criterion or norm-referenced assessments, and other norm-referenced measures of achievement. Districts have flexibility with respect to assessment instruments. A variety of tools can be used such as formal, standardized measures, curriculum-based measurements, and other assessment tools that measure the student’s level of performance on state standards.

Rate of progress can only be established by ongoing progress-monitoring tools that assess the student’s response to intervention. These measures must be brief, repeatable, sensitive to growth, and able to be graphically represented for decision making. A number of comprehensive, commercially available progress-monitoring systems are on the market. The National Center on Student Progress Monitoring provides a review of progress-monitoring tools at <http://www.studentprogress.org/chart/chart.asp>. Additionally, the National Center on Response to Intervention at <http://www.rti4success.org/> has released a [Progress Monitoring Tools Chart](#). National and state efforts continue to evolve in this area of development.

The Florida Center for Reading Research, in partnership with Just Read, Florida!, has developed the Florida Assessments for Instruction in Reading (FAIR). The FAIR include tools for screening, progress monitoring, and diagnostic assessment for students in grades K–12 (including comprehension and vocabulary) and will be implemented at the beginning of the 2009–2010 school year. Scores from the grades K–2 assessments and the grades 3–12 computerized assessments will be directly imported into the Progress Monitoring Reporting Network (PMRN) thereby supporting data analysis.

The Florida Center for Research in Science, Technology, Engineering, and Math (FCR STEM) is also in the process of developing assessment tools. Currently, the focus is on formative assessment tools aligned with the Next Generation Sunshine State Standards for primary grades in mathematics. Florida will continue its progress toward developing assessment tools that inform instruction and intervention, a common data system, and a unified system of education.

**D-4. For schools opting to use the process described in Rule 6A-6.03018(4)2.b., F.A.C., until July 1, 2010, what are the ways to identify a pattern of strengths and weaknesses in performance, achievement, or both?**

The pattern of strengths and weaknesses refers to the examination of profiles across different tests used historically in the identification of students with an SLD. This may include a discrepancy between the student’s measured intellectual ability and level of achievement. It may also include a variance in cognitive

processes or other patterns of strengths and weaknesses that are relevant to the identification of a specific learning disability. Note that districts may conduct additional assessments if determined necessary by the group of qualified professionals on an individual student basis, but may not require a resulting pattern of strengths and weaknesses beyond July 1, 2010.

**D-5. How does the group of qualified professionals determine that the student’s learning difficulties are not primarily due to one or more of the following factors: visual, hearing, motor, intellectual, or emotional/behavioral disabilities; limited English proficiency; classroom behavior; irregular pattern of attendance and/or high mobility rate; or environmental, cultural, or economic factors as specified in Rule 6A-6.03018(4)(a)3., F.A.C.?**

As part of the process for documenting that the SLD eligibility criteria have been met, the group must determine that its findings are not primarily the result of these factors. It is the group’s responsibility to identify the data sources necessary to rule these factors out as a primary cause of learning difficulties. This can be accomplished through a variety of methods, including review of records, observations, classroom performance, RtI/progress-monitoring data and rating scales. In some cases, a formal evaluation may be necessary if there is insufficient information to rule out a particular factor. Formal assessment may be indicated if there are questions about sensory deficits, intellectual disabilities, or emotional/behavioral disabilities. Rule 6A-6.0331(4), F.A.C., states that, “students shall be assessed in all areas of the suspected disability including, **if appropriate** [emphasis added], health, vision, hearing, social and emotional status, intelligence, academic performance, communicative status, and motor disabilities.”

Response to intervention does not replace the requirement to rule out other causes of learning difficulties. However, in many cases the data gathered during the problem-solving/RtI process may be sufficient to rule out environmental, cultural, or economic factors and limited English proficiency if there is documentation that the majority of students from similar demographics, to the extent possible, are meeting expectations. A student should not be considered disabled unless there is empirical evidence of sufficient opportunities to learn and that instruction/interventions are effective for their peer group. A problem-solving/RtI approach provides empirical evidence of the effectiveness of core instruction and both small group and individual interventions.

**D-6. How will eligibility be determined for English language learners?**

A problem-solving/RtI approach to SLD identification holds promise as a more culturally fair practice for English language learners by focusing on evaluating the effectiveness of core instruction for English language learners as a group prior to examining deficits in the level of performance of an individual English language learner. Core instruction and targeted interventions must be effective for English language learners as a group. An English language learner would not be considered disabled unless there is empirical evidence that instruction is effective for other English language learners with similar exposure to English and that the

student's rate of progress and level of performance are discrepant from both grade-level expectations and English language learners' peer performance. Because English language learners are subject to the same academic performance expectations as other students, their performance should be measured with the same progress-monitoring tools. Studies suggest that English language learners make similar rates of progress on progress-monitoring measures,<sup>1</sup> but it is important to select monitoring tools that are sensitive to academic growth in English language learners. *Learning Disability Quarterly* published a special issue on English language learners and RtI in the Summer 2007 (Vol. 30), which addresses many of the instructional and research issues surrounding implementation of RtI with students who are English language learners.

**D-7. Why was the requirement for a process deficit eliminated?**

The process test requirement was eliminated from the Florida rule to align the rule with the requirements of IDEA and because there is a lack of evidence that such assessments are necessary or sufficient for identifying SLDs. The federal regulations have no requirement to assess process deficits when determining the existence of a specific learning disability (34 CFR §300.309). In the commentary section of the Federal Register (p. 46,651), the United States Department of Education states that, “an assessment of intra-individual differences in cognitive functions does not contribute to identification and intervention decisions for children suspected of having an SLD” and states that, “The Department does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD” [because] “in many cases...assessments of cognitive processes simply add to the testing burden and do not contribute to interventions.”

**D-8. According to Rule 6A-6.03018(4)(b)2., F.A.C., members of the group determining eligibility must include at least one person qualified to conduct and interpret individual diagnostic examinations. Examples given include a school psychologist, speech-language pathologist, or reading specialist. Does this mean that it is possible for a speech-language pathologist or a reading specialist to declare a student eligible for exceptional student education?**

No. A group of qualified professionals and the student's parents determine eligibility. The team of qualified professionals must include the regular teacher and at least one person qualified to conduct individual diagnostic examinations of children. Examples of professionals qualified to conduct individual diagnostic examinations include school psychologists, speech-language pathologists, and reading specialists. The team should include professionals with expertise relevant to the learning issues involved, familiar with Florida's problem-solving/RtI model, and knowledgeable about the use of RtI in making decisions. At least one member of the team should be a professional who, by reason of training and experience, is qualified to assess and determine the presence or absence of the factors specified in Rule 6A-6.03018(4)3.a-h., F.A.C. (e.g., school psychologist).

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<sup>1</sup> Haager, D. (2007). Promises and cautions regarding using response to intervention with English. *Learning Disability Quarterly*, 30(3), 213–218.

Rule 6A-6.0331(3)(c) and (5)(b), F.A.C., provides guidance on qualifications for individuals administering and interpreting the assessments.

Decisions about the specific qualifications of the members are made at the local level. The composition of the group may vary depending on the nature of the student's suspected disability, the expertise of local staff, and other relevant factors. For instance, it is reasonable to expect that a speech-language pathologist may be involved in the case of a language-based learning difficulty in which there is a suspected reading disability. The rule provides flexibility and is intended to ensure that the group includes individuals with the knowledge and skills necessary to interpret the evaluation data in order to make informed determinations of the existence of a disability and the student's educational needs. The group would include those professionals who have been involved in formulating and monitoring intervention effectiveness as well as any professionals who participated in the diagnostic assessment(s) and evaluation.

**D-9. Why is one observation required by Rule 6A-6.03018(4)(c), F.A.C., whereas multiple observations are implied by Rule 6A-6.0331, F.A.C., and what must be included in the observation?**

Rule 6A-6.0331, F.A.C., delineates the activities a school district is required to conduct on behalf of any struggling student prior to referral for an initial evaluation. Section (1)(b) of the rule uses the term "observations" in the plural form to indicate that there must be more than one observation conducted and requires that at least one observation include an observation of the student's performance in the general classroom. Based on the results of all of the activities described in section (1) of the rule, the district may refer a student for evaluation to determine if the student is an eligible student with a disability. Note: The general education intervention procedures required under this rule do not apply to ESE students for whom eligibility under a different disability category is being considered, as this would be considered a reevaluation and not an initial evaluation. The evaluation requirements for each disability category are provided in the respective State Board of Education Rule.

Rule 6A-6.03018, F.A.C., addresses the evaluation procedures required for a student to be determined an eligible student with a specific learning disability. The process is consistent with IDEA in requiring at least one observation of the student in the learning environment. Because it is required as a part of the evaluation process itself, unlike the observations noted above, this observation would be required for both an initial evaluation and a reevaluation to consider a change in eligibility. The observation must include information on the student's performance in the typical learning environment and document the relationship between student behavior and academic performance. Observations conducted in accordance with Rule 6A-6.0331, F.A.C., would meet the observation requirements under Rule 6A-6.03018, F.A.C., if they sufficiently document the relationship between the student's classroom behavior and academic performance.

**D-10. For students who are not yet enrolled in school or are in an alternate setting, what is meant by an observation in an environment appropriate for a student of that chronological age?**

The goal is to observe the student in a setting where evidence of the disability would manifest itself. One challenge is how to establish that students not enrolled in school or in an alternate setting have received appropriate instruction. Parents must be involved in the problem-solving process to adequately address this question. Both IDEA and State Board Rules state that a student cannot be determined eligible if the determinant factor is lack of appropriate instruction. It is not appropriate to consider eligibility as a student with a learning disability for students who have not had access to well-delivered, research-based instruction.

**D-11. How and by whom are observations to be conducted?**

Observations should be conducted during routine classroom instruction and should address instruction, curriculum, and environmental factors as well as document the relationship between the student's classroom behavior and academic performance. Someone other than the person providing instruction at the time of the observation should complete the observation. The person conducting the observation should be trained in the observation system being used and be familiar with grade-level academic and behavioral expectations. Routine observations conducted by administrators, professional staff, or other teachers that address the purpose of the observation identified in the first sentence may meet the observation requirement, or the observation can be completed by a member of the problem-solving team assigned as part of the intervention planning process.

**D-12. Will RtI processes result in an increase in the number of students who are determined eligible for special education services under the classification of SLD?**

The evidence to date leads us to believe this will not occur. It is the Department's expectation that RtI implemented with fidelity will result in improved student success in the general education environment and fewer students needing special education, which is consistent with the intent of Congress that schools provide effective interventions to reduce the need to label children as disabled in order for them to receive academic support (20 United States Code Section [USCS] 1400). According to the National RtI Implementation Survey conducted in 2009, data indicate that RtI results in fewer referrals for special education. RtI may decrease the number of students referred for evaluations because school referrals will be based on data analysis rather than teacher nomination. Large increases in the numbers of students eligible for special education services in a given district or school may suggest that RtI is not being implemented properly. The Bureau of Exceptional Education and Student Services will continue to monitor the identification of students with an SLD and the impact of changing practices.

**D-13. How does RtI impact eligibility and services for students entering kindergarten who were previously identified as developmentally delayed?**

The impact depends upon the students' specific educational experiences prior to entering kindergarten. Students cannot be determined eligible for an SLD if the determinant factor is lack of appropriate instruction. This is difficult to establish for students who have not had access to instruction in a structured educational setting. Most students entering kindergarten who were previously identified as developmentally delayed have received structured educational services through the school district's ESE program. Those services may have been provided in inclusive prekindergarten settings with typically developing peers or may have been provided in an ESE prekindergarten classroom. If so, some amount of progress-monitoring, observational data, and other relevant information will be available from those sources. Students entering kindergarten must be given access to instruction in grade level standards in the least restrictive environment. This is most often the general education setting with the support necessary for the student to progress toward grade level benchmarks. Problem-solving teams should consider any data available from previous educational settings when developing and implementing instructional strategies that generate the appropriate learning gains for the student. For example, if a student responds positively to general education resources, continue to provide the effective instruction/interventions and monitor the student's progress. If the student is not making adequate progress, the supports should be reviewed and intensified.

For students identified as developmentally delayed (DD), by no later than the student's sixth birthday the district must have evaluated the student to determine whether the student meets the initial eligibility criteria under another ESE program. If initial eligibility criteria are not met, the student is considered to be an ineligible student and must be dismissed from ESE services. It is important to note, however, that all students must be provided effective instruction to meet their needs, whether they are eligible for ESE services or not. It may be that a student previously identified as DD is dismissed from ESE services at age six, but is subsequently determined eligible as a student with an SLD if it is found through the problem-solving/RtI process that the level of support the student needs and is provided represents special education services.

**D-14. Are schools responsible for addressing academic and behavioral issues experienced by gifted learners who also have learning difficulties but function on grade level?**

Yes. Problem-solving teams are encouraged to apply the same RtI logic of identifying problems, analyzing barriers, implementing instruction in addition to the core, and measuring student's response to what is being provided in order to continually meet individual student needs. Although the student would not meet the eligibility criteria found in Rule 6A-6.03018, F.A.C., since the student is functioning on grade level, he or she may have specific needs that require attention as part of the schoolwide system of serving students on a fluid continuum informed by data (RtI). The problem-solving team for gifted students should address acceleration needs and preventative interventions that address the

student's academic and/or behavioral challenges. Core members of this team should include a gifted educator, special educator, and general educator.

**D-15. Can students who are gifted also be found eligible for SLD?**

Yes. Consistent with the Federal Regulations for IDEA, gifted students may be determined eligible for services under IDEA if they: 1) do not achieve adequately based on chronological age or state-approved, grade-level standards and 2) do not make adequate progress as evidenced by their response to scientific, research-based interventions. The first criterion for identifying a student with an SLD is to compare the student's performance to grade-level standards. The criteria for eligibility are the same for all students regardless of their ability level. Academic progress must be inadequate relative to grade-level expectations or chronological age (i.e., the normative performance of same age peers, not same ability peers). When high ability students receive interventions because they are not meeting grade-level expectations, the level of performance and rate of progress should be compared to peer subgroups relevant to helping the team determine whether the learning difficulties are the result of any of the factors impacting learning identified in the SLD rule (6A-6.03018(4)(a)3., F.A.C.).

**E. Documentation of Determination of Eligibility**

**E-1. What are the minimum expectations for the “written summary of the group’s analysis of the data”? Is a separate evaluation report required? Who is responsible for writing the summary?**

The written summary must incorporate the elements listed in Rule 6A-6.03018(5), F.A.C., which includes:

- The basis for making the determination
- Observations relating behavioral to academic functioning
- Educationally relevant medical findings
- Data confirming the existence of a specific learning disability, including performance discrepancy, rate of progress, and educational need
- The group's determination of the effect of other factors
- RtI information documenting the intervention plan, student-centered data collected, parent involvement, and the required signatures

Specific decisions regarding who is responsible for writing the summary and in what format remain with the district or school. However, the written summary must reflect the opinion of the group responsible for determining eligibility, not just one person. There is no requirement for any additional formal reports, such as separate evaluation reports, but districts may develop procedures for documenting and reporting response to intervention data and the rationale for the eligibility decision. The expectation is that the rationale and/or justification for the team's decision be clear from the evidence provided and the summary of the team's analysis of that evidence. For example, if there are conflicting or contradictory data, the summary should address the implications. See Appendix C: Sample Cover Sheet to guide the eligibility decision process and written summary. An

electronic Microsoft Word version is available for download at <http://www.florida-rti.org>.

**E-2. What is meant by “the student’s academic performance is significantly discrepant”?**

At the point of eligibility determination, multiple factors from multiple data sources must be evaluated in order for the group to determine whether the level of performance and rate of progress are significantly discrepant from expectations and comparison groups. In most cases, a student whose performance is in the broad average range and whose slope of progress is similar to that of demographically similar peers would not need special education.

**E-3. What data sources can be used to compare the student’s performance to the “peer subgroup, classroom, school, district, and state level comparison groups”?**

In order to assure that a student’s difficulties are unique to the student and not reflective of the need for systemic adjustments in instruction, curriculum, or the learning environment impacting groups of students, it is necessary to compare individual student performance with the performance of student peers. There are two broad types of comparisons: student to grade-level standards and student to comparison student groups. If the student is meeting grade-level standards, there is no need to engage in additional comparisons. However, in order to determine eligibility, the group of professionals must analyze relationships of the student’s level of performance and rate of progress to each of the student’s comparison groups listed in the rule, which include the peer subgroup, classroom, school, district, and state-level student comparison group. Determination of appropriate comparison tools and methods is the responsibility of the group of professionals analyzing the data. If the student’s poor performance is consistent with the subgroup’s performance, the problem-solving team must address the problem as it concerns the entire subgroup. Data sources appropriate for use are those that provide a systemwide view of student performance. For instance, universal screening data or systemwide standardized assessments allow comparisons between individual student performance and group performance. Available data sources would include the Progress Monitoring Reporting Network, Florida Comprehensive Assessment Test (FCAT) reports, curriculum-based measures, and other districtwide assessments.

**E-4. Can students be found eligible in environments where data indicate that core instruction has been found ineffective for the majority of students?**

Yes. However, the group of professionals would need to determine that the student’s level of performance and rate of progress are significantly discrepant from each of the student comparison groups. Simultaneously, the problem-solving team implementing schoolwide RtI should address the effectiveness of core instruction. Remember, if the student’s poor performance is consistent with the subgroup’s performance, the problem-solving team must address the problem as it concerns the entire subgroup.

#### **E-5. What is considered documentation of insufficient rate of progress?**

The specific types of instruction, intervention, and assessment are unique to each school setting, which requires unique metrics appropriate to that setting. However, decision rules must be applied as part of the problem-solving process consistently across the state. Decision rules describe levels of student response and decisions regarding next steps can be made in accordance with those levels. The three levels of student response are identified as positive, questionable, and poor. **Positive response** to intervention is evidenced when the rate of student learning is such that the gap between expected student performance and current student performance is closing and the point at which the student's performance will "come in range" of target can be extrapolated. **Questionable response** is indicated when the gap stops widening but eventual closure is not predicted. **Poor response** to intervention occurs when there is little to no change in rate of student growth after implementation of instruction/intervention. Documentation of rate of progress would reflect the following actions:

- **Positive RtI**
  - Continue intervention with current goal.
  - Continue intervention with goal increased.
  - Fade intervention to determine if student has acquired functional independence.
- **Questionable RtI** – First, determine if instruction/intervention was implemented with fidelity.
  - If no – Employ strategies to increase implementation fidelity.
  - If yes – Increase intensity of current intervention for a short period of time and assess impact. If rate improves, continue. If rate does not improve, return to problem solving.
- **Poor RtI** – First, determine if instruction/intervention was implemented with fidelity.
  - If no – Employ strategies to increase implementation fidelity.
  - If yes – Revisit steps of problem solving:
    - Is intervention aligned with the verified hypothesis? (Intervention Design)
    - Are there other hypotheses to consider? (Problem Analysis)
    - Was the problem identified correctly? (Problem Identification)

#### **E-6. How is documentation of disability diagnoses provided by the parents from independent evaluations and other professional examinations meant to be used and incorporated into the required documentation?**

The group of qualified professionals must draw on information from a variety of sources when determining eligibility and need (Rule 6A-6.0331(6), F.A.C.), including evaluations and other information provided by the parents. Independent evaluations must be reviewed in comparison to eligibility criteria. The evaluation should identify the exceptional education needs, including the instruction and interventions necessary for the student to make adequate progress. The group of qualified professionals is responsible for making the eligibility determination.

Diagnosis alone is insufficient; the student must meet all of the eligibility criteria in the rule and need services that can only be provided through exceptional education.

## **F. Implementation**

### **F-1. When does RtI have to be used for determining SLD eligibility?**

The primary elements of RtI have been required by IDEA since July 1, 2005, and were clarified by regulations that were effective in August of 2006. The requirements for data demonstrating that the student was provided appropriate instruction in general education settings delivered by qualified personnel and for data-based documentation of repeated assessments of achievement provided to the student's parents were clarified in a memorandum from Bambi J. Lockman, Bureau Chief, on July 23, 2007. Since December 2008, Florida's general education intervention requirements in accordance with Rule 6A-6.0331, F.A.C., make a problem-solving/RtI process mandatory prior to considering ESE eligibility.

The SLD eligibility rule requires the use of data derived from an RtI process immediately and allows districts to identify specific schools that will continue to require a pattern of strengths and weaknesses in addition to RtI **until July 1, 2010**. Districts will no longer be able to require a pattern of strengths and weaknesses (including ability-achievement discrepancy) in order to determine eligibility after July 1, 2010.

### **F-2. Will allowing some schools to use the criteria specified in Rule 6A-6.03018(4)(a)2.a., F.A.C., and others to use the criteria specified in Rule 6A-6.03018(4)(a)2.b., F.A.C., cause detrimental inconsistencies within the district resulting in increased transfers and parental complaints during the interim period prior to July 1, 2010?**

It is unlikely that this process will result in increased transfers as school districts have established policies guiding transfer procedures, and any transfer requests would need to meet district criteria.

Both processes require all of the elements of RtI consistent with the comprehensive evaluation required by Rule 6A-6.0331, F.A.C. As a result, inconsistencies are less likely to be apparent. In addition to the RtI processes in Rule 6A-6.03018(4)(a)2.a., F.A.C., schools opting for Rule 6A-6.03018(4)(a)2.b., F.A.C., will conduct additional assessments identifying students' strengths and weaknesses. The only difference between the two is the additional requirement of a pattern of strengths and weaknesses. In both, the student must meet all the other eligibility criteria.

It is extremely important that schools involve parents in the problem-solving/RtI process, as required by Rule 6A-6.0331, F.A.C., and clearly communicate the process to minimize misunderstanding. It is critical that parents are involved in the problem-solving process and understand the school's purpose in engaging in

this process. Most parents are supportive when they understand that the school is making a legitimate attempt to address the learning needs of their child.

## **Appendix A: Rule 6A-6.03018, Florida Administrative Code**

### **6A-6.03018 Exceptional Education Eligibility for Students with Specific Learning Disabilities.**

(1) Definition. A specific learning disability is defined as a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. Associated conditions may include, but are not limited to, dyslexia, dyscalculia, dysgraphia, or developmental aphasia. A specific learning disability does not include learning problems that are primarily the result of a visual, hearing, motor, intellectual, or emotional/behavioral disability, limited English proficiency, or environmental, cultural, or economic factors.

(2) General education intervention procedures and activities. In order to ensure that lack of academic progress is not due to lack of appropriate instruction, a group of qualified personnel must consider:

(a) Data that demonstrate that the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and delivered by qualified personnel in general education settings; and

(b) Data-based documentation, which was provided to the student's parent(s) or guardian(s), of repeated measures of achievement at reasonable intervals, graphically reflecting the student's response to intervention during instruction.

(c) General education activities and interventions conducted prior to referral in accordance with subsection 6A-6.0331(1), F.A.C., may be used to satisfy the requirements of paragraphs (2)(a) and (2)(b) of this rule.

(3) Evaluation. The evaluation procedures shall include the following:

(a) The school district must promptly request parental or guardian consent to conduct an evaluation to determine if the student needs specially designed instruction in the following circumstances:

1. The student does not make adequate progress when:

a. Prior to a referral, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

b. Prior to referral, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of specially designed instruction and related services; and

2. Whenever a referral is made to conduct an evaluation to determine the student's need for specially designed instruction and the existence of a disability.

(b) In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C. The evaluation must adhere to the timeframe required by paragraph 6A-6.0331(3)(d), F.A.C., unless extended by mutual written agreement of the student's parent(s) or guardian(s) and a group of qualified professionals.

(4) Criteria for eligibility. A student meets the eligibility criteria as a student with a specific learning disability if all of the following criteria are met.

(a) Evidence of specific learning disability. The student's parent(s) or guardian(s) and group of qualified personnel may determine that a student has a specific learning disability if there is evidence of each of the following:

1. When provided with learning experiences and instruction appropriate for the student's chronological age or grade level standards pursuant to Rule 6A-1.09401, F.A.C., the student does not achieve adequately for the student's chronological age or does not meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas based on the review of multiple sources which may include group and/or individual criterion or norm-referenced measures, including individual diagnostic procedures:

- a. Oral expression;
- b. Listening comprehension;
- c. Written expression;
- d. Basic reading skills;
- e. Reading fluency skills;
- f. Reading comprehension;
- g. Mathematics calculation; or
- h. Mathematics problem solving.

2. The student does not make adequate progress to meet chronological age or grade-level standards adopted in Rule 6A-1.09401, F.A.C., in one or more of the areas identified in subparagraph (4)(a)1. of this rule when using one of the following processes:

a. A process based on the student's response to scientific, research-based intervention, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.; or

b. A process based on the student's response to scientific, research-based intervention, and the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards pursuant to Rule 6A-1.09401, F.A.C., or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.

3. The group determines that its findings under paragraph (a) of this subsection are not primarily the result of the following:

- a. A visual, hearing, or motor disability;
- b. Intellectual disability;
- c. Emotional/behavioral disability;
- d. Cultural factors;
- e. Irregular pattern of attendance and/or high mobility rate;
- f. Classroom behavior;
- g. Environmental or economic factors; or
- h. Limited English proficiency.

(b) Members of the group determining eligibility. The determination of whether a student suspected of having a specific learning disability is a student who demonstrates a need for specially designed instruction and related services and meets the eligibility criteria must be made by the student's parents or guardians and a group of qualified professionals, which must include, but are not limited to, all of the following:

1. The student's general education teacher; if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her chronological age;

2. At least one person qualified to conduct and interpret individual diagnostic examinations of students, including, but not limited to, a school psychologist, speech-language pathologist, or reading specialist; and

3. The district administrator of exceptional student education or designee.

(c) Observation requirement. In determining whether a student needs specially designed instruction and has a specific learning disability, and in order to document the relationship between the student's classroom behavior and academic performance, the group must:

1. Use information from an observation in routine classroom instruction and monitoring of the student's performance that was completed before referral for an evaluation; or

2. Have at least one member of the group conduct an observation of the student's performance in the student's typical learning environment, or in an environment appropriate for a student of that chronological age, after referral for an evaluation and parental or guardian consent has been obtained.

(5) Documentation of determination of eligibility. For a student suspected of having a specific learning disability, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection (6) of Rule 6A-6.0331, F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;

(c) The educationally relevant medical findings, if any;

(d) Whether the student has a specific learning disability as evidenced by response to intervention data confirming the following:

1. Performance discrepancy. The student's academic performance is significantly discrepant for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, which include the peer subgroup, classroom, school, district, and state level comparison groups; and

2. Rate of progress. When provided with well-delivered scientific, research-based general education instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the achievement gap with typical peers or academic expectations for the chronological age or grade level in which the student is currently enrolled; and

3. Educational need. The student continues to need interventions that significantly differ in intensity and duration from what can be provided solely through general education resources to make or maintain sufficient progress.

(e) The determination of the group concerning the effects on the student's achievement level of a visual, hearing, motor, intellectual, or emotional/behavioral disability; cultural factors; environmental or economic factors; an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the support provided to the individual(s) implementing interventions, adherence to the critical

elements of the intervention design and delivery methods, the duration and frequency of intervention implementation (e.g. number of weeks, minutes per week, sessions per week), and the student-centered data collected; and

2. Documentation that the student's parent(s) or guardian(s) were notified about the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; interventions for increasing the student's rate of progress; and the parental or guardian right to request an evaluation.

(g) The signature of each group member certifying that the documentation of determination of eligibility reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

(6) Implementation.

(a) The district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students, as required by Rule 6A-6.03411, F.A.C., must identify the applicable process described in sub-subparagraphs (4)(a)2.a. and (4)(a)2.b. of this rule on a school-by-school basis.

(b) Effective July 1, 2010, the process specified in sub-subparagraph (4)(a)2.a. becomes the required process and sub-subparagraph (4)(a)2.b. becomes obsolete.

(c) For schools using eligibility process described in sub-subparagraph (4)(a)2.b. until July 1, 2010, a description of the pattern of strengths and weaknesses that is determined by the group to be relevant to the identification of a specific learning disability must be documented in the written summary required by subsection (5) of this rule.

*Specific Authority 1001.02(1), (2)(n), 1001.42(4)(1), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.02(2)(n), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c) FS. History—New 7-1-77, Amended 7-2-79, 7-14-82, Formerly 6A-6.3018, Amended 1-11-94, 3-23-09.*

## **Appendix B: Rule 6A-6.0331, Florida Administrative Code**

6A-6.0331 General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services.

The state's goal is to provide full educational opportunity and a free appropriate public education (FAPE) to all students with disabilities ages three (3) through twenty-one (21) and to school age students who are gifted. School districts have the responsibility to ensure that students suspected of having a disability are subject to general education intervention procedures. They must ensure that all students with disabilities or who are gifted and who are in need of specially designed instruction and related services are identified, located, and evaluated, and appropriate exceptional student education is made available to them if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C. These requirements apply to all students, including those who are homeless or are wards of the state or who attend private schools, regardless of the severity of their disability. Additionally, school districts may elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Steps Program. The procedures and criteria for general education interventions, identification, evaluation, and determination of eligibility of students with disabilities and gifted students by school districts shall be set forth in the school district's Exceptional Student Education (ESE) Policies and Procedures document consistent with the following requirements.

(1) General education intervention procedures for kindergarten through grade twelve (12) students suspected of having a disability. It is the local school district's responsibility to develop and implement coordinated general education intervention procedures for students who need additional academic and behavioral support to succeed in the general education environment. In implementing such procedures, a school district may carry out activities that include the provision of educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction and professional development for teachers and other school staff to enable them to deliver scientifically based academic and behavioral interventions and, where appropriate, instruction on the use of adaptive and instructional software. The general education intervention requirements set forth in paragraphs (a) through (e) of this paragraph are not required of students suspected of being gifted or who are being considered for eligibility for specially designed instruction for students who are homebound or hospitalized. The general education interventions requirements set forth in paragraphs (a), (b), and (e) of this subsection may not be required for students suspected of having a disability if a team that comprises qualified professionals and the parent determines that these general education interventions are not appropriate for a student who demonstrates a speech disorder or severe cognitive, physical or sensory disorders, or severe social/behavioral deficits that require immediate intervention to prevent harm to the student or others, or for students who are not enrolled in a public school.

(a) Parent involvement in general education intervention procedures. Opportunities for parents to be involved in the process to address the student's areas of concern must be made available. In addition, there must be discussion with the parent of the student's responses to interventions, supporting data and potential adjustments to the interventions and of anticipated future action to address the student's learning and/or behavioral areas

of concern. Documentation of parental involvement and communication must be maintained.

(b) Observations of the student must be conducted in the educational environment and, as appropriate, other settings to document the student's learning or behavioral areas of concern. At least one (1) observation must include an observation of the student's performance in the general classroom.

(c) Review of existing data, including anecdotal, social, psychological, medical, and achievement (including classroom, district and state assessments) shall be conducted. Attendance data shall be reviewed and used as one indicator of a student's access to instruction.

(d) Vision and hearing screenings shall be conducted for the purpose of ruling out sensory deficits that may interfere with the student's academic and behavioral progress, and additional screenings or assessments to assist in determining interventions may be conducted, as appropriate. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(e) Evidence-based interventions addressing the identified areas of concern must be implemented in the general education environment. The interventions selected for implementation should be developed through a process that uses student performance data to, among other things, identify and analyze the area of concern, select and implement interventions, and monitor the effectiveness of the interventions. Interventions shall be implemented as designed for a reasonable period of time and with a level of intensity that matches the student's needs. Pre-intervention and ongoing progress monitoring measures of academic and/or behavioral areas of concern must be collected and communicated to the parents in an understandable format.

(f) Nothing in this section should be construed to either limit or create a right to FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C., or to delay appropriate evaluation of a student suspected of having a disability.

(g) A school district may not use more than fifteen (15) percent of the amount it receives under Part B of the IDEA for any fiscal year to develop and implement coordinated general education intervention procedures for students in kindergarten through grade twelve (12) who are not currently identified as needing special education or related services but who need additional support to succeed in the general education environment. Funds made available to carry out this section may be used to carry out general education intervention procedures aligned with activities funded by and carried out under the Elementary and Secondary Education Act (ESEA), if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section. For IDEA Part B funds used in this way, the school district must annually report to the Florida Department of Education on the number of students served under this section who received general education interventions and the number of students who received such services and subsequently receive special education and related services under Part B of the IDEA during the preceding two (2) year period.

(2) Procedures prior to initial evaluation for prekindergarten children. For children who are below mandatory school attendance age and who are not yet enrolled in kindergarten, the activities specified in subsection (1) of this rule are not required. The following requirements apply to this population:

(a) A review of existing social, psychological, and medical data with referral for a health screening when the need is indicated; and

(b) Vision and hearing screenings shall be conducted for the purpose of ruling out sensory deficits. Additional screenings to assist in determining interventions may be conducted as appropriate.

(3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial provision of ESE. Either a parent of a student or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability or is gifted.

(a) Prior to a school district request for initial evaluation, school personnel must make one (1) of the following determinations and include appropriate documentation in the student's educational record to the effect that:

1. For a student suspected of being a student with a disability, the general education intervention procedures have been implemented as required under this rule and indicate that the student should be considered for eligibility for ESE; or

2. The nature or severity of the student's areas of concern make the general education intervention procedures inappropriate in addressing the immediate needs of the student.

(b) If the parent of the child receiving general education interventions requests, prior to the completion of these interventions, that the school conduct an evaluation to determine the student's eligibility for specially designed instruction and related services as a student with a disability, the school district:

1. Must obtain consent for and conduct the evaluation; and

2. Complete the activities described in subsection (1) of this rule concurrently with the evaluation but prior to the determination of the student's eligibility for specially designed instruction; or

3. Must provide the parent with written notice of its refusal to conduct the evaluation that meets the requirements of Rule 6A-6.03311, F.A.C.

(c) The school district shall be responsible for conducting all initial evaluations necessary to determine if the student is eligible for ESE and to determine the educational needs of the student. Such evaluations must be conducted by examiners, including physicians, school psychologists, psychologists, speech-language pathologists, teachers, audiologists, and social workers who are qualified in the professional's field as evidenced by a valid license or certificate to practice such a profession in Florida. Educational evaluators not otherwise covered by a license or certificate to practice a profession in Florida shall either hold a valid Florida teacher's certificate or be employed under the provisions of Rule 6A-1.0502, F.A.C.

1. Tests of intellectual functioning shall be administered and interpreted by a professional person qualified in accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, F.S.

2. Standardized assessment of adaptive behavior shall include parental input regarding their student's adaptive behavior.

(d) The school district shall ensure that initial evaluations of students suspected of having a disability are completed within sixty (60) school days (cumulative) that the student is in attendance after the school district's receipt of parental consent for the evaluation. For prekindergarten children, initial evaluations must be completed within sixty (60) school days after the school district's receipt of parental consent for evaluation.

(e) The sixty (60)-day timeframe for evaluation does not apply to a school district if:

1. The parent of the student repeatedly fails or refuses to produce the student for the evaluation; or

2. A student enrolls in a school served by the school district after the timeframe has begun, and prior to a determination by the student's previous school district as to whether

the student is a student with a disability. This exception applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed. Assessments of students with disabilities who transfer from one school district to another school district in the same school year must be coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(f) The school district shall ensure that students suspected of being gifted are evaluated within a reasonable period of time.

(4) Parental consent for initial evaluation.

(a) The school district must provide notice to the parent that describes any evaluation procedures the school district proposes to conduct. In addition, the school district proposing to conduct an initial evaluation to determine if a student is a student with a disability or is gifted must obtain informed consent from the parent of the student before conducting the evaluation.

(b) Parental consent for initial evaluation must not be construed as consent for initial provision of ESE.

(c) The school district must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the student is a student with a disability or is gifted.

(d) For initial evaluations only, if the child is a ward of the State and is not residing with the student's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the student is a student with a disability if:

1. Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the student;

2. The rights of the parents of the student have been terminated in accordance with Chapter 39, Part XI, F.S.; or

3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for initial evaluation has been given by an individual appointed by the judge to represent the student.

(e) If the parent of a student suspected of having a disability who is enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the school district may, but is not required to, pursue initial evaluation of the student by using the mediation or due process procedures contained in Rules 6A-6.03011 through 6A-6.0361, F.A.C. The school district does not violate its child find or evaluation obligations if it declines to pursue the evaluation.

(f) A school district may not use a parent's refusal to consent to initial evaluation to deny the parent or the student any other service, benefit, or activity of the school district, except as provided by this rule.

(5) Evaluation procedures.

(a) In conducting an evaluation, the school district:

1. Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining whether the student is eligible for ESE and the content of the student's IEP or EP, including information related to enabling the student with a disability to be involved in and progress in the general curriculum (or

for a preschool child, to participate in appropriate activities), or for a gifted student's needs beyond the general curriculum;

2. Must not use any single measure or assessment as the sole criterion for determining whether a student is eligible for ESE and for determining an appropriate educational program for the student; and

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

(b) Each school district must ensure that assessments and other evaluation materials used to assess a student are:

1. Selected and administered so as not to be discriminatory on a racial or cultural basis;

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

3. Used for the purposes for which the assessments or measures are valid and reliable; and

4. Administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.

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

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

(e) The school district shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(f) A student shall be assessed in all areas related to a suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(g) An evaluation shall be sufficiently comprehensive to identify all of a student's ESE needs, whether or not commonly linked to the disability category in which the student is classified.

(6) Determination of eligibility for exceptional students.

(a) A group of qualified professionals determines whether the student is an exceptional student in accordance with this rule and the educational needs of the student. The parents of a student being considered for eligibility as a student with a disability shall be invited and encouraged to participate as equal members of the group. The school district must provide a copy of the evaluation report and the documentation of the determination of eligibility at no cost to the parent. If a determination is made that a student is an exceptional student and needs ESE, an IEP or EP must be developed for the student in accordance with these rules.

(b) In interpreting evaluation data for the purpose of determining if a student is an exceptional student and the educational needs of the student, each school district shall:

1. Draw upon data and information from a variety of sources, such as aptitude and achievement tests, the student's response to interventions/instruction implemented, parent input, student input as appropriate, teacher recommendations, and information about the student's physical condition, social or cultural background, and adaptive behavior;

2. Ensure that information obtained from all of these sources is documented and carefully considered; and

3. Determine eligibility in accordance with the criteria and procedures specified in these rules.

(c) If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed for the student in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C. For children ages three (3) through five (5) years, an individual family support plan (IFSP) may be developed in lieu of an IEP.

(d) A student may not be determined eligible as a student with a disability if the determinant factor is:

1. Lack of appropriate instruction in reading, including the essential components of reading instruction, including explicit and systematic instruction in (a) phonemic awareness; (b) phonics; (c) vocabulary development; (d) reading fluency, including oral reading skills; and (e) reading comprehension strategies;

2. Lack of appropriate instruction in math; or

3. Limited English proficiency; and

4. The student does not otherwise meet the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(e) A student may not be denied eligibility as a student who is gifted if the determinant factor is limited English proficiency.

(f) For students identified as gifted, an educational plan (EP) in accordance with Rule 6A-6.030191, F.A.C., shall be developed.

(7) Reevaluation Requirements.

(a) A school district must ensure that a reevaluation of each student with a disability is conducted in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., if the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation or if the student's parent or teacher requests a reevaluation.

(b) A reevaluation may occur not more than once a year, unless the parent and the school district agree otherwise and must occur at least once every three (3) years, unless the parent and the school district agree that a reevaluation is unnecessary.

(c) Each school district must obtain informed parental consent prior to conducting any reevaluation of a student with a disability.

(d) If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override provisions of mediation or due process. The school district does not violate its child find, evaluation or reevaluation obligations if it declines to pursue the evaluation or reevaluation.

(e) The informed parental consent for reevaluation need not be obtained if the school district can demonstrate that it made reasonable efforts to obtain such consent and the student's parent has failed to respond.

(8) Additional requirements for evaluations and reevaluations. As part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must take the following actions:

(a) Review existing evaluation data on the student, including:

1. Evaluations and information provided by the student's parents;
  2. Current classroom-based, local, or State assessments and classroom-based observations; and
  3. Observations by teachers and related services providers.
- (b) Identify, on the basis of that review and input from the student's parents, what additional data, if any, are needed to determine the following:
1. Whether the student is a student with a disability or, in case of a reevaluation of the student, whether the student continues to have a disability;
  2. The educational needs of the student;
  3. The present levels of academic achievement and related developmental needs of the student;
  4. Whether the student needs special education and related services or, in the case of a reevaluation of the student, whether the student continues to need special education and related services; and
  5. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general curriculum.
- (c) The group conducting this review may do so without a meeting.
- (d) The school district shall administer tests and other evaluation measures as may be needed to produce the data that is to be reviewed under this section.
- (e) If the determination under this section is that no additional data are needed to determine whether the student continues to be a student with a disability and to determine the student's educational needs, the school district shall notify the student's parents of:
1. That determination and the reasons for the determination; and
  2. The right of the parents to request an assessment to determine whether the student continues to be a student with a disability and to determine the student's educational needs. The school district is not required to conduct the assessment unless requested to do so by the student's parents.
- (f) Reevaluation is not required for a student before the termination of eligibility due to graduation with a standard diploma or exiting from school upon reaching the student's twenty-second (22nd) birthday. For a student whose eligibility terminates under these circumstances, a school district must provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.
- (g) Parental consent is not required before reviewing existing data as part of an evaluation or reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.
- (h) If a parent of a student who is home schooled or placed in private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the school district may not use the consent override provisions of mediation or due process and the school district is not required to consider the student eligible for services under Rules 6A-6.03011 through 6A-6.0361, F.A.C.
- (i) To meet the reasonable efforts requirements to obtain parental consent in Rules 6A-6.03011 through 6A-6.0361, F.A.C., the school district must document its attempts to obtain parental consent using procedures such as those used to obtain parental participation in meetings.

(9) Parental Consent for Services.

(a) A school district responsible for making FAPE available to an exceptional student must obtain informed consent from the parent of the student before the initial provision of special education and related services to the student.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of ESE services to the student.

(c) If the parent of a student fails to respond or refuses to consent to the initial provision of services, the school district may not use mediation or due process hearing procedures in order to obtain agreement or a ruling that the services may be provided to the student.

(d) If the parent of the student refuses consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the school district will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the student with the special education and related services for which the school district requests consent. In addition, the school district is not required to convene an IEP Team meeting or develop an IEP for the student for the special education and related services for which the school district requests such consent.

*Specific Authority 1001.02(1)(2), (n), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a), (b), 1001.02(2)(n), 1003.57 FS. History New 6-17-74, Repromulgated 12-5-74, Amended 7-1-77, 3-28-78, 7-12-78, 8-31-78, 11-29-78, 10-7-81, 7-13-83, 6-2-85, Formerly 6A 6.331, Amended 7-13-93, 1-2-95, 9-20-04, 12-22-08.*

## Appendix C: Sample Coversheet for Written Summary of Group's Analysis

<b>Meeting Date:</b>		
<b>Demographic Information</b>		
Student Name:	ID#:	AYP Subgroup(s):
School:	Grade:	Retention History:

<b>Identified AREA(s) of CONCERN:</b>	

<b>Observations.</b> (Attach observation form/summary):		
	<u>Behavioral observations</u>	<u>Relationship to academic functioning</u>
Observation #1:		
Observation #2:		
<b>Educationally relevant medical findings:</b>		
<b>Diagnostic assessment results:</b>		

Intervention Summary							
	Instruction/Intervention	Implementer	Duration/Frequency	Fidelity/Support	RtI Response		
					+	?	-
<b>Core</b>					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Targeted</b>					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Intensive</b>					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Analysis of Response to Intervention Data</b> (See attached data which includes graphs)						
<b>1. Performance discrepancy</b> (level of performance: pre- and post-interventions):						
<u>State</u>	<u>District</u>	<u>School</u>	<u>Class</u>	<u>SES Group Comp:</u>	<u>Peer Group #2:</u>	
<b>2. Rate of Progress</b> (Attach documentation of intervention intensity, rate of progress, expected rate of progress)						
<b>3. Statement of Need:</b>						

**Consideration of exclusionary factors.** Determine whether level of performance and rate of progress are primarily the result of any of the following. Specify the documentation that supports the groups' conclusion for each.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Visual, hearing, or motor disability
<input type="checkbox"/>	<input type="checkbox"/>	Intellectual disability
<input type="checkbox"/>	<input type="checkbox"/>	Emotional/behavioral disability
<input type="checkbox"/>	<input type="checkbox"/>	Irregular pattern of attendance or high mobility rate
<input type="checkbox"/>	<input type="checkbox"/>	Cultural factors
<input type="checkbox"/>	<input type="checkbox"/>	Environmental or economic factors
<input type="checkbox"/>	<input type="checkbox"/>	Classroom behavior
<input type="checkbox"/>	<input type="checkbox"/>	Limited English proficiency

**Summary of eligibility criteria for a specific learning disability**

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Student does not achieve adequately for age or does not meet grade-level standards in one or more of the following areas (Check all that apply):
		<input type="checkbox"/> Basic reading skills <input type="checkbox"/> Reading fluency skills <input type="checkbox"/> Reading comprehension <input type="checkbox"/> Mathematics calculation <input type="checkbox"/> Mathematics problem solving <input type="checkbox"/> Written expression <input type="checkbox"/> Oral expression <input type="checkbox"/> Listening comprehension
<input type="checkbox"/>	<input type="checkbox"/>	Student does not make adequate progress based on response to scientific, research-based intervention, OR combination of response to scientific, research-based intervention & pattern of strengths and weaknesses.
<input type="checkbox"/>	<input type="checkbox"/>	The student's progress is not primarily the result of any of the exclusionary factors or lack of appropriate instruction.
<input type="checkbox"/>	<input type="checkbox"/>	The student demonstrates evidence of eligibility for a specific learning disability.
<input type="checkbox"/>	<input type="checkbox"/>	The student needs interventions that differ significantly in intensity and duration from what can be provided through general education resources alone.

**Signatures of group determining eligibility.** Each of the following individuals certifies their agreement with the determination of eligibility and assurance that this determination was made in accordance with subsection (6) of Rule 6A-6.0331.

ESE Administrator/Designee	General Education Teacher	Parent
School Psychologist	Speech/Language Pathologist	Other: Name/Position
Other: Name/Position	Other: Name/Position	Other: Name/Position
A		

**The following team members DISAGREE with the conclusion of the group.** Attach a separate statement presenting each member's conclusion.

Name/Position	Name/Position	Name/Position
---------------	---------------	---------------

