

Specific Learning Disability (SLD) FAQs

What are the two major eligibility criteria that must be met to determine that a student has SLD?

1. The child does not achieve adequately for the child's age or to meet state approved grade-level standards and exhibits significant academic skill deficit(s) in one or more of the following areas when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards: oral expression; listening comprehension; written expression; basic reading skill; reading fluency skills; reading comprehension; mathematical calculation; mathematics problem solving;
AND
2. The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified when using a process based on the child's response to evidence-based intervention.

Though a child may be performing below age or State-approved grade level standards, the results of progress monitoring must indicate that the child is not making the expected progress toward established benchmarks. This is indicated by comparing the child's rate of progress toward attainment of grade level standards. Underachievement exists when a child does not achieve adequately toward attainment of grade level standards in one or more of the following areas:

- (a) Oral expression- use of spoken language to communicate ideas;
- (b) Listening comprehension-ability to understand spoken language at a level commensurate with the child's age and ability levels;
- (c) Written expression - ability to communicate ideas effectively in writing with appropriate language;
- (d) Basic reading skills-ability to use sound/symbol associations to learn phonics in order to comprehend the text;
- (e) Reading comprehension-ability to understand the meaning of written language based in child's native language;
- (f) Reading Fluency Skills- the ability to read and process a text with appropriate rate and accuracy;
- (g) Mathematics calculation-ability to process numerical symbols to derive results, including, but not limited to, spatial awareness of symbol placement and choice of sequence algorithms for operations required; and

Contact Information:

If you have questions about this document or would like additional information please contact:

AOE.SpecialEd@vermont.gov or (802) 828-1256.

(h) Mathematical problem solving-ability to understand logical relationships between mathematical concepts and operations, including, but not limited to, correct sequencing and spatial/symbolic representation.

To examine student performance compared with state approved grade level standards, Evaluation Planning Teams confirm the student had access to appropriate instruction and review measures of student performance relative to the eight areas. Sources of documentation may include score report from state or district assessment, scores from universal screening measures, WIDA Access or other English proficiency scores, norm-referenced proficiency scores, curriculum-based measurement, and other measures where the student's score can be compared to proficient grade level/standard scores.

In relation to the two major eligibility criteria for SLD, what might constitute a “body of evidence” for a student being evaluated for a suspected Specific Learning Disability?

For determination of SLD, Vermont State Board Rules specifically state that a body of evidence must be used to demonstrate both criteria. It is important that one assessment instrument not be the sole or primary determiner of both an academic skill deficit and insufficient progress. For example, if a Curriculum Based Measure (CBM) is being used as a progress monitoring tool, the student's results over time on this measure would probably be the primary indicator of “insufficient progress.” This measure, even though nationally normed, should not also be used as the only norm-referenced assessment required for determining an “academic skill deficit.” A standardized, normed and focused assessment in the specific area of suspected disability should also be administered.

What is a “Full and Individual Evaluation?”

The federal IDEA regulations and the Vermont Agency of Education require a “full and individual evaluation” that must be conducted before initial provision of special education and related services. It must consist of procedures to determine if the child is a child with a disability and to determine the educational needs of the child. This evaluation should now be more focused on the specific areas of suspected disability than in the past – when a “comprehensive evaluation” typically meant a common and extensive battery of assessments given to all students referred, regardless of the student-specific learning difficulties. It is important to note that a variety of assessment tools and strategies must be used to gather relevant information about the student, including information provided by the parent. The team may not use any single measure for making a disability determination and for determining educational programming. Even though a student's response to evidence-based intervention is crucial to SLD determination and educational planning, other types of information or assessment data must be collected during the VTMTSS problem-solving process and/or evaluation process. Parents must be actively involved as partners in educational decision-making, providing both information and input throughout the VTMTSS and evaluation process.

When making an initial determination of SLD, only the specific area or areas (of the 8 areas of SLD) for which there is the “body of evidence” that substantiates both the presence of an academic skill deficit and insufficient progress should be indicated as areas of identified

disability. Even though special education evaluations are more focused than in the past, they must be “sufficiently comprehensive to appropriately identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category.” See 34 C.F.R. §§300.304(c)(6) and 300.306(b). This means that the evaluation team could identify special education needs that are more typical to a disability other than SLD (e.g., emotional or behavioral) and still address these needs in the evaluation report and in the IEP without finding the student eligible in a second special education category. Similarly, even within the category of SLD, the evaluation team may come to suspect a special education need in another area of SLD for which a body of evidence was not gathered. For example, if no progress monitoring data were collected in relation to a specific intervention provided, there would be no documented evidence of “insufficient progress in response to evidence-based intervention.” Evaluation data demonstrating an “academic skill deficit” might be used by the team to determine an additional special education need. This area of need would be addressed in the evaluation report and reflected in an IEP goal, but NOT indicated as an area of SLD for initial eligibility purposes. Again, only areas for which there is a documented body of evidence that all the required criteria have been met are indicated as areas of SLD in the determination of an individual student’s eligibility.

When planning the evaluation, the EPT must: 1) use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the student, including information provided by the parents; 2) not use any single measure or assessment as the sole criterion for determining whether the student is a student with a disability; 3) use technically sound (i.e., valid and reliable) instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors; 4) use assessments that are tailored to assess areas of specific educational need and not merely those that are designed to provide a general intelligence quotient; 5) assess a student in all areas related to the suspected disability; and 6) use measures that are sufficiently comprehensive to identify all of a student’s special, education and related service needs. When determining whether a student has a learning disability, the EPT must ensure the student is observed in her or his learning environment, including the general education classroom, to document the student’s academic performance and behavior in the areas of difficulty.

What are Approaches for Demonstrating an Academic Skill?

To help ensure that an evaluation is appropriate (i.e., consistent with the requirements of IDEA), the EPT must first gather input from multiple sources (e.g., families, general education classroom, curriculum-based measures, standardized assessments, student records, observations) and include a review of existing evaluation data to determine what additional data, if any, are needed to identify a learning disability, a student’s need for special education, and write an IEP. Included in this review must be any evaluative data gathered during a scientific research-based intervention process as well as other academic and behavioral data that can be used to rule out that the student’s learning difficulties are due to a lack of appropriate instruction.

Districts may use local or national norm-referenced measures as part of this body of evidence. A norm-referenced measure provides some consistency across schools and districts in the

interpretation of “significance.” Typically, a score at or below the 12th percentile or 1.5 standard deviations below the mean may be considered to represent a significant deficit. The results of a focused and norm-referenced, diagnostic/prescriptive assessment will not only assist with the identification of a specific learning disability but would provide valuable information for developing IEP goals and determining appropriate instruction/intervention.

Criterion referenced measures of “mastery” may be one type of classroom assessment reflected in the body of evidence – a guideline is that if a student is performing at only 50% of mastery expectations for a particular skill or set of concept knowledge, it would be considered evidence of a significant deficit. For example, end of chapter comprehension or skill questions/tasks where the proficiency or mastery level set by the textbook or teacher is 80 % or greater correct responses, a student who consistently scores at 40% or less correct may be considered to have a significant deficit in the skill or knowledge set being targeted.

Additional existing performance data from such sources as student work products, classroom and district assessments, state assessments, etc., all add to the body of evidence. Deficit Parameters given for determining the significance of a deficit are not intended to be hard and fast “cut-points” and the convergence of multiple sources of data needs to be considered by the eligibility team.

LEAs may determine the approach for determining eligibility for SLD using a foundation of how students respond to evidence-based intervention in alignment with its VTmtss framework. These guidelines for documenting academic skill deficit reflect a general approach and may vary in accordance with the approach the district is utilizing (e.g., Response to Intervention, Patterns of Strengths and Weakness, Scientific Response to Intervention, etc.)

Must a student receive intervention prior to initiating a referral?

No. When a disability is suspected, by teachers, parents or others, a review of existing data and consideration of a referral for a special education evaluation must be conducted by the IEP team. The IEP team will determine whether there is evidence to support suspicion of a disability based on available information and if an evaluation will be conducted. If the determination is made that an evaluation will be conducted for the purposes of determining eligibility for special education and related services, interventions and progress monitoring will run concurrently with the evaluation process. **At no time should an evaluation be delayed or denied pending intervention if a disability is suspected.** In an instructional model of evaluation for SLD, there is no requirement that prescribed steps be completed prior to an evaluation, including that a student “go through” tiers of intervention, meet criteria within a flow chart or that students receive intervention. VTMTSS problem-solving teams have the obligation to ask the question, “Is a disability suspected?” If yes, a referral must be made regardless of whether the child is responding to interventions.

Are teams required to evaluate a child’s achievement in relation to his/her potential ability?

Vermont prohibits use of a severe discrepancy between intellectual ability and achievement for determining eligibility based on SLD. The appropriate point of comparison in regard to

determining both a child's adequate achievement and adequate progress are the age/grade-level standards and expectations, not the child's potential.

What other evaluation documentation is required for determination of disability in the category of SLD and the need for special education?

- Documentation of consideration that the learning problems in the areas of SLD identified are “not primarily due to...vision, hearing, or orthopedic impairment; emotional disabilities; intellectual disabilities; cultural factors, environmental or economic disadvantage; or limited English proficiency.” The evaluation report should include documentation of the findings and considerations for any student-specific relevant factors. For example, if a student is an English language learner, the evaluation should address evidence and rationale for the determination that the student's learning difficulties are not primarily due to the lack of English proficiency.
- Documentation that the team has determined that the student's performance is not due to a lack of appropriate instruction in reading, including the essential elements of reading instruction, or in math.
- Documentation of an observation in the learning environment.
 - May be conducted and documented prior to a referral for special education evaluation (e.g., as part of the VTMTSS/problem-solving process) OR as part of the special education evaluation.
 - Student observed within the learning environment including the regular classroom setting and in context of the area of learning difficulty.
 - Must be a documented, specific observation (date/instructional activity occurring/specific student behaviors observed/summary of implications) – not documentation of general comments regarding the student's performance in the learning environment, although that type of information (e.g., via teacher report or interview) may also be relevant to gather and include in the evaluation report.
- Documentation of educationally relevant medical findings (if any).
- Documentation of instructional strategies used to improve performance and results of repeated assessments of achievement at reasonable intervals (progress monitoring data).
- Documentation that the parents were notified about: amount and nature of student performance data collected; strategies for increasing the student's rate of learning; results of repeated assessments of student's progress; the right to request an evaluation.

Do any of the eight areas of SLD concern need to be specified on the referral form to begin the evaluation process to consider SLD eligibility?

No. A referral must include the reasons why the person making the referral believes the student is a child with a disability. There is no requirement to specify either a specific category of suspected impairment or any of the eight areas of academic achievement listed in the SLD rule. Additional information about specific areas of concern is often provided after the referral is

made as the Evaluation and Planning Team (EPT) reviews existing data and determines what additional data are needed to proceed. The area(s) of concern to address during an evaluation are identified as a result of the review of existing data, including the referral and information provided by the parent.

Can an LEA delay accepting a referral for a special education evaluation to consider SLD, if the school has started, but not finished, implementing an intensive intervention with the student when the referral is made?

No. The federal Office of Special Education (OSEP) has made it clear that a district's failure to provide interventions as part of a district's multi-level system of support cannot be used to deny or delay special education referrals. A special education referral cannot be denied or delayed allowing a school to implement, or finish implementing, an intervention. The LEA must process all special education referrals. Once a referral is made, the LEA notifies the parent and assigns an EPT team to review existing data. Following the review of existing data, if the EPT team finds additional information is needed, such as progress monitoring data from intensive intervention, the LEA must request consent to collect the additional data. If the EPT, including the parent, agrees that additional time is needed to implement the intervention(s) and collect the necessary data, they may agree to an extension of the 60-day timeline.

Who is responsible for selecting EBIs and collecting data for SLD evaluation?

Intervention selection is a local school district decision. Schools may choose to have a group of individuals, such as a student support team, grade level team, or intervention team responsible for selecting interventions. The selection of interventions for students who are not receiving special education is a general education responsibility.

What are the qualifications for an individual implementing an EBI?

EBIs must be provided by appropriately licensed staff. At the elementary level, this generally means classroom teachers whose certifications include the content area in question. At the secondary level, only a teacher licensed in the corresponding content area should be delivering interventions in that area. Intensive interventions are part of general education instruction and, therefore, must be provided by appropriately licensed general education staff. The EPT uses data collected during such general education interventions as part of the special education evaluation process.

Must parents be notified before implementing evidence-based interventions?

No. There is no legal requirement to notify parents before providing general education interventions. However, as part of a special education evaluation when SLD is considered, the EPT must document the parent was notified of the progress monitoring data collected and the strategies used for increasing the student's rate of learning, including the intensive interventions. While there is nothing in the law that requires such notification prior to a special education referral, it is recommended practice for schools to develop a system in which parents are notified of the general education instruction (including interventions) used with their children.

Must progress monitoring always be conducted at the student's age level?

Insufficient progress is defined as “the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the eight areas.” The rule further requires the student’s progress during intensive interventions be compared to that of the student’s same age peers. Most progress monitoring probes are developed based on grade placement. Therefore, when data will be used for making SLD eligibility decision, probes intended for the student’s age/grade placement must be used to collect data. If a progress monitoring probe meeting the standards in the rule only includes grade norms, such norms may be used for data analysis. Schools may additionally use probes at a student’s instructional level for making instructional decisions outside of SLD eligibility.

What are some unique considerations and procedures when evaluating a culturally and/or linguistically diverse (CLD) student?

A student may be culturally and/or linguistically diverse and be appropriately identified as having a Specific Learning Disability. As a team begins to evaluate a student for special education, it is important to gather/review and document information that answers the following questions:

- Does evidence exist that a student’s achievement and/or behavior differ significantly from that of other students with similar demographic characteristics? [It is important to compare to students with similar cultural background, language, age and/or stage of English language acquisition.]
- Has progress in VTMTSS process been monitored and compared with the progress of a comparable group of learners? Was instruction/intervention culturally and/or linguistically appropriate?
- Is the achievement gap with grade-level peers closing?
- If the student is an English learner, is there evidence that the student has deficits in both languages and across various settings?

Guidance related to assessment use and interpretation when the student being evaluated is CLD:

- Consider student’s dominant language when selecting assessment materials. Communicate any departures from standard testing procedures and the impact on interpretation.
- Use assessments that minimize cultural bias.
- Use informal measures to supplement standardized test scores, including dynamic assessment strategies.
- Ascertain whether errors are typical of other students with similar backgrounds or level of English proficiency.
- Review test results with family members or other persons from student’s background to gain additional insight as to the student’s performance.

The team should include in the evaluation and eligibility meeting documentation references to the impact of cultural diversity and/or English language proficiency on the student’s learning and on the final determination of disability. (For example, the rationale for a determination that a student’s learning difficulties are not due his level of English language acquisition but are due to a Specific Learning Disability might include a statement such as: “The student’s rate of progress in VTMTSS is much slower than that of other struggling students who are receiving the same intervention and who are at the same level of language acquisition.”)

How might a Triennial Reevaluation be conducted for a student who was initially identified under the previous SLD criteria that included “a severe discrepancy between achievement and intellectual ability?” How is a determination of continued eligibility made and documented?

Reevaluations are planned in the same way as initial eligibility evaluations, with parents participating as team members. Existing data are reviewed to determine if any additional data are needed. However, with reevaluations it is presumed that the initial eligibility process was valid, and that the disability remains -- unless there are data that indicate otherwise, including evidence of a change in the student’s ability to benefit from the general education curriculum without supplemental aids and services (e.g., specialized instruction no longer necessary). The focus of the triennial reevaluation process and meeting is on existing student-centered data, such as ongoing assessments of progress and focused/diagnostic assessment that answers specific questions related to the student’s learning. Important considerations and determinations include: (a) sufficiency of VTMTSS and evidence-based interventions provided, (b) degree to which the current special education services are meeting the individual student needs, and (c) any indicated changes to instruction and services. Continued eligibility must be documented.

There are three options regarding how a triennial reevaluation is addressed: (a) reevaluation that includes additional assessment data (b) reevaluation with no additional evaluation data needed (reevaluation based on existing data, and (c) reevaluation determined unnecessary by documented agreement between parent and public agency.

What is the relationship between dyslexia and Specific Learning Disability?

Although the definition of Specific Learning Disabilities in both federal and state law refers to dyslexia as one of the conditions that may be included, dyslexia is not a special education disability category in and of itself. There is some confusion between the identified educational disability category of SLD (recognized under the Individuals with Disabilities Education Act) and a diagnosis of dyslexia that is typically not made by school personnel. Under federal and state law, if a student has an identified learning disability that significantly impacts the ability to learn without special supports and services, the entitlement label is Specific Learning Disability. An individual student who has had a diagnosis of dyslexia may or may not be eligible for special education services—it is never an automatic conclusion that if a student is identified as having dyslexia, that student is also eligible for special education services. Eligibility is dependent on whether the criteria and other determinations for SLD are met. However, there is certainly overlap between students who have had a clinical diagnosis of

dyslexia and those who have been identified as having a specific learning disability and been found eligible for special education – particularly in the SLD area of “Basic Reading Skill” & “Reading Fluency”. Specific Learning Disabilities that involve word level reading deficits (as described in a commonly endorsed definition of dyslexia) have been cited by leading researchers as the most common of all learning disabilities. The fact that the determination of the significance of an academic skill deficit is no longer based on a comparison between assessed achievement and assessed ability or intelligence has also caused some confusion. A significant academic skill deficit is now determined by comparing a child’s academic skill level to age or grade-level standards or norms.

According to the Individuals with Disabilities Education Act (IDEA, 2004), upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent of the child determines whether the child is a child with a disability and the educational needs of the child. IDEA requires that professionals who administer assessment tools and strategies to assist in the identification of a child as having SLD/Dyslexia must be trained and knowledgeable regarding such assessments. As defined in IDEA 2004, a Specific Learning Disability (SLD) includes conditions such as dyslexia. Definitions of dyslexia vary, but all propose that dyslexia is a learning disability that impacts the area of reading. Since the EPT must provide assessments in all areas of suspected disability, for a child who is suspected of having SLD/Dyslexia, professionals with expertise in reading would be critical team members, as well as those with considerable knowledge in other areas of concern (e.g., language, mathematics, writing). While other professionals with a more clinical background may specialize in identifying and providing remediation for individuals with dyslexia, IDEA does not indicate that there is one type of professional who is uniquely qualified to provide such identification.

Dyslexia is a distinct type of learning disability associated with reading difficulties in accurate and fluent single word decoding skills associated with poor phonological processing and rapid naming abilities. Therefore, in addition to other areas of concern, assessment of children suspected of having SLD/Dyslexia should address the five critical components of reading recommended by the National Reading Panel (2000): phonemic awareness, phonics, fluency, vocabulary, and comprehension.

Why are assessments of general intelligence or cognitive/psychological processing not recommended as part of an evaluation when suspecting a Specific Learning Disability?

The Department [i.e., U.S. Department of Education] does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD. Further, in many cases, these assessments have not been used to make appropriate intervention decisions. See, 71 Fed. Reg. 46,651 (Aug. 14, 2006).

With the increased reliance on direct measures of learning in the determination of SLD and the elimination of the IQ/Achievement discrepancy criterion, the need for general intelligence testing is diminished. In addition, the substantial overlap between skills measured through intelligence testing and academic skills, as well as the fact that achievement often affects students’ performance on components of IQ tests, the administration of IQ tests may be of

limited value in informing instruction. Also no longer required is documentation of cognitive/psychological processing difficulties separate from what might be apparent through direct measures of academic skills within any of the 8 identified areas of SLD. For example, the relationship between phonological processing is apparent in two of the basic reading skill components: phonemic awareness and phonics/decoding. A focused assessment in basic reading skills (e.g., Dynamic Indicators of Basic Early Literacy Skills/DIBELS NEXT, Test of Early Reading Ability-Third Edition/TERA-3, or specific subtests of a comprehensive battery that focus on phonemic awareness, phonics and decoding) should provide the necessary information to both identify a reading deficit and inform instruction/intervention that is needed.

While EPTs can no longer require a discrepancy between measured intellectual ability and educational performance as one of the criteria for determining whether a student has a specific learning disability, EPTs still may choose to administer IQ tests in situations where information from such tests would be helpful. IDEA 2004 provides for the option to assess the relative contribution of cognitive factors in the determination of eligibility for special education services for students with a disability (34 CFR § 300.304[b][3]). Such situations might include ruling out intellectual disability (ID) if a student manifests broad developmental delays involving adaptive functioning (e.g., social competence or self-help skills), or identifying intellectual giftedness in a student with a specific learning disability. IQ tests also may be useful for assessing specific types of abilities, including nonverbal areas such as spatial abilities, and for helping team members better understand an individual student's strengths and weaknesses.

Is a child identified with Specific Learning Disability automatically eligible for special education services?

A child identified with SLD may or may not be eligible for special education services. A child is not considered to be eligible for special education under IDEA 2004 unless the child has a disability and, as a result, needs special education and related services. Therefore, in addition to meeting the criteria for a learning disability, in order for a student to be eligible for services under IDEA 2004, the EPT must determine that the student's learning difficulties require specially designed instruction. Some students with SLD may need accommodations or related services in order to benefit from the same instruction as their peers; however, they may not need specialized instruction and, therefore, would not be eligible for special education services.

Why might a student not be eligible for special education in the disability category of SLD even though s/he has academic skill weaknesses in comparison to areas of strength or assessed IQ?

Disagreements sometimes arise when a parent or other advocate believes that a student identified as gifted should be eligible for special education services as a student with an SLD, even if the student is achieving at or near grade level in area(s) of relative weakness. The expectation for achievement referenced in the identification of SLD was established in the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) and the regulations that followed, §300.309 (2006) – which describe a deficit in comparison to age or grade-level standards. It is this comparison that guides the special education determination,

rather than a comparison with a student's assessed ability/intelligence or a comparison with that student's area(s) of strength. Certainly, a student who is gifted in some area(s) may also be appropriately identified as having a Specific Learning Disability and be found eligible for special education due to significant skill deficits (as defined in current criteria); insufficient response to scientific, evidence-based intervention; consideration of other factors; and a determination of the need for special education and related services to benefit from general education.

This guidance document is meant for clarification, is not legally binding, and is not to be confused with legal advice. This guidance reflects the AOE's recommendations, but LEAs may have developed their own policies or procedures that differ from those described herein. Be sure to refer to your LEA's policies and procedures through the Director of Special Education. If you are seeking legal advice, please contact your legal counsel.