

Cues to Reading Minnesota Rule 3525.1341

3525.1341 SPECIFIC LEARNING DISABILITY.

Subpart 1. Definition. "Specific learning disability" means disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The disorder is:

A. manifested by interference with the acquisition, organization, storage, retrieval, manipulation, or expression of information so that the child does not learn at an adequate rate for the child's age or to meet state-approved grade-level standards when provided with the usual developmental opportunities and instruction from a regular school environment; and

B. demonstrated primarily in academic functioning, but may also affect other developmental, functional, and life adjustment skill areas; and may occur with, but cannot be primarily the result of: visual, hearing, or motor impairment; cognitive impairment; emotional disorders; or environmental, cultural, economic influences, limited English proficiency or a lack of appropriate instruction in reading or math.

Subp. 2. Criteria. A child is eligible and in need of special education and related services for a specific learning disability when the child meets the criteria in items A, B, and C or in items A, B, and D. Information about each item must be sought from the parent and must be included as part of the evaluation data. The evaluation data must confirm that the effects of the child's disability occur in a variety of settings. The child must receive two interventions, as defined in Minnesota Statutes, section 125A.56, prior to evaluation, unless the parent requests an evaluation or the IEP team waives this requirement because it determines the child's need for an evaluation is urgent.

Comment [V1]: The rule is broken into parts as a means of organizing content. Subpart 1 restates the Federal Definition of SLD. The definition includes a description of a "specific learning disability" as well as "disorder". Subpart 2 lists the 4 criteria. Under the subpart the criteria are listed as A, B, C, and D. Subpart 3 lists the requirements for making the eligibility determination. Subpart 4 lists the requirements for affirming the eligibility determination.

Comment [V2]: The definition is further specified by conditions A and B. Readers will find that both conditions must have documented evidence indicating that the team has considered them in the eligibility determination.

Comment [V3]: Criteria specifies the standard that must be met to be eligible as SLD.

Comment [V4]: When you see an OR it means that there is choice.

Comment [V5]: The must means that teams have to look for evidence of a disability in multiple settings

Comment [V6]: "Unless" means that there are instances where the requirement does not apply.

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A. The child does not achieve adequately in one or more the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, reading fluency, mathematics calculation, or mathematical problem solving, in response to appropriate classroom instruction, and either:

(1) the child does not make adequate progress to meet age or state-approved grade-level standards in one or more of the areas listed above when using a process based on the child's response to scientific, research-based intervention (SRBI); or

(2) the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability.

The performance measures used to verify this finding must be representative of the child's curriculum or useful for developing instructional goals and objectives. Documentation is required to verify this finding. Such documentation includes evidence of low achievement from the following sources, when available: cumulative record reviews; classwork samples; anecdotal teacher records; statewide and district wide assessments; formal, diagnostic, and informal tests; curriculum-based evaluation results; and results from targeted support programs in general education.

B. The child has a disorder in one or more of the basic psychological processes which includes an information processing condition that is manifested in a variety of settings by behaviors such as inadequate: acquisition of information; organization; planning and sequencing; working memory, including verbal, visual, or spatial; visual and auditory processing; speed of processing; verbal and nonverbal expression; transfer of information; and motor control for written tasks.

Comment [V7]: In rules commas convey a list. Teams need to attend to conjunctions because the use of "or" means that at least one of the items in the list must be present. "and" means that all items in the list apply.

Comment [V8]: The use of "and" means that both the previous conditions and the following condition applies.

Comment [V9]: "or" signals a choice between items (1) and (2)

Comment [V10]: The "must" and "or" signals that one of the 2 conditions applies.

Comment [V11]: Sometimes a list in a statute is illustrative, not exclusionary. This is usually indicated by a word such as "includes." In this instance the words "includes" and "when available" means that the team may choose which sources to use as long as they are available.

Comment [V12]: This language means that a deficit in at least one and possibly more areas is required.

Comment [V13]: Sometimes a list in a statute is illustrative, not exclusionary. This is usually indicated by a word such as "includes." In this case the word "includes" indicates that the following list of basic psychological processes is not exclusive of others not listed.

Comment [V14]: "such as" signals examples. As mentioned above the word "includes" indicates that the examples are not restricted to those listed.

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C. The child demonstrates a severe discrepancy between general intellectual ability and achievement in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, reading fluency, mathematics calculation, or mathematical problem solving. The demonstration of a severe discrepancy shall not be based solely on the use of standardized tests. The group shall consider these standardized test results as only one component of the eligibility criteria. The instruments used to assess the child's general intellectual ability and achievement must be individually administered and interpreted by an appropriately licensed person using standardized procedures. For initial placement, the severe discrepancy must be equal to or greater than 1.75 standard deviations below the mean of the distribution of difference scores for the general population of individuals at the child's chronological age level.

D. The child demonstrates an inadequate rate of progress. Rate of progress is measured over time through progress monitoring while using intensive SRBI, which may be used prior to a referral, or as part of an evaluation for special education. A minimum of 12 data points are required from a consistent intervention implemented over at least seven school weeks in order to establish the rate of progress. Rate of progress is inadequate when the child's:

- (1) rate of improvement is minimal and continued intervention will not likely result in reaching age or state-approved grade-level standards;
 - (2) progress will likely not be maintained when instructional supports are removed;
 - (3) level of performance in repeated assessments of achievement falls below the child's age or state-approved grade-level standards; and
 - (4) level of achievement is at or below the fifth percentile on one or more valid and reliable achievement tests using either state or national comparisons.
- Local comparison data that is valid and reliable may be used in addition to either state

Comment [V15]: The language specifies the minimum number. Teams may find discrepancies in additional areas. "May" is permissive.

Comment [V16]: the placement of the "or" signals that the items in the list are options.

Comment [V17]: The language "shall" means the team must.

Comment [V18]: The language here specifies what the cut-off will be. To be legally compliant teams cannot use a less restrictive standard deviation.

Comment [V19]: this language states the minimum standard and all the language that follows specifies what "inadequate rate of progress" means.

Comment [V20]: The language signals an option of timing. The requirement for progress monitoring over time is a must.

Comment [V21]: This language signals the minimum data for legal compliance. No maximum amount of time is included.

Comment [V22]: "Consistent" in this case means the intervention was delivered on a schedule and as designed. Later in the rule the word fidelity is used to specify that the intervention was delivered with quality as it was designed.

Comment [V23]: This language signals a legal minimum amount of time. No maximum amount of time is included. There is no additional statement of how many interventions must be conducted within the time-frame. Therefore, teams may have one or multiple interventions take place during the minimum period of time. For this criteria to apply minimum requirements for data must be met regardless of the number of interventions documented.

Comment [V24]: the semi-colons signal a list. Unless there is an "or" stated between the semi-colons it is assumed that all items are required.

Comment [V25]: the "and" is another signal that all 4 items are required.

Comment [V26]: the language "achievement tests" tells teams the type of test to be used. It also signals a change from specifications of data from repeated measures inferred in items 1-3.

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or national data. If local comparison data is used and differs from either state or national data, the group must provide a rationale to explain the difference.

Subp. 3. Determination of specific learning disability. In order to determine that the criteria for eligibility in subpart 2 are met, documentation must include:

A. an observation of the child in the child's learning environment, including the regular classroom setting, that documents the child's academic performance and behavior in the areas of difficulty. For a child of less than school age or out of school, a group member must observe the child in an environment appropriate to the child's age. In determining whether a child has a specific learning disability, the parents and the group of qualified professionals, as provided by Code of Federal Regulations, title 34, section 300.308, must:

(1) use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for a special education evaluation; or

(2) conduct an observation of academic performance in the regular classroom after the child has been referred for a special education evaluation and appropriate parental consent has been obtained; and

(3) document the relevant behavior, if any, noted during the observation and the relationship of that behavior to the child's academic functioning;

B. a statement of whether the child has a specific learning disability;

C. the group's basis for making the determination, including that:

(1) the child has a disorder, across multiple settings, that impacts one or more of the basic psychological processes described in subpart 1 documented by information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

(2) the child's underachievement is not primarily

Comment [V27]: This subpart of the rule specifies the evidence that must be considered in the eligibility determination.

Comment [V28]: This language means that all the items that follow must be included. Teams will note that within some items there is a choice of timing or sources of evidence.

Comment [V29]: This statement defines who is part of the decision making process and what data they must consider. It does not imply that parents must conduct observations.

Comment [V30]: The "or" here indicates a choice. Either 1 or 2 must be done.

Comment [V31]: The "and" here indicates that 3 is required.

Comment [V32]: The semi-colon here and the "and" just before item F signals that all items A-F must be considered.

Comment [V33]: The language "including that" as well as the "and" between items (1) and (2) means that the team must use both items as the basis for making a determination.

Comment [V34]: This is a requirement for consideration mentioned in both the definition and part B of the criteria.

Comment [V35]: The language here with the "and"s inserted between items indicates that all sources of data must be considered when determining if there is a disorder in basic psychological processes.

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the result of visual, hearing, or motor impairment; developmental cognitive disabilities; emotional or behavioral disorders; environmental, cultural, or economic influences; limited English proficiency; or a lack of appropriate instruction in reading or math, verified by:

Comment [V36]: This language references back to the definition in Subp. B. Teams must consider these with respect to achievement.

Comment [V37]: In this instance the "or" indicates that each of the items is to be considered. There is no choice of which are considered.

(a) data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings delivered by qualified personnel; and

Comment [V38]: The language here plus the "and" between items (a) and (b) indicate both must apply.

Comment [V39]: "verified" when used in reference to writings means supported by oath or affirmation

(b) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, which was provided to the child's parents;

D. educationally relevant medical findings, if any;

E. whether the child meets the criteria in subpart 2, either items A, B, and C or items A, B, and D; and

F. if the child has participated in a process that assesses the child's response to SRBI, the instructional strategies used and the child-centered data collected, the documentation that the parents were notified about the state's policies regarding the amount and nature of child performance data that would be collected and the general education services that would be provided, strategies for increasing the child's rate of learning, and the parent's right to request a special education evaluation.

Comment [V40]: The "if" indicates that the items under F apply to children being evaluated with criteria A (1) and D.

Subp. 4. **Verification.** Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the member must submit a separate statement presenting the member's conclusions.

Comment [V41]: "Written" and "in writing" may include any mode of representing words and letters. The signature of a person, when required by law, (1) must be in the handwriting of the person, or (2) if the person is unable to write (i) the person's mark or name written by another at the request and in the presence of the person, or (ii) by a rubber stamp facsimile of the person's actual signature, mark, or a signature of the person's name or a mark made by another and adopted for all purposes of signature by the person with a motor disability and affixed in the person's presence. Minn. Statute 645.44 Subp. 14. WORDS AND PHRASES DEFINED

The district's plan for identifying a child with a specific learning disability consistent with this part must be included with its total special education system (TSES) plan. The district must implement its interventions consistent with that plan. The plan should detail the specific SRBI approach, including timelines for progression through the

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model; any SRBI that is used, by content area; the parent notification and consent policies for participation in SRBI; procedures for ensuring fidelity of implementation; and a district staff training plan.



Comment [V42]: The semi-colons and "and" indicate that all items must be documented in the TSES plan.