



# **Multi-Tiered System of Support**

Nebraska Framework Document



# **NeMTSS**

## **FRAMEWORK**

**Nebraska Department of Education**  
**University of Nebraska**  
**Lincoln and Omaha**

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# NEBRASKA MULTI-TIERED SYSTEM OF SUPPORT (NeMTSS)

## Multi-Tiered System of Support to Prepare all Nebraskans for Learning, Earning, and Living

### Introduction and Overview

NeMTSS is a framework that promotes an integrated system connecting general education and special education, along with all components of teaching and learning, into a high quality, standards-based instruction and intervention system that is matched to a student's academic, social-emotional and behavior needs.

The **purpose** of this document is to provide an overview for MTSS practices in Nebraska. As such, it will chart the course for school-wide implementation from Pre-Kindergarten through graduation. The document is devoted to explaining the **essential elements** of MTSS and the **systematic implementation** in schools. It is intended to help the reader increase understanding of the various aspects of the system and to identify areas that warrant future professional development within a school setting. **It is not intended, however, to be a substitute for training.** Professional learning, along with ongoing district or Educational Service Unit (ESU) level coaching, is required to implement MTSS. Readers are encouraged to pursue supplementary training in each of the elements and processes discussed in this document.

The development of an MTSS framework begins by establishing a **strong core** of literacy, mathematics, and behavior, PreK-12, for all students which provides the foundation of prevention within the entire system. **Universal screening processes** measuring fluency and accuracy of critical early skills that are *predictive* of future student skill attainment are used to identify students who may need additional support. **Evidence-based interventions** are implemented to provide a layered continuum of supports matched to student need. Ongoing **progress monitoring** data are used to determine student response to intervention and is essential to the data-based problem-solving process to determine next steps for fading, exiting, or intensifying interventions for students (**see Figure 1**). Data from MTSS can be used as part of the process for the identification of students with exceptionalities (See the Special Education Eligibility Determination section of this document); however, in no way should NeMTSS delay the initial evaluation of a student that is suspected of having a disability.

**NeMTSS is an essential component of the Continuous Improvement Process** and should not be seen as a stand-alone initiative. Local school districts and ESUs are a critical part of the NeMTSS network. Each school district and ESU is charged with multiple improvement efforts, have a variety of local expertise, and possess

unique context. Making natural connections between the **essential elements** of the NeMTSS framework and other efforts that the school district or ESU are involved with, such as continuous improvement, will be beneficial.

The NeMTSS framework encompasses the concepts of response-to-intervention (RtI), positive behavior interventions and supports (PBIS), and special education eligibility determination. The framework is an educational systems change paradigm (Sansosti & Noltemeyer, Annual 2008; Shores & Chester, 2009) that provides a construct for supporting students and staff as part of school improvement.

### **KEY TO NeMTSS SUCCESS - The Problem-Solving Process**

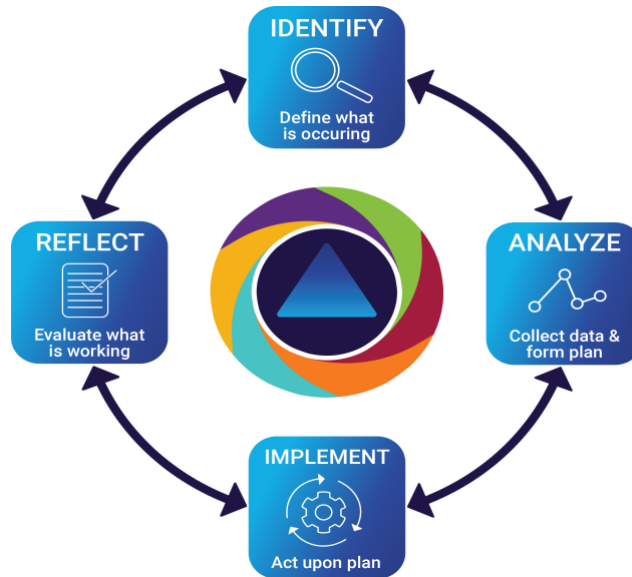
NeMTSS relies on teams utilizing data to guide decision making at all levels (i.e., district, school, grade, classroom, individual) of support. Some important things to consider when using a data-based problem-solving model:

- A problem-solving model provides the structure to identify, develop, implement and evaluate strategies to improve the performance of ALL students.
- The use of scientifically based or evidence-based practices must occur.
- The effectiveness of the problem-solving process is based on both fidelity of the problem-solving process itself and fidelity in the implementation of the instruction/intervention plan.
- The problem-solving process is applicable to all tiers of instruction/intervention and can be used for problem solving at the community, district, school, classroom and/or individual student levels.
- The problem-solving process is iterative. Teams may need to cycle through the problem-solving process multiple times to find successful solutions.

Adapted from Florida's, *A Multi-Tiered System of Supports Implementation Components: Ensuring Common Language and Understanding*.

More information can be found in the **Data-Based Decision Making** section within this document.

**Figure 1. Problem-Solving and Decision-Making Model**



### **THE ESSENTIAL ELEMENTS OF NeMTSS and ALIGNMENT TO AQuESTT TENETS**

MTSS has been defined by the National Association of State Directors of Special Education (NASDSE) as “the practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals and applying child response data to important educational decisions.” Following are NeMTSS Essential Elements as defined by Nebraska stakeholders:

- ▶ **Shared Leadership**
- ▶ **Communication, Collaboration, and Partnerships**
- ▶ **Evidence-Based Practices: Curriculum, Instruction, Intervention and Assessment**
- ▶ **Building Capacity/Infrastructure for Implementation**
- ▶ **Layered Continuum of Supports**
- ▶ **Data-Based Problem Solving and Decision Making**

# Shared Leadership



## OVERVIEW

Shared Leadership and a culture of collaboration are essential to the success of an MTSS Framework. This is not a process led by special education, nor is it led by general education; rather, it is a joint effort of problem solving on behalf of districts, schools, classrooms, and individual students. To have a strong MTSS Framework, districts must have an effective leadership team, as well as school level support teams. These teams allocate resources and develop a plan for MTSS implementation. Examples of potential teams include:

**District leadership teams** are typically made up of a varied group of people which may include administrators, teachers, specialists, and parents.

**School level support teams** typically include clearly defined roles and regularly scheduled meetings to ensure quality and fidelity of instruction and interventions. School teams review and discuss a variety of data sources to ensure timely instructional decisions. School teams frequently include the principal or designee, grade level classroom teachers, instructional coaches, school psychologists, social workers, counselors, parents, and whomever else has expertise related to the specific goal.

**Classroom/student level support teams** typically include teachers, paraeducator interventionists, and other specialists who have expertise related to the specific student. Classroom teams review and discuss student data and student attendance in class or interventions to ensure timely instructional decisions.

**Some examples of the potential roles of educators, specialists, parents and students in NeMTSS can be found here: [nemtss.unl.edu](http://nemtss.unl.edu)**

## WHY IT IS ESSENTIAL

When a district has a system for shared leadership, these teams are highly effective, and communicate regularly with one another to ensure MTSS implementation occurs at all levels. All teams must embrace and utilize a data-based model for problem solving and decision making. Leadership is critical when selecting, utilizing, and sustaining a problem-solving model. DuFour et al. (2004) encourages teams to ask three critical questions: 1) exactly what do we want our students to learn? 2) how will we know when the student has acquired the essential knowledge and skills?, and 3) what happens in our schools when a student does not learn?



## CONSIDERATIONS FOR IMPLEMENTATION

Below are some guiding questions that teams may consider during the MTSS development or refining process. These questions are intended to drive team member dialogue, reflect on current practice, and determine future action steps.

What is/are:

- the desired or intended future of MTSS in your district?
- the teaming structure(s) utilized within your MTSS framework ([Teaming Structures for MTSS](#))? Does team membership reflect representation of all necessary groups and include persons with decision-making authority?
- the responsibilities of teams (e.g., district team, school team, grade level team) within your MTSS framework? For what tasks is each team held accountable? Are there specific responsibilities of certain team members (administrator, directors, coaches, teachers, etc.)?
- the plan for MTSS team meetings (e.g., frequency, topics, documentation, notes, decision making, implementation monitoring)?

## CONNECTION TO NeMTSS SELF-ASSESSMENT

The specific items related to **Shared Leadership** on the **NeMTSS Self-Assessment** include:

1. There is a representative district and building leadership team.
2. Staff have consensus and engage in MTSS Implementation.
3. Resources available to support MTSS implementation are identified and allocated.
4. A plan for MTSS implementation is developed and aligned with the school improvement plan.



**Essential Element: Shared Leadership**-Leadership and a culture of collaboration are essential to the success of an MTSS Framework. This is not a process led by special education, nor is it led by general education; rather, it is a joint effort of problem solving on behalf of districts, schools, classrooms, and individual students. To have a strong MTSS Framework, districts must have an effective leadership team, as well as school level support teams.

**AQUESTT Tenet: Educator Effectiveness**-Educator effectiveness ensures that students are surrounded by effective educators throughout their learning experiences such that schools and districts develop effective teachers and leaders who establish a culture of success by focusing on the Nebraska Teacher and Principal Performance Framework, professional development, building leadership supports and effective local policy makers and superintendents.

**Link to NeMTSS Website resources related to Shared Leadership:** [nemtss.unl.edu](http://nemtss.unl.edu)

# Communication, Collaboration, and Partnerships



## OVERVIEW

There must be school-wide awareness, understanding, and knowledge of the rationale for and structural elements of MTSS. As stated in the introduction of this document, NeMTSS is a framework that promotes an integrated system connecting **general education and special education**, along with all components of teaching and learning, into a high quality, standards-based instruction and intervention system that is matched to a student's academic, social-emotional and behavior needs. As such, **ALL staff**, at some point, may be directly involved in a problem solving and decision-making process and must have understanding of the MTSS systems, as well as all available data and resources. The integration of continuous improvement processes (CIP), district strategic plans, targeted improvement plans (TIP), MTSS, and other improvement efforts will result in more seamless efforts for all stakeholders.

To develop true collaboration, parents and families must be fundamentally involved in the entire educational experience. Schools should acknowledge that families are active partners with educators to support children's learning. Additionally, partnering with community resources contributes to a student's success and should be strategically tied to specific school and family needs. Families of each student in the school, along with community resources, are key partners in all aspects of MTSS, but their roles may shift at each level of support. At the universal or core tier, they can be involved in determining what constitutes high-quality instruction, collaborating on the development of instructional practices, and provide ideas for culturally responsive materials. Also, families can reinforce classroom behavior and academic expectations, partnering with teachers at the universal level. At more advanced levels of support, families are active participants in the evaluation of data and in the design, implementation, and monitoring of interventions. Throughout the process, their expertise regarding the individual student is vital as they provide unique information and participate in home-school coordinated learning. When there is evidence that a student may have an educational disability, active partnership allows for seamless teaming during the eligibility and IEP process, with a continual emphasis on a continuum of learning supports focused on student success (US Department of Education, January 2014).

## WHY IT IS ESSENTIAL

It is beneficial to have a process established for all stakeholders to systematically provide feedback on procedures, implementation issues and successes. This can

be done through an item at the end of a school/classroom level meeting agenda with those notes on feedback being shared with the district/building level teams. Parent surveys are also of benefit. Feedback can be useful for teams in updating MTSS procedures, identifying areas in which additional information sharing is necessary to provide rationale for certain procedures (continuous buy-in activities), identifying implementation barriers that require problem solving and planning for improvement, and highlighting successes.

### **CONSIDERATIONS FOR IMPLEMENTATION**

Below are some guiding questions that teams may consider during the MTSS development or refining process. These questions are intended to drive team member dialogue, reflect on current practice, and determine future action steps.

What is/are:

- the communication plan to share decisions, procedures, etc. and receive feedback from stakeholders (who is responsible, what information should be communicated, what is the feedback loop with stakeholders)?
- the process to provide stakeholders with access to student, classroom, and/or districtwide implementation and outcome data?
- strategies to engage family and the school community within MTSS?

### **CONNECTION TO NeMTSS SELF-ASSESSMENT**

The specific items related to **Communication, Collaboration, and Partnerships** on the **NeMTSS Self-Assessment** include:

1. Staff are provided data on MTSS implementation fidelity and student outcomes.
2. Staff are provided information on MTSS procedures and a process for communicating implementation issues with the MTSS team for problem solving.
3. Family engagement with MTSS is planned and feedback on engagement is used for continuous improvement.



**Essential Element: Communication, Collaboration, and Partnerships**

Communication, collaboration, and partnerships are essential to the success of the MTSS framework. All staff should have an understanding of the MTSS system, as well as data and resources, that is matched to the students' academic, social-emotional and behavior needs. Communicating and partnering with families and community resources contributes to student success and should be strategically tied to specific school and family needs. Throughout the system, communication is clear and transparent, and partnerships are intentional.

**AQUESTT Tenet: Positive Partnerships, Relationships, and Student Success**

This three-part tenet supports schools and districts to implement best practices in student, parent/guardian and community engagement to enhance educational experiences and opportunities by focusing on individualized or personalized learning plans, attendance and participation, community and support services.

**Link to NeMTSS Website resources related to Communication, Collaboration, and Partnerships: [nemtss.unl.edu](http://nemtss.unl.edu)**

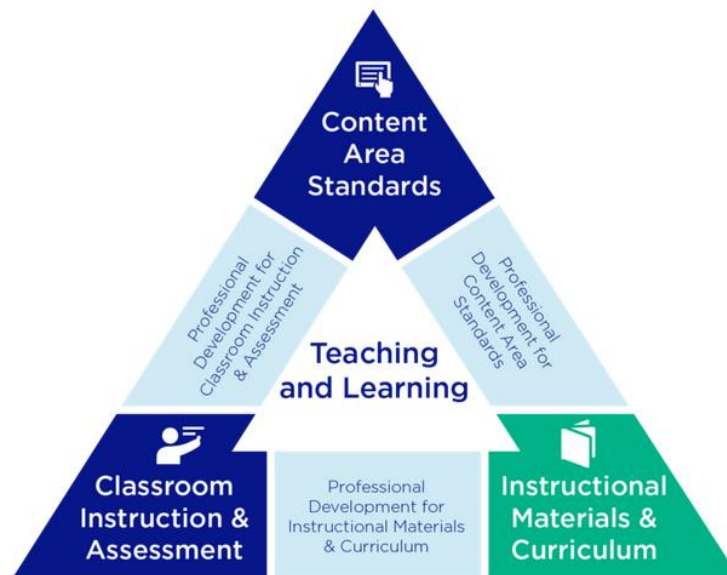
# Evidence-Based Practices: Curriculum, Instruction, Intervention, and Assessment



## OVERVIEW

Within a strong MTSS framework, all instruction, intervention and assessment practices are evidence based. Evidence-based practices (EBPs) are instructional techniques with meaningful research support that represent critical tools in bridging the research-to-practice gap and improving student outcomes (e.g., Cook, Smith, & Tankersley, in press; Slavin, 2002 as cited by Cook & Cook, 2011). To be considered evidence based, a practice must have multiple demonstrations of effectiveness for the population intended from high quality experimental studies. Although a thorough explanation of how to determine if a practice is evidence based is beyond the scope of this document, additional resources can be found by using the website link at the end of this section.

**Figure 2. In Nebraska, effective teaching and learning requires the following key components:**



## Content Area Standards

Content area standards describe what students are expected to know and be able to do. Content area standards outline the content and process skills students will learn in grades PreK-12. Nebraska content area standards include two components: standards and indicators. A [Content Area Standards Reference Guide](#) provides more information about Nebraska's Content Area Standards, the processes used to develop content area standards, and a checklist that is used to ensure Nebraska's Content Area Standards meet expectations for quality.

## **Curriculum**

A curriculum is determined locally and reflects “how” teachers help students learn the content within content area standards. A curriculum outlines the intended outcomes, content, experiences, assessments, and resources for measuring student learning, and it also includes the scope and sequence of what is taught in grades PreK-12. Decisions about curriculum are made locally by individual school districts and classroom teachers. The Nebraska Department of Education does not mandate the curriculum used within a local school.

An effective curriculum is designed to facilitate the acquisition of skills and knowledge that align with content standards (<https://www.education.ne.gov/contentareastandards/>), that is, what students need to learn. Curriculum is the what and how lessons are planned, designed, and constructed to address standards. An evidence-based curriculum consists of practices that have been vetted through rigorous research. The curriculum should be selected after a thorough assessment to ensure that the following criteria have been met: it aligns with standards; research of sufficient quality and quantity is available; levels of competency are defined; high rates of responding are embedded; opportunities for providing feedback for correct answers is addressed; corrective feedback and remediation are designated; scope and sequencing that lead to increasing levels of difficulty are spelled out; mastery-based instruction is required; and formative assessment is specified. In the end, for maximum effectiveness, lessons need to be linked to “big ideas,” those core concepts, principles, theories, and processes that provide meaning and context to instruction. (The Wing Institution: Evidence-Based Curriculum, 2018)

## **Instructional Materials**

Instructional materials are the tools and resources that are used as part of a locally-determined curriculum.

The Nebraska Department of Education has developed a resource to support districts in the selection of high-quality, standards-aligned instructional materials and curricula. The Nebraska Instructional Materials Collaborative <https://nematerialsmatter.org/> highlights high-quality, standards-aligned instructional materials and offers Nebraska-specific guidance documents to ensure materials meet the expectations of Nebraska's Content Area Standards. The website also includes suggested steps and sample timelines for

the instructional materials selection process and provides additional resources to support instructional materials selection and implementation for English Language Arts, mathematics, and science.

### **Classroom Instruction**

During classroom instruction, a teacher implements the locally-determined curriculum, including instructional materials, and uses evidence-based teaching methods and strategies to engage students to support student learning of content area standards.

Instruction is the way the curriculum is delivered to students. Core academic and behavioral programs provide a foundation for the use of evidence-based instruction. Core programs and curriculum materials that are aligned to standards and based in research, and that are integrated within the framework of a well-designed instructional model and implemented with fidelity, support student learning. The thoughtful use of evidence-based instruction and high-quality materials are key components in creating strong core instruction, increasing achievement, and decreasing the likelihood that some students will need targeted interventions. When selecting evidence-based instructional practices and strategies in the context of a high-quality curriculum and core instructional model, consider the following:

- Scope, sequence, and pacing of instruction
- Differentiated materials
- Alignment to Nebraska content area standards
- Opportunities for small, large-group, and individualized instruction
- Monitoring and evaluation of fidelity of implementation
- Professional development needs of teachers and building leaders

The use of evidence-based instruction consists of a complex interaction between the curriculum, instructional materials, the classroom environment, and the needs of individual students. Therefore, context, purpose, and timing of such practices must be considered.

### **Evidence-based Intervention**

Even with high quality, evidence-based core instruction, there will be some students who need additional supports to be successful behaviorally and/or academically. MTSS leadership teams should identify evidence-based intervention programs and practices, provide guidance around delivery and use of interventions, including matching intervention to student need, and, ensure a systematic process for monitoring intervention delivery, and examining effectiveness of interventions for individuals and groups of students to plan for next steps (e.g., discontinuing intervention, continuing intervention as is, modifying intervention, intensifying intervention, or fading intervention). When considering the use of additional evidence-based interventions for students who need additional support and extensions from the core curriculum, districts need to



consider how to identify and select evidence-based interventions that will:

- Establish a schedule of interventions
- Address the identified needs
- Provide professional development and coaching for staff to implement the intervention effectively
- Assess the fidelity of implementation as part of ongoing implementation
- Develop guidelines for intervention delivery
- Develop guidelines for documenting intervention delivery
- Develop guidelines for reviewing program-embedded intervention data
- Develop guidelines for intensifying interventions

Once a district has determined which evidence-based curriculum, instruction and interventions to implement, they must pair materials with evidence-based assessment to continue to monitor student skill development and growth.

### **Evidence-based Assessment**

Assessments are the multiple measures (formative, interim, and summative) used to gather evidence of student learning relative to content area standards.

Student data are used in the decision-making process at multiple levels and for a variety of purposes within an MTSS (e.g., evaluating overall effectiveness of academic, behavioral, and social-emotional supports for all students; determining which students need to receive intervention support; intervention planning for individual students; monitoring effectiveness of interventions and planning next steps for students). To provide high-quality data for decision making, MTSS teams develop a comprehensive assessment system. A comprehensive assessment system includes a collection of **reliable and valid**, assessment data (both formative & summative) for the following purposes:

- **Universal screening process:** administering assessments and/or collecting existing data to answer questions related to overall effectiveness of the MTSS and to identify students who may need intervention supports.
  - Components of a universal screening process include:
    - *Skills-based screeners:* assessments conducted typically 3 times per year to assess relevant skills and concepts. Skills measured will depend upon the grade level and time of the year.
    - *Social-emotional behavior screeners:* measures completed to assess student risk for social, emotional and behavioral problems.
    - *Historical academic and behavioral data:* data from outcome measures and previous screening, and progress monitoring are utilized along with grades (course failure) in a

multi-step system to identify students in need of intervention supports.

- ***Behavioral data:*** data collected through Office Discipline Referrals (ODRs), suspensions and expulsions, attendance, behavior rating scales, etc..
  
- ***Diagnostic measures:*** formal and informal tools used to assess specific academic skills or examine functions of behavior.
  - Uses of diagnostic data include: identifying specific skill needs to best match students to academic intervention supports and developing hypotheses about why problems may be occurring to best match behavior intervention strategies, determine appropriate lesson placement within intervention programs, and determine appropriate level at which to set goals and monitor progress (e.g., survey-level assessment).
  - Diagnostic assessments are typically administered for students for whom the universal screening process did not provide enough data to guide intervention planning or for students who have not been making expected progress in the current intervention and more information is needed to guide next steps with instruction.
  
- ***Progress-monitoring measures:*** assessment tools utilized to examine effectiveness of interventions and guide decision making. *Progress monitoring data should be collected for all students receiving intervention supports and represented graphically.*
  - There are two main types of academic progress monitoring tools used within an MTSS process.
    - ***Mastery monitoring:*** data on mastery of discrete skills (often collected from assessments embedded within intervention programs) used to make day-to-day decisions regarding instruction (e.g., a need to reteach a skill or concept, a need to move placement within intervention lessons, etc.).
    - ***General Outcome Measures (GOMs):*** ongoing progress monitoring of broader academic skills utilized to make decisions regarding effectiveness of the intervention and guide decision making related to continuing intervention, fading/discontinuing intervention, or intensifying intervention
      - General Outcome Measures should be:
        - Efficient/brief to administer
        - Repeatable
        - Sensitive to growth over time
        - Have alternate forms with equivalent difficulty to allow for frequent administration
        - Valid and reliable for the purpose of progress monitoring

- Measure accuracy and automaticity with skills
- Curriculum independent measure of broad skills within a particular content domain
- GOM data can be utilized to make decisions regarding effectiveness of the intervention supports at the **system level** such as:
  - Are students receiving intervention meeting grade level goals at the school and/or district level?
  - Are there certain interventions that are providing higher rates of growth than other interventions?
- GOM data can be utilized to make decisions regarding effectiveness of the intervention for an **individual student** such as:
  - Is the intervention working (i.e., the student is progressing at an appropriate rate of improvement) and should continue as is?
  - Did the intervention work and the intervention support can be faded or stopped (i.e., the student met grade level goals)?
  - Is the intervention not working (i.e., student has not met grade level goals and is not making an appropriate rate of progress) and needs to be adjusted or intensified?
- Progress monitoring of behavioral and social-emotional skills
  - Measures used to assess student acquisition and use of behavioral or social-emotional skills will depend on the focus of the intervention (i.e., target behavior and/or replacement behavior).
  - As with academic progress monitoring data, behavioral data collection should be repeated over time and graphically represented to aid in use of data in evaluating the effectiveness of the intervention.
  - Some examples of sources of progress monitoring data for behavior may come from direct observation of the target behavior and/or replacement behavior, office discipline referrals, intervention artifacts (e.g., results of behavior charts or daily behavior report cards).

The *National Center for Intensive Intervention* has a Tools Chart providing information on various progress monitoring tools [here](#).

**Outcome measures** -- Summative measures (typically administered near the end of the school year) that provide an overall look at the effectiveness of instructional supports in various content areas. When examined over time, these data may be helpful in answering questions such as:

- Are students (including various subgroups of students) meeting

- standards?
- Is our overall instructional program effective for all groups of students?
  - Were pre-established goals met at various levels (grade, school, district) for various groups of students?
  - Is change needed?

Too often collection of assessment data takes away from valuable instructional time for students. It is important in building and/or refining a comprehensive assessment system that schools are not over-assessing students. Schools should be collecting the least amount of student data necessary to provide accurate, high-quality information for decision making. It may be helpful for districts/schools to take stock of current assessment practices ([sample activity for taking stock of current assessments](#)) to ensure they have technically adequate assessments for all purposes, but aren't collecting more data than necessary for good decision making.

In addition to identifying which assessments will be used in a district or school, the comprehensive assessment plan should provide guidance for training and support for administration and scoring of assessments; how data will be collected (frequency, by whom, when, where); managing/storing the data so it can be quickly and easily accessed by all who need to use it; and use of the data for decision making. It may be helpful for district or school teams to create an assessment matrix outlining the tools as well as guidelines for collection of the data, data storage, and data use to ensure valid and reliable data are collected for all purposes and readily available for teams to utilize in problem solving ([sample data collection matrix](#)).

### **Fidelity of Evidence-based Practices**

A critical aspect of the use of EBPs is fidelity of implementation. Fidelity is the degree to which a program, curriculum or intervention is implemented as designed through research or as developed by a problem-solving team. This includes the amount of time provided (e.g., 10 minutes, 3 times per week) and the quality of the delivery (e.g., each step of a protocol, behavior plan, or lesson plan).

While program fidelity of all critical components is necessary to establish the effectiveness of an MTSS, accurate implementation of EBPs across the continuum of support is vital to obtain desired student outcomes. A large body of research indicates that EBPs are less effective, or not effective at all, when not implemented with fidelity (Nelson, Oliver, Hebert, & Bohaty, 2015). In practice, before a student or students are deemed unresponsive to core instruction, fidelity of the core curriculum should be evaluated and corrected if necessary. Likewise, before a student is deemed unresponsive to increasing layers of support, fidelity of intervention implementation needs to be assessed and corrected.

It is recommended that fidelity be collected across evidence-based curriculum, instruction, intervention and assessment. Fidelity can be collected through permanent products (e.g., lesson plans, logs of intervention delivery) and directly through observations of implementation. Many programs or curriculum have fidelity measures already developed, however, fidelity measures may need to be developed for things such as individual behavior support plans. More information about importance of fidelity to determine eligibility for special education under the category of Specific Learning Disability is provided in the accompanying section/document entitled *Determining Special Education Eligibility for Specific Learning Disabilities*.

Guiding questions addressing fidelity include:

- Were the important pieces of the intervention delivered?
- Was the instruction consistent with the scope and sequence of the intervention?
- Did students receive the recommended amount and types of instruction?
- What was the nature of the delivery and teacher/student interactions?
- Did the teacher provide the instruction in the manner expected?
- Did the students follow the directions and complete the activities as expected?

### **WHY IT IS ESSENTIAL**

The use of EBPs with fidelity increases the likelihood that students will have positive outcomes. When schools do not consider the research supporting a practice, they are taking a chance that the time and resources put into the practice will be wasted on ineffective practices that do not lead to desired outcomes. Although not every evidence-based practice will work for every student, quality MTSS implementation uses EBPs, implemented with fidelity, and assessment data to monitor the effectiveness of the practice and select different EBPs or change frequency or duration as needed.

### **CONSIDERATIONS FOR IMPLEMENTATION**

Below are some guiding questions that teams may consider during the MTSS development or refining process. These questions are intended to drive team member dialogue, reflect on current practice, and determine future action steps.

What is/are:

- the instructional materials, instructional model, and expectations for instruction (e.g., materials used for core instruction, expectations for core instruction, schedule, small group, pacing, etc.)?
- the materials to be used for intervention; expectations for intervention (e.g., schedule, group size, pacing/lesson progress targets, minimum dosage (duration & frequency), etc.)?

- ❑ the process your district uses for approving materials to supplement core instruction, including the process for selecting new core and intervention materials?
- ❑ intervention documentation (e.g., how each intervention group will be documented, when, and by whom using what form)?
- ❑ the information to be included on intervention documentation forms (e.g., date, duration, absences, difficult activities/skills for the group, individual student struggles, behavior issues)?
- ❑ the review of intervention documentation data (collected when, by whom, and reviewed when and by whom)?
- ❑ the technically adequate assessment tools used and for what purposes (e.g., screener, progress monitoring, diagnostic, outcome) within your MTSS framework?
- ❑ the guidelines for administering assessments (e.g., administration schedule (frequency), administered to whom and by whom, plan for collecting reliability checks, data management system used to enter data and who will enter data)?

### **CONNECTION TO NeMTSS SELF-ASSESSMENT**

The specific items related to **Evidence-Based Practices: Curriculum, Instruction, Intervention and Assessment** on the **NeMTSS Self-Assessment** include:

1. Evidence-based programs and practices are implemented with fidelity.
2. Most teachers are consistently implementing effective instructional practices (as outlined in district instructional model) to teach critical content.
3. School schedules aligned to support multiple levels of intervention are consistently implemented.
4. There is a systematic screening process and staff engage in ongoing professional learning for administration of assessments and use of data within the screening process.
5. Student progress specific to academic, behavior, and social-emotional goals specified in intervention plans are monitored.



**Essential Element: Evidence-Based Practice: Curriculum, Instruction, Intervention and Assessment Practices**-Implementation of an effective MTSS process ensures that the instruction being provided reflects a strong core curriculum including evidence-based strategies that are utilized to enhance student learning and engagement coupled with effective professional development opportunities that secure fidelity of implementation.

**AQUESTT Tenet: Educational Opportunities and Access**-Successful implementation of instruction ensures access to comprehensive opportunities and differentiated instruction for every student. An MTSS blends academic, social-emotional, and behavior problem solving processes and varied levels of support.

**Link to NeMTSS Website resources related to Evidence-Based Practices: Curriculum, Instruction, Intervention and Assessment:** [nemtss.unl.edu](http://nemtss.unl.edu)

**Link to NDE Website resources related to Evidence-Based Practice: Curriculum, Instruction, Intervention and Assessment:** [education.ne.gov/tl/](http://education.ne.gov/tl/)

# Building Capacity/Infrastructure for Implementation



## OVERVIEW

Several **elements of the district and school infrastructure must be in place to implement and sustain MTSS** including strong leadership, professional learning, and coaching.

Adapted from Florida's, *A Multi-Tiered System of Supports Implementation Components: Ensuring Common Language and Understanding*.

Effective, actively involved, and **strong leadership** that demonstrates connections between the MTSS framework with the district strategic plan, school mission statements, and organizational continuous improvement efforts must be evident. There must be alignment of policies and procedures across classroom, grade, building, and district levels with ongoing facilitation and use of a problem-solving process to support planning, delivering, and evaluating the effectiveness of services. Strong, positive, and ongoing collaborative partnerships, with all stakeholders who provide education services or who benefit from increases in student outcomes, are key for deep implementation and sustainability. Comprehensive, efficient, and user-friendly data systems for supporting decision making at all levels, from the individual student level to the aggregate district level, should provide accurate and timely data for decision making.

Strong, targeted, comprehensive **professional learning opportunities** are required to create and ensure implementation of a successful MTSS framework.

## WHY IT IS ESSENTIAL

Professional learning is a comprehensive, sustained, and intensive approach to improve teachers' and principals' effectiveness in raising student achievement (Hirsh, S., & Killion, J., 2009). This type of support for educators fosters collective responsibility, is related to standards and school improvement goals, is facilitated by leaders, and informed by educator and student data within a continuous improvement and problem-solving model.

The length and focus of professional learning opportunities directly impact teaching quality and student outcomes. When teachers are provided an average of 49 hours of professional learning a year related to the curriculum they teach, student outcomes increase 21 percentile points (Yoon, Duncan, Lee, Scarloss & Shapley, 2007). Professional learning that includes collaboration and teamwork facilitates collective responsibility for ALL students rather than feelings



of responsibility for only some students. Team-based professional learning fosters shared responsibility among stakeholders. Ongoing data-driven professional learning (PL) plans and activities that align to core student goals and staff needs are integral to the success of the state, district, and building level MTSS. Communicating outcomes with stakeholders and celebrating success frequently is essential at all levels of the infrastructure and framework.

## Relationship Between Professional Learning & Student Results



Florida, MTSS (2013)

### CONSIDERATIONS FOR IMPLEMENTATION

Below are some guiding questions that teams may consider during the MTSS development or refining process. These questions are intended to drive team member dialogue, reflect on current practice, and determine future action steps.

What is/are:

- the process for making decisions regarding PL and how decisions will be made for determining what PL experiences you will hold in your district and/or send staff to attend?
- the training needs related to core and intervention instruction, assessment, coaching, leadership, and data-based decision making?
- training for teachers, paraprofessionals, special education staff, administrators, coaches, and new staff each year considered?
- the plan for coaching to support implementation of core instruction and intervention (coaching process, time for coaching, documenting coaching supports, evaluating the effectiveness of coaching supports)?

- ❑ the indicators of implementation of core and intervention supports?
- ❑ the process for collection and use of fidelity data for core and intervention (on which practices will you monitor fidelity for core and intervention; who collects fidelity data/observes to collect instructional data; what format is used to collect fidelity data; who will collect the data for whom and with what frequency; how will fidelity data be used (e.g., to assist with identifying professional learning needs, ensuring students received the appropriate amount and quality of intervention support)?

### **CONNECTION TO NeMTSS SELF-ASSESSMENT**

The specific items related to **Building Capacity/Infrastructure for Implementation** on the **NeMTSS Self-Assessment** include:

1. The leadership team facilitates professional development and coaching for staff members on data-based problem solving relative to their job roles and responsibilities.
2. The leadership team facilitates professional development and coaching for all staff on multi-tiered instruction and intervention relative to their job roles and responsibilities.
3. Coaching is used to support MTSS implementation (systems level coaching).
4. Fidelity data are collected and used to inform decision making (e.g., identifying additional professional learning needs for staff; determining effectiveness of interventions).



**Essential Element: Building Capacity/Infrastructure for Implementation**-The development of knowledge, resources, and organizational structures necessary to operationalize all elements of MTSS to meet the established implementation goals.

**AQUESTT Tenet: Educational Opportunities and Access**-When professional learning is standards-based, it has greater potential to change what educators know, are able to do, and believe. When educators' knowledge, skills, and dispositions change, they have a broader repertoire of effective strategies to use to adapt their practices to meet performance expectations and student learning needs. When educator practice improves, students have a greater likelihood of achieving results. When student results improve, the cycle repeats for continuous improvement. This cycle works two ways: If educators are not achieving the results they want, they determine what changes in practice are needed and then what knowledge, skills, and dispositions are needed to make the desired changes. They then consider how to apply the standards so that they can engage in the learning needed to strengthen their practices.

**Link to NeMTSS Website resources related to Building Capacity/Infrastructure for Implementation:** [nemtss.unl.edu](http://nemtss.unl.edu)

# Layered Continuum of Supports



## OVERVIEW

Improving learning outcomes for every child requires a continuum of supports that provides high quality core curriculum and instruction with increasingly intensive interventions for some students. As such, supports are layered on to core instruction with increasing intensity based on student need.

- **Core (every student)** is the first level of prevention and it should be the focus of instruction, providing a strong foundation. Students will receive high quality instruction using evidence-based curriculum and instructional practices aligned to grade-level Nebraska State Standards (See Evidence-based Curriculum, Instruction, Intervention, and Assessment Practices). Highly qualified teachers implement best teaching practices to ensure the academic success of all students. Effective core curriculum and instruction ensures that at least 80-85% of the students will be successful without additional intervention. Universal screenings and ongoing assessments are conducted to identify students at risk for academic failure and to evaluate if students are benefiting from instruction.
- **Intervention (some students)** addresses the needs of struggling students by matching high-quality intervention to students' needs when students are not making adequate gains from **core** alone. **Intervention is in addition to core** and may be appropriate for approximately 10-15% of students who require additional support. Students should receive additional intense small group attention in the specific area of need. Progress monitoring of specific skills will provide evidence if a student does or does not make sufficient progress. Data from assessment and progress monitoring are used to determine how to intensify interventions for those not making adequate progress. (See the Data-Based Decision Making section).

## WHY IT IS ESSENTIAL

With ongoing collaboration, evidence-based instructional practices, and data review procedures within an MTSS framework, students will benefit from a consistent system of increasingly intensive supports.

## CONSIDERATIONS FOR IMPLEMENTATION

Below are some guiding questions that teams may consider during the MTSS development or refining process. These questions are intended to drive team

member dialogue, reflect on current practice, and determine future action steps.

What is/are:

- the proficiency percentage of all students within the core? Are 80-85% of students successful without additional intervention?
- the practices used to determine the evidence and the potential success of core instruction and interventions?
- the decision-making rules to determine movement from core to intervention and back to core?

### **CONNECTION TO NeMTSS SELF-ASSESSMENT**

The specific items related to the **Layered Continuum of Supports** in the **NeMTSS Self-Assessment** include:

1. Core academic practices exist that clearly identify learning standards, school-wide expectations for instruction that engage students, and school-wide assessments.
2. Core behavior and social-emotional practices exist that clearly identify school-wide expectations, social-emotional skills instruction, classroom management practices, and school-wide behavior and social-emotional data.
3. Supplemental academic intervention practices exist that include strategies addressing integrated common student needs, are linked to core instruction, and are monitored using assessments/data sources tied directly to the academic, behavior, and social-emotional skills taught.
4. Supplemental behavior and social-emotional intervention practices exist that address integrated common student needs, are linked to core instruction, and are monitored using assessments/data sources tied directly to the skills taught.
5. Support teams use a systematic problem-solving process to plan interventions for students.
6. Interventions are intensified, as appropriate for select students, using evidence-based programs, practices, or strategies.



**Essential Element:** **Layered Continuum of Supports**-The culturally and developmentally relevant practices, layered from universal instruction (for every student) to intervention (for some/few students).

**AQUESTT Tenet:** **Educational Opportunities and Access**-Successful implementation of an MTSS ensures access to a full continuum of supports (Pre-K through graduation) for academic, social-emotional, and behavioral growth in preparation for postsecondary education and career goals.

**Link to NeMTSS Website resources related to Layered Continuum of Supports:**  
[nemtss.unl.edu](http://nemtss.unl.edu)

# Data-Based Problem Solving and Decision Making



## OVERVIEW

An effective MTSS relies on teams utilizing data to guide decision making at all levels (i.e., district, school, grade, classroom, individual) of support. In building, implementing, evaluating, and refining an MTSS, teams examine data within a systematic decision-making and problem-solving process (see Figure 1). Teams also examine data within this process to guide instructional and intervention decisions for individual students and groups of students. Within this process, the following questions are answered:

- At the **systems level** to evaluate/continuously improve the overall MTSS ([link for more on data based decision making at the systems level](#)):
  - Are core supports being implemented as designed and is the core working for students?
  - Are intervention supports being implemented as designed and are intervention supports working for students? Are certain interventions producing better results than others?
- At the **individual student level** ([link for more on data based decision making at the individual student level](#)):
  - Which students need intervention?
  - Is the intervention effective for an individual student/group of students?
  - How do we intensify intervention when needed?
  - Do we need to evaluate for special education?

Two broad domains of data important to the process are **student data** and **implementation data**. *Student data* refer to academic, behavioral, and social-emotional data collected. *Implementation data* refer to data collected on “what the adults are doing” and how well outlined/defined elements of MTSS are being carried out (e.g., fidelity of schedule for core instruction, fidelity to use of explicit instructional practices during intervention delivery, reliability of administration and scoring of assessments, fidelity to dosage (e.g., frequency, duration, etc.) of intervention, fidelity and effectiveness of coaching supports provided for teachers, whether utilized evidence-based programs and practices, etc.).

## WHY IT IS ESSENTIAL

Data and research should guide decision making in design of an MTSS (e.g., selection of programs, practices and assessments), the allocation of resources based on need (within buildings or across buildings in districts), and the planning for implementation support to ensure supports are built to address the unique

needs of individual districts and schools.

### **CONSIDERATIONS FOR IMPLEMENTATION**

Below are some guiding questions that teams may consider during the MTSS development or refining process. These questions are intended to drive team member dialogue, reflect on current practice, and determine future action steps.

What is/are:

- the decision rules for identifying students for intervention (what assessment data will be used at each grade level, criteria for determining need at various points across the year, procedures for validating the data (if needed), date(s) by which intervention will begin after data determining need, who will apply the decision rules)?
- the process for matching students to interventions and forming intervention groups?
- the guidelines for monitoring student progress in intervention and setting goals (what measures are used for progress monitoring at each grade level), procedures for determining if you will monitor students off grade level, procedures for setting goals other than the grade level goal?
- the decision rules for examining intervention effectiveness and making decisions for students receiving intervention (who analyzes intervention data for decision making, what data analysis procedures will be used to determine student progress, what are the criteria for determining when to intensify supports, fade supports, discontinue supports, re-enter intervention, initiate individual student problem solving)?
- the process for documenting intervention decision making (which students are receiving intervention and decisions made regarding progress), where/how are the data documented (e.g., a spreadsheet of students receiving intervention; within the data management system for your progress monitoring tool, etc.), who is responsible for keeping the data up-to-date)?
- the guidelines for intensification when an intervention is not working to support students in meeting goals/making adequate progress?

### **CONNECTION TO NeMTSS SELF-ASSESSMENT**

The items specific to **Data-Based Problem Solving and Decision Making** within the **NeMTSS Self-Assessment** include:

1. Integrated data-based problem solving for student academic, behavior, and social-emotional outcomes occurs across content areas, grade levels, and continuum.
2. MTSS Leadership Team uses student data and implementation data to evaluate the effectiveness of instruction.
3. There are pre-established guidelines for decision making for identifying students to receive intervention support.



4. There are pre-established decision guidelines for evaluating effectiveness of interventions for individual students



**Essential Element: Data-Based Problem Solving and Decision Making**-An effective MTSS relies on teams utilizing data to guide decision making at all levels (i.e., district, school, grade, classroom, individual) of support. In building, implementing, evaluating, and refining an MTSS, teams examine data within a systematic decision-making and problem-solving process. Teams also examine data within this process to guide instructional and intervention decisions for individual students and groups of students.

**AQuESTT Tenet: Assessment**-The results of multiple assessment sources (national, state, and classroom-based) should be used to measure student achievement of college and career ready standards, and be used as an integral part of the instructional process through the use of individual adaptive assessments, classroom based assessments, state assessments, and national/international assessments.

**Link to NeMTSS Website resources related to Data Based Problem Solving and Decision Making: [nemtss.unl.edu](http://nemtss.unl.edu)**

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## Determining Special Education Eligibility for Specific Learning Disabilities

**Although this document is crafted to stand alone, supporting information may be referenced in the NeMTSS Framework Document.**

### Section 1: Introduction to Eligibility Determination

This section of the MTSS framework document was written to provide parents, teachers, special education personnel, school psychologists, administrators, and other professionals with information on the identification and determination of eligibility for special education services using an MTSS process for children suspected of having specific learning disabilities (SLD).

This category of children has been defined by both federal and state regulations. A three-part eligibility requirement for a child to be identified as a child with SLD is as follows:

- Meet eligibility guidelines (92 NAC 51);
- Documentation of adverse effect on educational performance; and
- Determination that there is a need for special education.

Since 1975, when the first special education law (PL 94-142) was authorized by Congress and Nebraska Rule 51 was written and approved, children with SLD in Nebraska have been identified by using a “Severe Discrepancy” between intellectual ability (as measured by an intelligence test as resulting IQ score) and academic achievement. In recent years, the validity and reliability of this process have been questioned at the federal, state, and local educational levels.

When the federal law was reauthorized in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), the developers allowed states more flexibility in the identification of children with SLD. The following language, which provides states with three different options in the identification of SLD, is included in IDEA:

Additional Procedures for Evaluating Children with Specific Learning Disabilities:  
Sec. 300.307 Specific learning disabilities.

*(a) General. A State must adopt, consistent with Sec. 300.309, criteria for determining whether a child has a specific learning disability as defined in Sec. 300.8. In addition, the criteria adopted by the State—*

*(1) Must not require the use of a **severe discrepancy** between intellectual*

ability and achievement for determining whether a child has a specific learning disability as defined in Sec. 300.8(c)(10);

(2) Must permit the use of a process based on the child's **response to scientific, research-based intervention**. Section 300.304; and

(3) May permit the use of **other alternative research-based procedures** for determining whether a child has a specific learning disability as defined in Sec. 300.8(c)(10).

The evaluation of a child suspected of having SLD must include a variety of evaluation and assessment tools to gather relevant functional developmental and academic information about the child, including information provided by the parent that may assist in determining eligibility. No single measurement or assessment may be used as the sole criterion for determining whether the child has a disability and for determining an appropriate educational program for the child.

Nebraska has identified a process based on the child's response to scientific, research-based intervention as special education eligibility through the use of *Multi-Tiered System of Support (MTSS)*. **In order to use an MTSS Process for the identification of a specific learning disability, the school or district must demonstrate full implementation of an MTSS Framework (scientific, research based intervention 42 NAC 51, 006.04K3b and 006.04K3b) as documented through the completion of policy and procedure NeMTSS Assurances located on the ILCD website.**

### **Multi-Tiered System of Support (MTSS)**

As noted throughout the framework document, NeMTSS is an educational service delivery system designed to provide effective instruction for all students using a comprehensive and preventive problem-solving approach. It employs a continuum of instructional delivery, in which the core curriculum addresses and meets the needs of most students, additional instruction is provided for those needing supplementary intervention support, and intensive and individualized services are provided for the students who continue to demonstrate more intensive needs. At its foundation, NeMTSS includes measuring performance of all students, and basing educational decisions regarding curriculum, instruction, and intervention intensity on student data.

Stakeholders in Nebraska have identified six essential elements which are critical within the MTSS framework: Shared Leadership; Communication, Collaboration, and Partnerships; Evidence-Based Practices: Curriculum, Instruction, Intervention and Assessment; Building Capacity/Infrastructure for Implementation; Layered Continuum of Supports; and Data-Based Problem Solving and Decision Making. These essential elements are described in the NeMTSS Framework Document.

The focus of NeMTSS is on improved student outcomes for all students through the

provision of high-quality scientifically/research-based instruction and interventions that are matched to student academic or behavioral needs. Through this framework, the MTSS process enables districts to provide early support and assistance to students who are struggling to attain or maintain grade level performance. NeMTSS provides a consistent model and procedures to make collaborative data-based educational decisions for all students. Additionally, student performance data from the MTSS process can be used as part of a comprehensive evaluation for the identification of a student with SLD. Note, however, that special education services should not be needed for the majority of students. Rather, NeMTSS is designed to meet students' needs and solve learning problems *before* special education is necessary, as well as demonstrate the need for specially designed instruction through special education.

Drawing data from the MTSS process is one component of the information reviewed as a part of the comprehensive evaluation for the identification of SLD. **Conclusions regarding special education eligibility are drawn from multiple sources** (Refer to Section 4: Eligibility Determination Guidelines using MTSS). All components of required documentation for SLD eligibility must be considered.

### **Referral Procedures**

For a school age student, a general education *problem-solving team* shall be used prior to referral for multidisciplinary team evaluation. A problem-solving team shall utilize and document problem solving and intervention strategies to assist the teacher in the provision of general education. If the student problem-solving team feels that all viable alternatives have been explored, a referral for multidisciplinary evaluation shall be completed (92 NAC 51). An MTSS school or grade level team may fulfill the requirements of Student Assistance Team, or *comparable problem-solving team*. A student may be referred for multidisciplinary team evaluation at any time within the MTSS Framework; **in no way should an MTSS process delay the initial evaluation of a student that is suspected of having a disability.**

If, within the MTSS process, the team suspects that a student may be exhibiting evidence of a disability other than a Specific Learning Disability, the referral process for the suspected disability must be followed. It is important to note that determining special education eligibility through NeMTSS is not required nor appropriate for all areas of suspected disabilities. Per 92 NAC 51, Specific Learning Disability is the only eligibility category for which an MTSS process can be used. However, any information collected through the MTSS process will be vitally important to eligibility decisions, regardless of the suspected disability.

A referral for a special education evaluation through MTSS will include (at a minimum):

- Parent input to include any pertinent familial information, family/student medical history, etc.;

- Teacher input to include an indirect observation, work samples, documentation of differentiated instruction, etc.;
- Documentation of the problem to include classroom-based performance assessments, standardized testing results, and other relevant assessment data;
- A detailed description of the intervention process to include evidence-based practices used, attendance, frequency of implementation, duration of implementation, and fidelity monitoring; and
- Progress monitoring data indicating a lack of responsiveness to intervention.

A special education referral can be made by the parents at any time during the MTSS process. MTSS is not a reason to deny or delay an evaluation if a disability is suspected.

### **Section 2: State Definition**

- Specific Learning Disability – To qualify for special education services in the category of specific learning disability, the child must have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The category includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The category does not include children who have learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disabilities; of behavioral disorders; or of environmental, cultural, or economic disadvantage.

### **Section 3: Multidisciplinary Team (MDT) Composition**

The Multidisciplinary Team (MDT) should include at least:

- The child's parents;
- For a school age child, the child's regular teacher(s) or a regular classroom teacher qualified to teach a child of that age;
- For a child below age five, a teacher qualified to teach a child below age five;
- Special educator with knowledge in the area of specific learning disabilities;
- A school district administrator or a designated representative; and
- At least one person qualified to conduct individual diagnostic examinations of children in their specific area of training (i.e., school psychologist, speech language pathologist, or remedial teacher).

## Section 4: Eligibility Determination Guidelines using MTSS

The MDT may determine that a child has a specific learning disability using the following six criteria:

### **CRITERION 1: Failure to meet age- or grade-level state standards in one of eight areas when provided appropriate instruction:**

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

The first criterion for identification of SLD requires a determination that the student is failing to meet age- or grade-level state standards in one of eight areas (see definitions). A student needs to meet this criterion in only one of the eight areas. The school team should identify the area(s) of concern during its review of existing data. The area(s) of low achievement that have not been responsive to instruction/interventions of varying intensities should be what prompted referral for evaluation for the possible presence of SLD. Existing data from a variety of sources, to determine the gap between the student's current performance and age- or grade-level state standards, at a minimum should include the following:

- Performance on state assessments. These are the state's general assessments aligned to state academic content standards for the student's grade.
- Universal screening. Benchmark testing of all students, typically administered three times per year, focusing on foundational skills and aligned with state standards.
- Formative and progress-monitoring assessments. Aligned with grade-level state standards, the assessments are used to monitor what students are expected to learn when provided with robust instruction within the general education setting.
- Classroom-based observation(s).
- Norm-referenced assessments of academic achievement correlated to state standards.
- One or more classroom-based observations by teachers (other than the student's teachers) and related services providers in the instructional environment(s) and during instruction in the area of concern.
- Information provided by the student's parents that the student has a history of not meeting age- or grade-level state standards, as evidenced by data from prior evaluations, developmental history questionnaires, other information, and/or that there is a family history of LD, other family members with LD, and/or delayed acquisition of reading and/or math skills.

To determine eligibility for special education under Criterion 1, the team should consider a variety of data sources related to any of the eight areas of academic functioning. The majority of data should suggest the student is performing below benchmark and below at least the 16th percentile on national norms. The team may consider a lower score, such as the 10th percentile, as an indicator of significant discrepancy from age- or grade-level standards, if the team believes a lower score more adequately demonstrates failure to meet such standards. Examples of data sources a team may use to consider if a student has not met age- or grade-level standards include curriculum-based measures, performance on district or state tests, and nationally-normed standardized achievement tests.

**Data must be considered within the context of these two important elements:**

- State norms. Norm-referenced assessments provide an indicator of the average performance of a student in the same grade in comparison with other students across the country. Local norms are based on grade-level state standards, and a state's norms may vary in relation to the overall progress of students nationwide.
- Cultural and linguistic sensitivity. If differences in culture or language are not considered when interpreting assessment data, the result may be an inappropriate disability designation. For students whose primary language is not English, an evaluation of their current English skills is recommended in order to show relative mastery of English.

**Determining Extent of Student Underachievement**

Additional data may be needed to verify the extent of the student's underachievement against age- or grade-level state standards. Such data will likely need to be obtained through more in-depth assessments as discussed below.

To comply with IDEA's requirements, assessment tools used for this purpose must be carefully selected and administered so as not to be discriminatory on a linguistic, racial, or cultural basis, and must be administered in a form and language that allows accurate data to be collected. §300.304(c)(1)

A useful tool to provide a closer look at student achievement may include classroom-based formative assessments that are very closely tied to the curriculum (aligned with grade-level and age-level state standards) or skill area where the instruction or intervention is focused. In many cases norm-referenced tests may also be used to gather additional data on the student's academic achievement (discussed further below). The goal is to determine the magnitude of difference between the student's current skills and what is expected for his or her age and grade (Deno, 2003).

Regardless of the assessment tools used, confidence intervals should be



considered to take into account the measurement error of the tests and to permit the expression of a range of scores, not a set cut-point. Use of confidence intervals is one approach to the problem of rigid cut-points that plagues LD.

### **Validating Provision of “Appropriate Instruction”**

The team must also satisfy the requirement expressed in Criterion 1 regarding a determination that the student’s lack of academic achievement has occurred within the delivery of “appropriate instruction.” This is an important element as it serves as a stopgap for identifying students as having an SLD who might actually be underperforming due to a lack of or inadequate instruction. In fact, it reiterates a requirement in IDEA’s broader requirements for eligibility that states the following special rule for eligibility determination:

§ 300.306 (b)(1)(i-iii) A child must not be determined to be a child with a disability under this part—

(1) If the determinant factor for that determination is—

- (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act [ESEA]);
- (ii) Lack of appropriate instruction in math; or
- (iii) Limited English proficiency

Evidence of class wide, grade wide, or school wide low achievement in the academic area of concern could lead the team to a determination that instruction (e.g., quantity, quality, relevance, alignment with standards) may have a strong relationship to the student’s lack of achievement. Only when the team can determine that the referred student’s academic problems persist while most students in the same demographic (e.g., English language learners, race/ethnicity), class, school, or district are performing satisfactorily can lack of appropriate instruction be ruled out. For example, when approximately 80% of students in the referred student’s class or grade, or other subgroup, are meeting the age- or grade-level state standards, then the referred student’s lack of achievement can be recognized as unique and not a result of the lack of instruction.

If the MTSS-based process being implemented by a school adheres to all essential components of MTSS, this issue is ruled out early on since successful implementation of an MTSS framework requires a research-based core curriculum that is shown to be effective for the majority of students and is implemented with fidelity (as intended by the program authors).

### **Guiding Questions for Criterion 1:**

- What standard(s) or benchmark(s) are used for points of comparison for students?

- Is the student performing at expected proficiency levels?
- Is the student's performance below the 16th percentile rank? Below the 10th?
- If a student is capable of performing at an adequate level as measured on some data sources and not others, and if so, why?

**CRITERION 2: Lack of progress in response to scientific, research-based intervention.**

The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in 34 C.F.R. 300.309(a)(1) and 92 NAC 51 when using a process based on the child's response to scientific, research-based intervention; or 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, using appropriate assessments, consistent with 92 NAC 51 and 34 C.F.R. 300.304 and 300.305.

While federal regulations provide two options for determining that the student is not making sufficient progress, this guide focuses exclusively on the use of response to scientific, research-based intervention when making a determination regarding Criterion 2.

**Validating Delivery of Scientific, Research-Based Interventions**

First, documentation is needed regarding the scientific, research-based interventions that were provided to supplement core-curricular instruction during the intervention period.

The school team should document that the interventions are supported by scientific research. A standard intervention protocol should be developed with interventions that

- are appropriate for the group of students receiving the intervention,
- have yielded successful responses and outcomes from other students for whom the interventions are appropriate,
- have been implemented by staff who were adequately trained and have demonstrated proficiency providing the interventions, and
- were delivered with a high degree of fidelity (as intended by the program authors) and for a sufficient length of time, as evidenced by progress monitoring data.

Issues that arise during the process of validating delivery of scientific, research-based interventions—such as fidelity—should be addressed before the school team proceeds to evaluation and eligibility determination.

“The most common reason for a lack of response to an evidence-based intervention well matched to a student and skill area is the failure to implement the intervention as designed” (VanDerHeyden & Tilly, 2010).

CEC Standards for Evidence-Based Practices in Special Education are linked here: <https://www.cec.sped.org/~media/Files/Standards/Evidence%20based%20Practices%20and%20Practice/EBP%20FINAL.pdf>

### **Determining Rate of Improvement**

The school team must document the student’s rate of improvement throughout the implementation of increasingly intensive interventions. The rate of improvement must

- identify the specific area(s) of concern—oral expression; listening comprehension; written expression; basic reading skill; reading fluency; reading comprehension; mathematical calculation; and/or mathematical reasoning (defined in Criterion 1);
- identify the rate of growth necessary to meet grade-level expectations (norms or benchmarks based on age- or grade-level state standards; i.e., close the gap with typical peers), with such analysis being based on research-based norms or criterion-referenced benchmarks (see below); and
- compare the student’s actual growth against rate of growth expected or required.

Some measures used for Criterion 1 (e.g., norm-referenced tests) are not designed for the frequent monitoring of progress that is needed to establish a student’s ROI (i.e., rate of improvement).

Research-based norms: Research is available that identifies average rates of student progress in basic academic skills over time. Research-based norms can be a helpful starting point for estimating expected student rates of growth. (See Lipsey et al. 2012 IES guide for more information).

Criterion-referenced benchmarks: Benchmarks are set as a standard of mastery (and must be aligned with grade-level state standards) against which a student’s performance on an academic task or behavior can be compared. The evaluation team sets rates of student improvement necessary to achieve the benchmark in a reasonable time period. The time period would be determined based on the magnitude (e.g., size) of the gap between the student’s current skills and the goal, the time expected for typical learners to acquire the skill(s) and the rate of growth based on student history.

The school team, including the student's parents, must determine based on valid and reliable data whether the student's rate of improvement is;

- sufficient or insufficient for the student to reach the average range of his or her same age peers' achievement within a reasonable period of time (See Figures A and B)

AND

- whether the intensity of the interventions that produced the adequate rate of improvement can or cannot be maintained within general education.

These decisions are based on professional judgment of the MDT team. Professional judgments are: data driven, unbiased, and student-centered (not based on needs of the educators and/or parents). When student-centered judgments are made, greater student educational outcomes are obtained.

The school team must also determine that the factors discussed in Criterion 3 are not the primary cause of the student's inadequate rate of improvement.

At this juncture the team may decide that it has insufficient and/or unreliable data on which to make a determination regarding the student's rate of improvement. In such cases the team may recommend additional assessments, intervention, or other information gathering as part of the comprehensive evaluation.

Figure A: Sufficient progress with intensive intervention

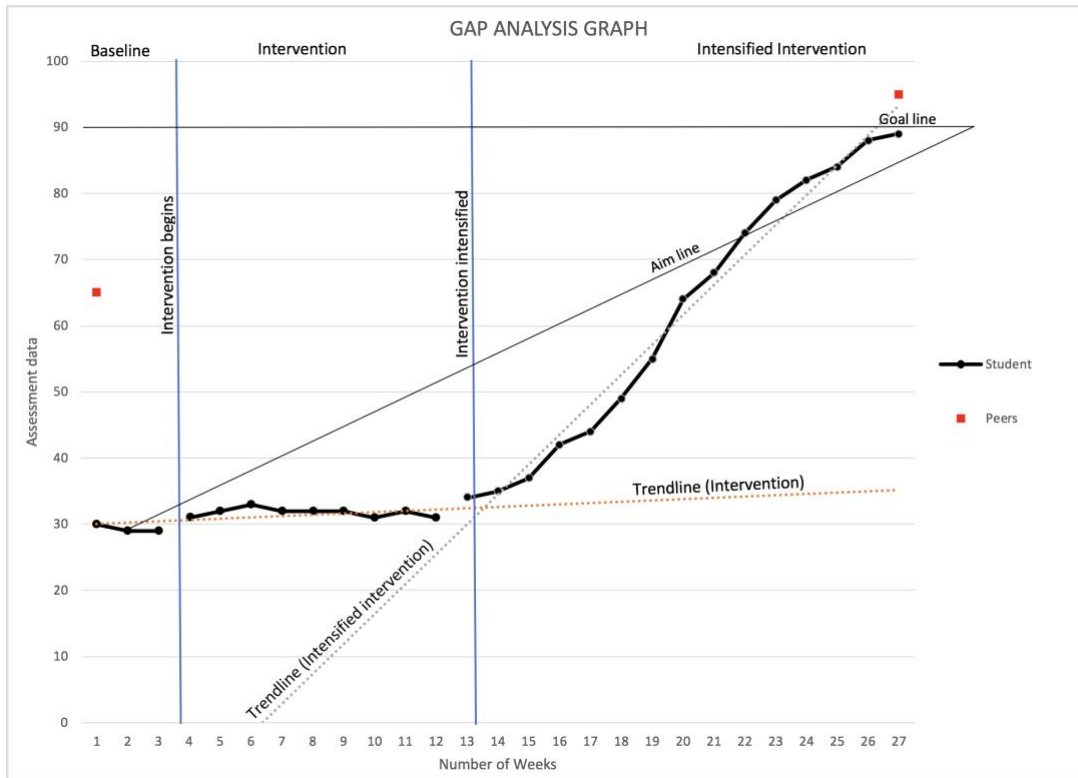
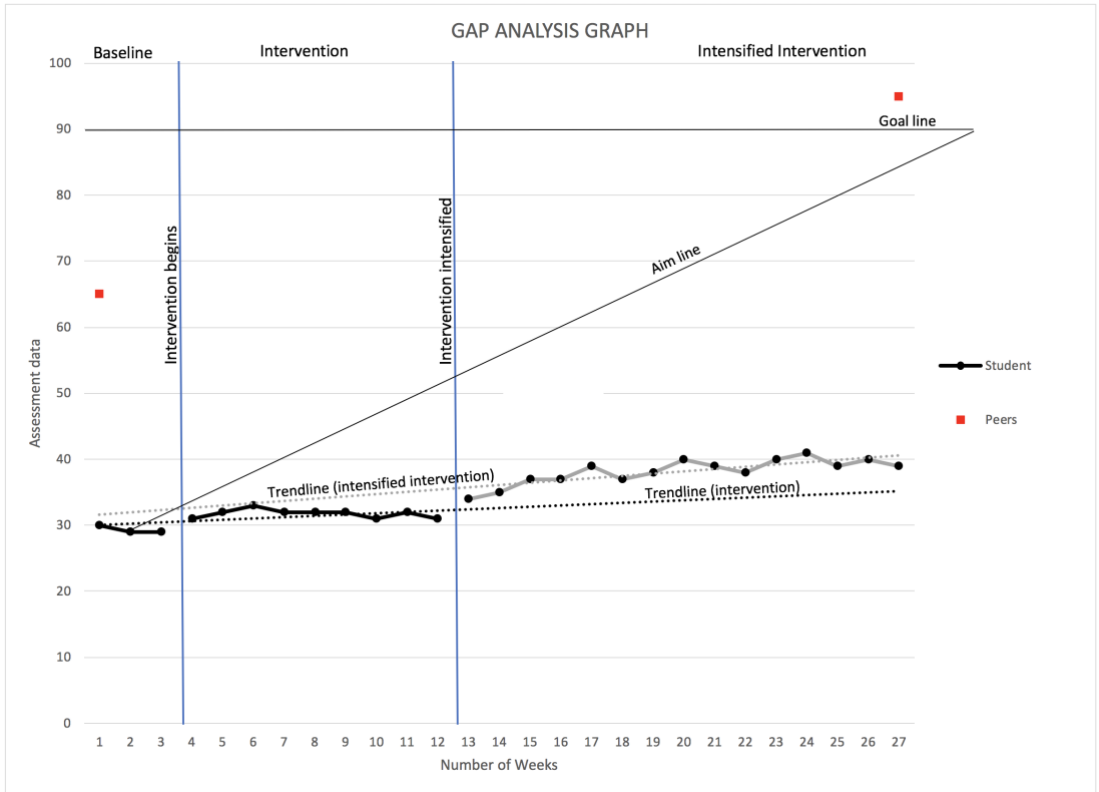


Figure B: Insufficient progress with intensive intervention



## Elements Needed to Document High Quality Intervention under Criterion 2

Essential Component	Required Actions
Universal screening data to determine need for intervention	Student was identified for intervention from one or more sources of screening data
Established baseline	Baseline data point(s) established from initial data collection
Established goal	<ul style="list-style-type: none"> <li>● SMART (Specific, Measurable, Attainable, Realistic, Timely)</li> <li>● Numerical, graphable goal, matched to student need</li> </ul>

Evidence based intervention	Intervention has sufficient research to suggest it is likely to be effective for the student's need. Student participates in one or more intervention services for at least 16 weeks before making a determination of eligibility for special education.
Implementation with fidelity	Fidelity monitored during intervention with at least 80% of intervention components implemented consistently. The rigor of the fidelity check should match the rigor of the decision being made based on intervention response.
Individual progress monitoring	Progress monitored daily or weekly depending on the nature of the intervention and significance of the problem. Progress monitoring tools have adequate reliability and validity for regular ongoing progress monitoring.
Decision Rules	Intervention carried out with sufficient number of data points for decision making about rate of progress. Typically 8-10 data points are needed <b>(18-24 are recommended if the data points are being used in the determination of eligibility)</b> before making any determinations if a student has adequately responded to the intervention and whether the intervention should be maintained, intensified, and/or faded. Decision rules using 3-5 consecutive points below the goal line or a trend line could be used to judge adequacy of response relative to the goal. ( <a href="#">link</a> for more on data based decision making at the individual student level)
Multiple levels of supports increasing in intensity and frequency as needed	At least 1 phase change within an intervention or a change to a different intervention program with sufficient time given to be able to demonstrate student response (e.g. 8 weeks)
Parent participation and input	Parents notified that student is receiving intervention, about their progress/screening data, and rights for requesting an evaluation

### **Evaluation Timeline**

The school district or approved cooperative must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in 92 NAC 51, unless extended by mutual written agreement of the child's parents and a team of qualified professionals, as described in 92 NAC 51:

1. If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in 92 NAC 51; and
2. Whenever a child is referred for an evaluation.

### **Guiding Questions for Criterion 2:**

- To what level are we expecting students to achieve (e.g., benchmark or a threshold beyond a risk range)?
- How long will it take for the student to reach proficiency (e.g., 25th, 40th, 50th percentile ranks)? What is typical rate of improvement expected for peers?
- What is the target student's attained rate of improvement?
- What is the necessary rate of improvement in order to achieve benchmark; how much growth is needed to close the gap?
- Is the student's rate of improvement substantially deficient?
- How is rate of improvement established (e.g., slope, median of points, etc.; whole year or half year calculations)?



**CRITERION 3: The MDT determines that its findings under 92 NAC 51 are not primarily the result of –**

- (i) A visual, hearing, or motor disability;
- (ii) Intellectual Disability\*;
- (iii) Emotional disturbance;
- (iv) Cultural factors;
- (v) Environmental or economic disadvantage; or
- (vi) Limited English proficiency.

§300.309(a)(3) This step in the SLD identification process is designed to ensure that students are not identified as having SLD when their lack of academic achievement (Criterion 1) and lack of response to scientific, research-based intervention (Criterion 2) are *primarily* the result of other factors.

This does not mean the school team must completely rule out each of these factors. It is entirely possible for one or more of these factors to be influencing a student's lack of achievement and response to intervention and for the student to have SLD. Therefore, the school team must determine the degree to which each factor affects the student's performance. The existence of the factors is not the issue; the issue is the degree to which each factor adversely affects performance. The fundamental question is whether the poor performance is primarily the result of any of these factors.

A full evaluation may not be necessary for each factor. In many cases the data gathered during the RTI process may be sufficient to determine that environmental, cultural, or economic factors and LEP are not the primary cause of a lack of academic achievement and lack of response to scientific, research-based intervention. This can be determined if there is documentation that the majority of students from similar demographics are meeting expectations.

Considerations specific to each factor are discussed below.

**Visual Disability**

Screening for vision problems is routine in most public schools. If a vision screening indicates normal vision, a visual problem can be ruled out as the primary cause of the student's academic underachievement unless an evaluation from an appropriate credentialed provider (e.g., optometrist/ophthalmologist) provides evidence to the contrary. If screening finds a vision problem (i.e., the student may need glasses), then additional evaluation must be conducted to determine the extent of the problem and attempts should be made to correct the problem. If, after correction, the student's poor academic performance continues, the school team can conclude that a visual disability is not causing the

poor performance.

### **Hearing Disability**

Similar to the process for vision problems, hearing screenings are generally performed in schools. If a hearing screening indicates normal hearing, a hearing disability can be ruled out unless an evaluation from an appropriate credentialed provider (e.g., audiologist) provides evidence to the contrary. If the screening indicates a hearing problem, further evaluation is required. If the hearing problem is corrected (i.e., via hearing aids) and the student continues to perform poorly, a hearing disability can be ruled out as a primary cause of the student's academic underachievement.

### **Motor Disability**

Unlike vision and hearing screenings, schools don't generally screen for motor difficulties. Motor problems—also known as orthopedic impairments—can interfere with typical school tasks such as handwriting and walking. Assessments to measure motor skills may be necessary to determine if such difficulties are interfering with academic achievement. As with vision and hearing issues, if the problem is corrected and achievement improves, motor difficulties can be considered as the primary cause of underachievement and the school team could recommend consideration of eligibility under the orthopedic impairment category of IDEA. If the achievement problems persist after application of prosthetic devices or intervention, the school team should consider SLD as the primary cause of underachievement.

A student with a primary disability in the area of vision, hearing, and/or orthopedic impairment may be considered as also having an LD if the identified learning deficits are significantly greater than what can be reasonably expected as a result of the primary disability (e.g., hearing loss) alone. Again, all the identified needs of the child must be addressed, whether or not typically linked to the child's primary disability.

Questions to Consider: Vision/Hearing/Orthopedic Impairment

- Has the child been diagnosed with a medical/health condition? If so, what is the medical/health condition?
- What types of interventions/treatments is the child receiving?

### **Intellectual Disability**

This is the one factor that cannot co-exist with SLD. Students with intellectual disabilities (ID) exhibit significant deficits in measured intelligence and adaptive behavior.

If the school team suspects an ID, measures of adaptive behavior and an intellectual evaluation should be requested to confirm or rule out the presence of ID. Guidelines for identification of IDs are outlined in the periodically updated

handbooks published by the American Association on Intellectual and Developmental Disabilities.

Questions to Consider: Intellectual Disability

- Has the child been identified with an intellectual disability?
- Is the child receiving special education services as a child with an intellectual disability?

### **Emotional Disturbance**

Students with SLD often display inappropriate and disruptive classroom behavior. Other students may have emotional problems that do not manifest themselves in externalizing behaviors. For students who display behavior problems, the evaluation team must determine whether the student's learning problems are causing the behavior problems, or whether underlying emotional problems are affecting the student's ability to acquire academic skills. The task of determining which condition is primary in terms of explaining the academic deficit(s) is often difficult. When social or emotional behavior is a concern, the school team may consider data regarding:

- student performance in academic area(s) of concern when individual positive behavior support or instruction in social/emotional behavior is implemented (see the [Technical Assistance Center on Positive Behavioral Interventions and Supports](#) and the [National Center on Intensive Intervention](#) for more information);
- parent and teacher behavior ratings;
- behavior checklists and behavioral rating scales;
- whether teaching is at the student's instructional level; and
- differences in student performance across school subjects, settings, or teachers.

Questions to Consider: Emotional Disturbance

- Are there particular behaviors that are interfering with the child completing assignments, tasks?
- Has a functional behavioral assessment been completed for the child's behaviors?
- Does the child have a behavior intervention plan? What is the plan? How is the child responding to this plan?
- Does the child exhibit a lack of particular social skills that affect his/her interpersonal relationships?
- In what types of social skills instruction has the child participated?

### **Cultural Factors**

The impact of cultural factors can also be difficult to ascertain. Cultural factors that may affect a student's school performance include:

- communication patterns,
- behavioral expectations,

- gender-based family roles, and
- prescribed cultural practices.

Information from interviews with parents (and other community members who share the student's cultural and linguistic background) would be particularly helpful in determining the impact of cultural factors as well as an in-depth family social history, if warranted.

A separate, but related, consideration is whether data indicate that the student's general education instruction and interventions are culturally appropriate and whether the student functions differently from classroom to classroom, year to year, from intervention setting to general education classroom, or between home and school. (See [Considerations for English Language Learners](#))

In determining the impact of cultural factors, data might indicate that most students of a particular cultural or ethnic group are achieving at acceptable levels in response to general education and intervention. If a particular student is receiving the same instruction in a similar learning environment, but not achieving similarly to peers from the same cultural background, a determination that the learning difficulties are not due to cultural factors might be made.

The influence of cultural factors is closely related to linguistic factors, such as LEP, discussed next.

### **Limited English Proficiency**

To adequately make the determination that LEP is not the primary cause of the student's academic difficulties, the school team should include at least one person who is knowledgeable about the development of English and related achievement skills for the student's age and language/cultural background, and is knowledgeable about students with LEP who are identified with an SLD. Research has indicated that students who are English language learners (ELLs) take approximately 2–3 years to acquire basic interpersonal communication skills and between 5 and 7 years to acquire the cognitive academic language proficiency that is required to function effectively in academic content subjects (Brown & Ortiz, 2014; Cummins, 1981; Cummins, 1981; Klingner & Eppolito, 2014; Rhodes, Ochoa, & Ortiz, 2005) <http://www.rtinetwork.org/getstarted/sld-identification-toolkit/ld-identification-toolkit-criterion-3>.

Schools are required to identify all students whose home language is other than English. This is typically done via a parent survey. Additional evaluations are required to determine the student's proficiency with English language skills that are often repeated over time so that progress in learning the majority language can be made. Some assessments also include proficiency in the student's native language and special concern should be devoted to children who show weaknesses in both languages and the educational options provided that may limit the growth in both. School teams must have access to such evaluations in

order to determine if LEP is the major contributing factor.

Students who are in the process of learning English will often display academic gaps that may look like deficiencies, especially if their education has been disrupted during an immigration experience. Similarly, students may be particularly at risk for lack of appropriate instruction issues if language instruction has not been provided that addresses the student's language development needs. Given the paucity of research on appropriate interventions, assessment, and response rates for students who are learning English, it can be difficult for school teams to differentiate SLD from characteristics of second language acquisition (Zumeta, Zirkel, & Danielson, 2014). Extensive resources for such information can be found on the formerly federally funded [Center on Instruction](#) website.

Below are questions the school team might consider when determining the impact of LEP on a student's academic achievement:

- What is the student's native (home) language and culture?
- Is the student proficient in his or her native (home) language based on a formal assessment of language proficiency in the native language?
- Has the student failed to develop age-appropriate native language skills despite opportunities to learn?
- What is the gap between the student's proficiency in English and his or her native language?
- Has the student failed to gain English language skills despite instruction?
- Is there a difference in the student's performance by subject area, with higher performance in areas that are less related to language proficiency?
- Are the student's learning difficulties pervasive in both his or her native language and English?
- Are the expectations of the student's home culture consistent with school expectations?
- What is the performance of other ELLs with similar levels of proficiency in this school/district and subject area?
- Can any social or psychological factors (e.g., refugee or immigrant status; mental health concerns; racial or ethnic bias) be identified?
- Did someone with expertise in the student's dominant culture and language AND someone who is knowledgeable about students with LEP who are identified with an SLD participate in the school team?
- Was someone with expertise in the student's dominant culture and language AND someone who is knowledgeable about students with LEP who are identified with an SLD involved in conducting and interpreting the evaluation data?

Questions to consider: English Language Learners

- What is the child's level of language in his/her native language?
- Is the child enrolled in English Language Learner (ELL) classes/Limited

- English Proficiency (LEP)?
- What is the child's mastered ELL level?

### **Environmental or Economic Disadvantage**

The last factor to examine is that of environmental or economic disadvantage. Situations such as homelessness, child abuse, poor nutrition, socioeconomic status (SES), and other factors may adversely impact a student's ability to learn.

SES is defined as an economic and sociological combined total measure of a person's work experience and of an individual's or family's economic and social position in relation to others, based on income, education, and occupation. As detailed in the [Education and Socioeconomic Status Fact Sheet](#) from the American Psychological Association, research continues to link lower SES to lower academic achievement and slower rates of academic progress as compared with higher SES communities. Therefore, careful consideration of a student's SES is critical to this factor. Important findings regarding effects of low SES include:

- Children from low-SES environments acquire language skills more slowly, exhibit delayed letter recognition and phonological awareness, and are at risk for reading difficulties (Aikens & Barbarin, 2008).
- Students from low-SES schools entered high school 3.3 grade levels behind students from higher SES schools. In addition, students from the low-SES groups learned less over 4 years than children from higher SES groups, graduating 4.3 grade levels behind those of higher SES groups (Palardy, 2008).
- In 2007, the high school dropout rate among persons 16–24 years old was highest in low-income families (16.7%) as compared to high-income families (3.2%) ([National Center for Education Statistics](#), 2008).
- SES and its correlates include, poverty and health; family mobility; number of schools attended; school attendance; family change such as divorce or death; substandard housing; inadequate nutrition and food insecurity; severe physical/psychological trauma; exposure to violence in the community; chronic medical conditions; and sleep disorders.

If needed supports are provided and the student's academic achievement improves, then environmental and economic disadvantages cannot be ruled out as primary contributors. However, if supports implemented with fidelity fail to produce improvements in learning, particularly if other students with similar environmental or economic situations are performing adequately to general education and interventions, then the student should be considered for SLD eligibility.

Ultimately, Criterion 3 of SLD identification may well be the most difficult and complicated of all. There are no straightforward guidelines, a wide variety of relevant factors, significant interaction among a host of variables, and a relative lack of research upon which to base decisions, making assessing the contribution

of these factors extremely error-prone.

It is important to not exclude a student from SLD eligibility simply because of the existence of one or more of these factors. On the other hand, it is equally critical not to identify a student as having SLD and being in need of special education when, in fact, one or more of these factors is the primary cause of poor academic performance.

Efforts to determine the relative contribution of visual, hearing, motor, and intellectual disabilities as well as cultural factors, environmental or economic disadvantage, and LEP as factors in poor school performance and lack of response to interventions should include systematic strategies that have been shown to be effective for students with similar needs and characteristics. For example, if many students presenting with similar factors (e.g., LEP) are able to make adequate progress in the tiered system of supports, this gives the school team more confidence that a particular child's struggles are not due to a lack of appropriate instruction.

Should the school team find that one (or more) of these factors is the primary cause of a student's lack of achievement, efforts to address the student's needs through interventions in general education must continue.

Questions to consider: Environmental and other factors

- Has a determination been made that the child's environmental, cultural, and/or economic factors contributed to the child's low achievement?

Summary Table: Exclusionary Factors

<b>Exclusionary Factor</b>	<b>Source of Evidence</b>
Visual, Motor, or Hearing Disability	Sensory screening, medical records, observation
Intellectual Disability	Classroom performance, academic skills, language development, adaptive functioning (if necessary), IQ (if necessary)
Emotional Disturbance	Classroom observation, student records, family history, medical information, emotional/behavioral screenings (if necessary)

Cultural Factors	Level of performance and rate of progress compared to students from same ethnicity with similar backgrounds
Environmental or Economic Factors	Level of performance and rate of progress compared to students from similar economic backgrounds, situational factors that are student specific
Limited English Proficiency	Measures of language acquisition and proficiency (i.e., BICs and CALPs), level of performance and rate of progress compared to other EL students with similar exposure to language and instruction
Lack of Instruction in Reading or Math	<p>Due to excessive absenteeism - Chronic absenteeism is defined in the Nebraska ESSA Plan as 10% or more of membership days</p> <p>Due to lack of implementation of evidence-based practices with fidelity. Were interventions used matched to student need? Were interventions implemented with fidelity?</p>

**Guiding Questions for Criterion 3:**

- Were each of the following considered: vision, hearing, motor disability, intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency?
- Is formal evaluation warranted for any of these areas?
- Are any of these conditions deemed to be *the primary cause* of a student performing below grade (or age) level standards? If so, then SLD cannot be a consideration.



#### **CRITERION 4: Ensure that underachievement is not due to lack of appropriate instruction in reading or math.**

To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §300.304 through 300.306—

- (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents. §300.309 (b)

This step in the SLD identification process is designed to ensure that students are not identified as having an LD and needing special education when lack of appropriate instruction is the cause of the student's underachievement. This is required for all eligibility methods.

Making a determination of eligibility for special education is a **high-stakes decision** for students. As such, it is imperative that this criterion be given considerable attention. It would be inappropriate for the school team to simply check a box indicating that the student's underachievement is not due to lack of appropriate instruction in reading or math.

A second component of Criterion 4 is to document the school's use of repeated assessments with the referred student and the communication to parents about these assessments. These repeated assessments should include universal screenings and progress monitoring data that is being used for eligibility determination. Documentation should include what data were reported to parents and at what frequency.

School teams should note that the requirement to determine the existence of appropriate instruction also appears in Criterion 1: "Failure to meet age- or grade-level State standards in one of eight areas when provided appropriate instruction..." The requirement in Criterion 4 also aligns with a provision in IDEA's broader requirements regarding determination of eligibility. Known as a "special rule for eligibility determination," §300.306 (b) states that:

A child must *not* be determined to be a child with a disability under this part—

- (1) If the determinant factor for that determination is—

- (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
- (ii) Lack of appropriate instruction in math; or
- (iii) Limited English proficiency (300.306 (b))

Please refer to other sections of this document for information about determining sufficiency of core instruction.

**Guiding Questions for Criterion 4:**

- To what degree was student included in and benefited from core instruction?
- To what degree was core instruction delivered in accordance with the district-determined curriculum expectations?
- Is the core instruction that this student is participating in benefiting at least 80% of students?
- To what degree was core instruction differentiated to meet the individual needs of the student?
- Were interventions delivered with fidelity in accordance with the expectations of the intervention program and/or student's individualized intervention plan?
- Was the intervention empirically based? Delivered by qualified, trained personnel?
- Was core instruction and intervention instruction delivered with adequate frequency and sufficiency?
- On what date were parents notified of their child's screening data?
- On what date were parents provided information about their child's progress monitoring data?
- On what date were parents notified of their right to request an evaluation?

## CRITERION 5: Observation

The district must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

The MDT, in determining whether a child has a specific learning disability, must decide to:

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 an evaluation.
2. Have at least one member of the MDT conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with 92 NAC 51, is obtained.
3. In the case of a child less than school age or out of school, an MDT member must observe the child in an environment appropriate for a child of that age.

This requirement makes clear that information from an observation from either prior to or after a student's referral for suspected SLD must be gathered as part of the data used for eligibility decision making. Such observations could have been done during general education instruction/interventions conducted through the or MTSS process. However, if the observation conducted prior to referral did not provide information specific to the area(s) of academic difficulty (i.e., those areas listed in Criterion 1) for which the student has been referred, the school team should require an additional observation. There are many types of classroom observations. While the regulations do not prescribe the type of observation to be conducted, the following methods may be appropriate:

- behavioral observation procedures (e.g., event recording, time sampling, interval recording) that result in quantifiable results;
- methods that relate the student's classroom behavior to instructional conditions, and teaching practices and opportunities for engagement;
- methods that address referral questions, instructional practices, and instructional fidelity (see sample questions below).

Criterion 5 (Observation) specifically requires that the student be "observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the area(s) of difficult academic performance and behavior" (§300.310 (a)). Thus, the school team should necessarily consider the observation data as part of a determination regarding this factor.

Information gathered during direct observations should assist in the

documentation (Criterion 6) to determine the involvement of other factors relative to the student's underachievement and lack of response to intervention (Criterion 3) and whether appropriate instruction was provided (Criterion 4).

Most important, the observation should provide information that is data driven, empirical, and objective. The observation should be sufficient to produce a detailed analysis of the instructional process, the classroom environment, and the student's level and type of engagement. Simple narratives do not provide adequate or objective information. Observations across instructional settings (e.g., different classes) are especially valuable, as are observations by different team members. The observations must be conducted by a qualified observer. In all cases the observation must not be conducted by the person delivering instruction.

"Qualified" refers to an individual who has received direct instruction in a particular skill, has received feedback on the performance of that skill by an individual who has mastered the skill, and has had the opportunity to practice that skill in order to perform it accurately in a consistent manner.

A primary purpose of the observation is to determine the relationship between behavior and student academic performance (SLD is an academic performance-based disability). Therefore, all data collected should be in the context of academic performance. Specifically, when student behavior is observed during academic tasks, data on the accuracy, amount, and completion rates of the academic performance should be collected concurrently. Clearly, some students may present with high rates of off-task behavior, yet answer questions accurately, complete written work accurately, and do so with sufficient levels of productivity. The collection of student behavior data without the collection of student academic performance data will result in with false-positive errors (e.g., assuming the behavior interfered with academic performance/accuracy when it did not).

Given recent findings by researchers indicating that poor intervention integrity is the rule rather than the exception, an observation to determine that the intervention was implemented in the strongest way possible and that the student was well engaged during the intervention would provide critical additional information (Kovaleski et al., 2013).

Guiding Questions for Criterion 5:

- Was the student's performance and behavior in the area of concern "typical" during the observation compared with how the student performs at other times?
- What learning skills were difficult for the student?
- What student strengths were noted during the observation?
- Was the student engaged and cooperative during instruction in

comparison to peers? To what degree was the student actively versus passively engaged?

- Did the students have opportunities to participate or respond in the instructional dialogue and activities?
- Did the student's behaviors interfere with learning to such an extent that they might be the primary reason the student is not making sufficient progress?
- Did the student have the prerequisite skills to perform the tasks being observed?
- Are the data collected during the observations consistent with other formal and informal data about the student in the area(s) of concern?
- What is the relationship between the targeted student's performance and behavior to other students?
- How is the student's behavior similar or different from classroom peers?
- For IEP development, what information can be gathered from the observation to address the student's deficits?
- How might the interactions observed between teacher and student impact a student's learning?

## CRITERION 6: Documentation

(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:

1. Whether the child has a specific learning disability;
2. The basis for making the determination, including an assurance that the determination has been made in accordance with 92 NAC 51; and Nebraska eligibility determination guidelines.
3. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
4. The educationally relevant medical findings, if any;
5. Whether –
  - (i) The child does not achieve progress commensurate with the child's age;
  - (ii) The child does not achieve progress to meet age or State-approved grade-level standards consistent with 92 NAC 51; or
6. The determination of the MDT concerning the effects of visual, hearing, or motor disability; intellectual disability; behavior disorder; cultural factors, environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and;
7. The determination of the MDT concerning the effects of visual, hearing, or motor disability; mental handicap; behavior disorder; cultural factors, environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and;
8. If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
  - (i) the instructional strategies used and the child-centered data collected; and
  - (ii) the documentation that the child's parents were notified about:
    - (A) The school district's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
    - (B) Strategies for increasing the child's rate of learning; and
    - (C) The parent's right to request an evaluation.

(b) Each MDT member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the team member must submit a separate statement presenting his/her conclusions.

Addressing the requirements of the specific documentation for eligibility determination involves a compilation of the information gathered to address Criteria 1–5.

Ultimately, the school team must make a determination of the existence of SLD and the need for special education through a careful evaluation of multiple

sources of data. Special education eligibility is a high-stakes decision for students. As such, it must be made in a comprehensive manner. A student's complete data profile (i.e., progress monitoring data, benchmarking tests, state test data, information from observations, interviews, and diagnostic testing) must all be used for decision making about eligibility.

Documentation of scientifically, research-based interventions, intensity, fidelity, and lack of sufficient achievement and progress must be included within the MDT report. A Prior Written Notice (PWN) indicating the student's eligibility determination must also be completed.

A student whose characteristics meet the definition of a student having a specific learning disability may be identified as a student eligible for special education services if:

1. All of the aforementioned eligibility criteria are met; and
2. There is evidence, including observation and/or assessment, indicating how the specific learning disabilities adversely impact the student's performance in or access to the general education curriculum.

<b>Documentation Requirements</b>	<b>Sources of Information</b>
<p>§300.311 Specific documentation for the eligibility determination.</p> <p>(a) For a child suspected of having an SLD, the documentation of the determination of eligibility, as required in §300.306(a)(2), must contain a statement of—</p> <p>(1) Whether the child has a specific learning disability;</p>	<p>While stated as the first requirement, a statement of whether the child has a specific learning disability is actually one of the final steps in the eligibility determination process.</p>

<p>(2) The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1)</p>	<p>§300.306 (c)(1) states that:</p> <p>In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must—</p> <p>(i) Draw upon 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;</p> <p>(ii) Ensure that information obtained from all of these sources is documented and carefully considered.</p>
<p>(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;</p>	<p>This information is drawn from Criterion 5: Observation.</p>
<p>(4) The educationally relevant medical findings, if any;</p>	<p>Information on relevant medical findings will most likely be drawn from documented medical data obtained from the student's parent(s). Documentation should indicate that existing medical findings were considered, even if found to be not relevant.</p>
<p>(5) Whether—</p> <p>(i) The child does not achieve adequately for the child's age or to meet state-approved grade-level standards consistent with §300.309(a)(1); and,</p>	<p>Information is drawn from Criterion 1: Failure to meet age- or grade-level state standards in one of eight areas when provided appropriate instruction and includes specific information on the area(s) in which the student is failing to meet age- or grade-level state standards.</p>



<p>(ii)  (A) The child does not make sufficient progress to meet age or state-approved grade-level standards consistent with § 300.309(a)(2)(i); or</p>	<p>Information is drawn from Criterion 2: Lack of progress in response to scientific, research-based intervention.</p>
<p>(B) 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 consistent with § 300.309(a)(2)(ii);</p>	<p>This optional criterion (available in lieu of (ii)(A)) does not apply to an MTSS-based SLD evaluation process.</p>
<p>(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level</p>	<p>Information is drawn from Criterion 3: The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—</p> <ul style="list-style-type: none"> <li>(i) A visual, hearing, or motor disability;</li> <li>(ii) Intellectual disability;</li> <li>(iii) Emotional disturbance;</li> <li>(iv) Cultural factors;</li> <li>(v) Environmental or economic disadvantage; or</li> <li>(vi) Limited English proficiency.</li> </ul>

	<p>In such cases specific documentation should be provided for any relevant factors and include information on whether these factors were excluded from consideration as a result of screening or whether more extensive evaluations were conducted. To the extent that information regarding these factors may inform the development of an individualized education program for the student, this process should not be a “check yes or no” procedure. Instead, the process must include a determination of whether any of these factors are the primary cause of the lack of achievement and lack of adequate progress, not whether the factors exist at all.</p>
<p>(7) If the child has participated in a process that assesses the child’s response to scientific, research-based intervention— (i) The instructional strategies used and the student-centered data collected; and</p>	<p>This information is drawn from Criterion 2: Lack of progress in response to scientific, research-based intervention.</p>
<p>(ii) The documentation that the child’s parents were notified about— (A) 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; (B) Strategies for increasing the child’s rate of learning; and (C) The parents’ right to request an</p>	<p>This information should include the specific data shared with the student’s parents, how frequently the data were provided, how the data were shared (such as graphical formats), how the parents (and student, as appropriate) were involved and engaged in the RTI process, and what information the parents have provided to the school team.</p>

<p>evaluation.</p>	
<p>(b) 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 group member must submit a separate statement presenting the member's conclusions.</p>	<p>Group members include the child's parents and a team of qualified professionals, which must include—</p> <p>(a)</p> <p>(1) The child's regular teacher; or</p> <p>(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or</p> <p>(3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and</p> <p>(b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.</p> <p>Ideally, the group members should be those who have been involved in the MTSS process and are familiar with the student's data.</p>

Guiding Questions for Criterion 6:

- Are all required elements for eligibility determination documented appropriately?

**Section 5: Procedures to Determine Adverse Effect on Development/Educational Performance**

## **FACTORS TO CONSIDER**

Many factors should be considered in determining if a specific learning disability is causing, or can be expected to produce significant delays in the child's development or educational performance. The factors include, but are not limited to:

- Child Characteristics
  - Medical history, current health status, medications
  - Social skills and behavior
  - Communication skills
  - Physical health
  - Motor skills
  - Mental health
  - Cognitive skills
  - Motivation
  - Current age
  - History of developmental milestones
- Educational Variables
  - Current educational placement
  - Classroom environment
  - Instruction
  - Curriculum
  - History of modifications and/or accommodations used
  - Intervention and response
  - Results of previous assessments/evaluations
- Relevant family history
  - Culture
  - Language

Examination of each of these factors may lead to additional factors to consider. Psychologists, teachers of children with learning difficulties, and speech language pathologists are the primary professionals who can determine how these learning difficulties may impact the child. Parents, medical professionals, teachers, and the child him/herself can also provide information important in determining the impact of the learning difficulties.

The team needs to consider data that are accurate, consistent, comprehensive, and objective. Possible assessment approaches for obtaining information about the child are:

- Review of existing records and work samples
  - Teacher-anecdotal notes
  - Grades
  - Cumulative file review

- Class assignments and homework
- Interviews
  - Parent interviews/rating scales
  - Teacher interviews/rating scales
  - Child interviews/rating scales
- Observations (in setting(s) where concern is occurring)
- Tests
  - Criterion-referenced tests
  - Norm-referenced tests
  - District-wide assessments
  - Curriculum-based assessments
  - State and district-wide assessments

Professional judgment must be used by the team as they analyze the data to determine if the child meets the verification guidelines for a child with a specific learning disability.

## **Section 6: Other Considerations for Eligibility Determination**

### **Evaluating Instructional Need**

To qualify for special education, students should not only meet eligibility criteria, but should also *need* special education services. Evaluating needs is probably the most difficult to determine but most critical to the decision. The team needs to determine what interventions are going to be necessary for the student to learn:

#### Consider Curriculum

- At what level of the curriculum can the student be instructed successfully?
- What specific skills or strategies will need to be remediated as a component of the educational program?
- Is the curriculum content needed by this student very different from what is available in general education at his/her grade level?
- Consider district standards and benchmarks
- Does the student need to be taught a new replacement behavior?

#### Consider Instruction

- What specific strategies assist the student in linking new learning to old learning?
- How many repetitions of new concepts are required when introducing new concepts?
- Are there specific instructional techniques that have been proved to be effective for this student?
- Is the method for delivering instruction for this student very different from typical general education peers?

#### Consider Environment and Accommodations

- What environmental conditions are related to improved student success (e.g., time of day, instructional set-up, room arrangement)?

- Which incentives promote optimal performance for the student?
- What antecedents and consequences have been identified that sustain the student's behavior?
- What is the function of the behavior?
- Are there accommodations needed to participate in general education?
- Have accommodations been validated or is there evidence to suggest an accommodation is needed?

### **Using NeMTSS Data to Develop an Individualized Education Plan (IEP)**

If the MTSS process is conducted well, data from the process can link directly to the development of the IEP. Existing information from MTSS should include instructional strategies and assessment data that can inform various sections of the IEP. Present levels of academic and functional performance can be identified through the comprehensive evaluation; the team should be able to identify what skills students are expected to do and what the student's current levels are from data gathered through MTSS. IEP goals can be designed from intervention targets during the MTSS process. Goals can target skill acquisition, fluency building, or generalization so that effective instructional strategies can be identified (Kavaleski et al. 2013). Finally, progress monitoring techniques used as part of the MTSS process can be continued in special education to encourage regular data collection and decision making within special education.

### **Special Education Re-evaluation**

The purpose of a re-evaluation is to determine whether the student still *needs* special education services and to determine how those needs should be addressed on the IEP. A redetermination that the student has met initial eligibility criteria is not required for a re-evaluation. At a minimum, re-evaluations are required by law every three years. For a re-evaluation, the team must review regularly collected data for each IEP goal (i.e., rate of improvement) to determine any need for change. Furthermore, the team should review current benchmark data to determine a current level of discrepancy from peers. If any member of team requests, additional assessments may be completed to determine continued need for special education. These additional assessments could include individually administered achievement tests, classroom observations, student interviews, teacher interviews, and parent/caregiver interviews. Note, however, that if the team believes there is enough existing data to support continued placement in special education, *additional assessments are not required*.

To determine if the student continues to need special education services, the team should consider goal attainment, rate of improvement, and discrepancy from peers. If the student remains eligible and continues to need services, there should be careful consideration of the IEP goals. The IEP team should use existing and new data (if collected) to determine the appropriateness of goals.

### **Dismissal from Special Education**

Students may move from special education interventions to general education interventions if there is sufficient evidence to suggest that the student no longer needs special education services (i.e., individualized interventions, accommodations, and modifications). Movement from special education to general education will be supported by multiple sources of data including ROI, gap analysis, evidence of meeting IEP goals, and student need. The goal is for all students to be served at their level of need within the least restrictive environment. MTSS provides students moving from special education to general education with continued supports with decreasing intensity on a continuum. An intervention plan for the student must be in place before the IEP is discontinued. The plan should include criteria for changing intervention or tiers of service. Additionally, all students who exit special education should be considered for a 504 plan if continued accommodations are needed.

### **Technical Adequacy of Measurement Tools Used for Decision Making**

All decisions made in an MTSS process must be made with data from measurement tools with adequate reliability and validity. A reliable tool provides consistent results, and a valid tool measures what it is intended to measure. Teams should carefully examine the technical adequacy of all tools, including tests, observations, and interviews, to ensure they are providing reliable information and are valid for the purpose (i.e., screening, progress monitoring, disability diagnosis) intended.

## **Section 7. Frequently Asked Questions**

### **1. Why not use a discrepancy model or patterns of strengths and weaknesses (PSW) to determine eligibility for SLD?**

Current models for determining eligibility include the discrepancy model, various methods of determining patterns of strengths and weaknesses (PSW), or MTSS. In the discrepancy model, a student's current level of academic achievement is compared to his or her current level of cognitive functioning (i.e., IQ). If there is a significant discrepancy between the two scores, the discrepancy model suggests this discrepancy is evidence that a learning disability exists. Unfortunately, there is no research evidence to suggest that students with and without significant IQ-achievement discrepancies differ in their learning needs or in their response to intervention. Furthermore, the discrepancy model encourages a "wait-to-fail" approach because a large enough discrepancy between IQ and achievement for meeting eligibility criteria often does not emerge until 3rd grade or later, thus missing an important window for early intervention.

There are several PSW approaches, all of which examine the relationship between cognitive processing and specific areas of academic achievement. PSW approaches identify SLD by determining (a) cognitive weaknesses based on IQ

subtest results; (b) academic weaknesses that are hypothesized to relate to identified cognitive weaknesses; and (c) evidence of intact cognitive-achievement abilities (McGill & Busse, 2016). Unfortunately, there is little agreement on procedures for determining what constitutes a cognitive weaknesses nor is there agreement about what PSW method accurately identifies individuals with SLD (i.e., different PSW methods yield different results). Furthermore, the psychometric evidence supporting profile analysis in cognitive tests is weak and subtest scores upon which important decisions are made in a PSW model can vary greatly over time (e.g., Canivez, Watkins, & Dombrowski, 2017).

An MTSS process addresses the concerns associated with both the discrepancy and PSW approaches by eliminating the need to rely on hypothesized (and unsubstantiated) relationships between cognitive profiles and academic achievement. MTSS relies more heavily on direct assessment of academic skills than either approach, making the evaluation procedures more valid for decision making about students' academic needs. Additionally, MTSS provides interventions to students who are struggling earlier and throughout the entire evaluation process, rather than making them wait to access services.

## **2. What is the role of assessing cognitive processing in SLD identification?**

There are numerous disagreements in the field of SLD identification about the role of cognitive processing, or IQ, testing. Some believe that a comprehensive cognitive assessment is critical for developing appropriate interventions for students, based on the logic that cognitive weaknesses are directly related to academic weaknesses, and thus should be targets of intervention. While this belief is intuitive, there is not enough research-based evidence to conclude that interventions based on cognitive processing have any impact on academic performance, nor is there evidence to suggest measuring cognitive processing deficits lead to selecting better interventions than would be selected if only measuring academic skill deficits. Thus, others believe that cognitive testing is of limited or no value in identifying SLD, and instead time should be spent on implementing research-based interventions and examining a student's response to those interventions (i.e., MTSS). Ultimately, the decision to use cognitive testing should be made by the IEP team; if the team believes there is value in spending time to determine an IQ score, and those assessment results can inform IEP development and goals, then a cognitive test may be worthwhile. However, given the paucity of evidence that cognitive testing tells us how to better instruct a student, this decision should be made very carefully.

## **3. Can an eligibility determination of SLD be made using only information that was collected through an MTSS process?**

The NeMTSS process includes the need for comprehensive evaluation. The MDT must use a variety of data gathering tools and strategies even if an MTSS process



is used. The results of an MTSS process will be one component of the information reviewed as part of the evaluation procedures required.

**4. If a child has learning problems primarily due to the result of a visual impairment, hearing impairment, orthopedic impairment, intellectual disabilities, behavior disorder; or of environmental, cultural, or economic disadvantage, can the child be verified as a child with a specific learning disability?**

No. Specific learning disability does not include learning problems that are primarily the result of a visual impairment, hearing impairment, orthopedic impairment, intellectual disability, behavior disorder, or of economic disadvantage.

**5. At what age should a child be assessed for a specific learning disability?**

One of the goals of NeMTSS is to provide intervention for at-risk children at an early age. If with intense intervention, the child does not make appropriate progress in his/her learning, the child may be evaluated to determine if the child has a specific learning disability.

**6. How can progress monitoring data be used in the SLD verification process?**

Progress monitoring data are critical for determining whether a child has made sufficient progress in response to a scientific, research-based intervention process; however, they are not the sole basis for identifying a specific learning disability.

**7. There are eight achievement areas listed in federal and state laws in which children may verify as having a specific learning disability. Are these the only areas in which the child may verify?**

Yes. Both federal and state laws state that the child must meet the verification guidelines for one or more of these eight areas of achievement:

Oral expression; Listening comprehension; Written expression; Basic reading skills; Reading fluency skills; Reading comprehension; Mathematics calculation; and Mathematics problem solving.

If the child has other difficulties, the child may be evaluated to determine if he/she may have a different disability.

**8. Must a child have average or higher intelligence in order to be verified as a child with a disability in the category of specific learning disability?**

No, but if there is a reason to suspect that the child may have an intellectual disability, then that verification category must be ruled out.

**9. Can a student with dyslexia be identified as having a specific learning disability through NeMTSS?**

Yes. The earlier children who struggle are identified and provided systematic, intense instruction, the less severe their problems are likely to be (National Institute of Child Health and Human Development, 2000; Torgesen, 2002). The NeMTSS process includes the need for comprehensive evaluation. The MDT must use a

variety of data gathering tools and strategies even if an MTSS process is used. The results of an MTSS process will be one component of the information reviewed as part of the evaluation procedures required.

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## NeMTSS Glossary of Terms

**Assessment:** Assessments are the multiple measures (formative, interim, and summative) used to gather evidence of student learning relative to content area standards.

**Benchmark:** A standard or point of reference against which things may be compared or assessed.

**Classroom Instruction:** During classroom instruction, a teacher implements the locally-determined curriculum, including instructional materials, and uses evidence-based teaching methods and strategies to engage students to support student learning of content area standards.

**Content Area Standards:** Content area standards describe what students are expected to know and be able to do. Content area standards outline the content and process skills students will learn in grades K-12. Nebraska content area standards include two components: standards and indicators.

**Continuous Improvement Process (CIP):** Typically associated with school improvement activities.

**Curriculum:** A curriculum is determined locally and reflects “how” teachers help students learn the content within content area standards. A curriculum outlines the intended outcomes, content, experiences, assessments, and resources for measuring student learning, and it also includes the scope and sequence of what is taught in grades PreK-12.

**Decision Rules:** The systematic procedures by which patterns of data are analyzed. This data analysis assists in making a decision about the effectiveness of an intervention.

**Implementation Fidelity:** The degree to which an intervention is delivered as intended and is critical to successful translation of evidence-based interventions into practice.

**Instructional Materials:** Instructional materials are the tools and resources that are used as part of a locally-determined curriculum.

**Intervention Response Rules:** The systematic procedures by which patterns of data are analyzed to assist in making decisions about the effectiveness of an intervention for an individual.

**Leadership Team:** A team that utilizes data analysis to provide infrastructure and professional development plans for the strategic implementation of MTSS at a system-wide level.

**NeMTSS or MTSS:** A service delivery system based on a concept that ALL students require early and powerful general education instruction with the potential for interventions of increasing intensity.

**MTSS Implementation:** The process of integrating and supporting a system of evidence-based curriculum, instruction, intervention, and assessment to meet the needs of all students through a tiered system of support.

**MTSS Team:** A group of individuals who analyze individual student data and participate in progress monitoring to make decisions about the effectiveness of instruction for a student or group of students.

**Professional Development (PD):** A broad term that describes processes used to build skills needed for one's job expectations within education, and is also called *Professional Learning, Continuous Learning, Continuing Education, and Staff Development*.

**Progress Monitoring:** A process used to assess student's academic performance, to quantify a student rate of responsiveness to instruction, and to evaluate the effectiveness of instruction.

**Response to Intervention (RtI):** Practices consistent with MTSS used to determine eligibility for special education or a specific learning disability.

**Tier 1 - CORE (ALL STUDENTS):** The key component of tiered instruction; all students receive instruction within an evidence-based, scientifically-researched core program.

**Tier 2 - INTERVENTION (SOME STUDENTS):** Some children who fall below the expected levels of accomplishment (benchmarks) and are at some risk for failure, but who are still above levels considered to indicate a high risk for failure. Instruction is provided in smaller groups or individually supplementing and supporting the Core Program.

**Tier 3- INTENSIFIED INTERVENTION (FEW STUDENTS):** Few children who are considered to be at high risk for failure and were not responsive to previous instruction, according to expected levels of accomplishment (benchmarks) and require more intensive individualized instruction to supplement and support Tier 1 and/or Tier 2 programs.

**Targeted Improvement Plan (TIP):** Should be aligned to a district's school improvement plan.

**Universal Screening:** Screening conducted to identify or predict students who may be at risk for poor learning outcomes.

## APPENDIX/RESOURCES

[NeMTSS Self Assessment](#)

[NeMTSS Assurances Document](#)

[NeMTSS Funding Document](#)

[NeMTSS SLD Verification Q and A](#)



**NeMTSS**  
FRAMEWORK



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