

## 7. Suspecting Disability

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### Chapter Overview

When interventions are not working or are not sustainable, parents and/or school staff may suspect a disability. The team looks at exclusionary factors and basic psychological processes in order to hypothesize the type of disability the child may have or why the learning problem persists. Teams will need to develop questions that address various factors that preclude a child from being identified as having a specific learning disability. Special education staff integrate the resulting information into the comprehensive evaluation and eligibility determination process.

## Regulations and Rules



Regulations, statutes, and rules form the basis for legal compliance and are provided to help you understand what the law requires.

Minn. R. 3525.1341, subp. 1. states that prior to or during evaluation, an observation of the child in the child's learning environment (including the regular classroom setting) that documents the child's academic performance and behavior in the areas of difficulty must be conducted. For a child of less than school age or out of school, a group member must observe the child in an environment appropriate to the child's age. In determining whether a child has a specific learning disability, the group of qualified professionals, as provided by Code of Federal Regulations, title 34, section 300.308, must:

- Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for a special education evaluation; or,
- Conduct an observation of academic performance in the regular classroom after the child has been referred for a special education evaluation and appropriate parental consent has been obtained; and,
- Document the relevant behavior, if any, noted during the observation and the relationship of that behavior to the child's academic functioning.

A specific learning disability may occur with, but cannot be primarily the result of, visual, hearing, or motor impairment; cognitive impairment; emotional disorders; environmental, cultural, economic influences; or a history of an inconsistent education program.

**Note:** See Chapter 1, *Orientation to Specific Special Learning Disabilities Definition and Laws* for the definition of SLD within the Minnesota Rule.

## Moving from Intervention to Suspecting Disability

Among many intervention models used to accelerate student achievement, teams in Minnesota may employ pre-referral interventions or a scientific researched-based system (SRBI); however, when growth in achievement continues to lag behind other students with otherwise typical abilities, parents, educational staff, and the student may suspect a disability.

Given persistent achievement that falls below age and grade level standards despite well designed and faithfully implemented interventions, teams will determine that core instruction with supplemental supports cannot adequately address the educational needs of the student. The pattern of persistently low achievement along with the need for specially designed instruction should trigger a comprehensive evaluation.

*Design and implementation of interventions includes many variables (e.g., skill complexity and level and severity of need). The school district and team designing the intervention must determine the duration and frequency of intervention cycles.*

Because designing and implementing interventions requires consideration of many variables (such as complexity of skill, level of skill, and severity of need), the duration and frequency of intervention cycles must be left to the discretion of the school district and the intervention design team.

Districts must publish decision rules or guidelines for length, frequency and intensity of interventions by content area in the Total Special Education Plan and make this available to parents. The plan should indicate conditions that trigger teams to move forward with a comprehensive evaluation.

Below are tips for identifying those conditions:

- The size of the gap between student performance and grade-level expectations, along with instructional history, validates the soundness of the suspicion of disability.
- Evidence that the student is not making progress (level and slope) despite:
  - High-quality interventions matched to specific areas of weakness and implemented with fidelity.
  - Interventions of appropriate intensity, duration and frequency to alter rate of skill acquisition.
- A demonstrated pattern of improvement is shown during instruction as well as a pattern of loss whenever explicit instruction is discontinued.
- Evidence of information processing deficits emerges from data collected during intervention process in some areas with otherwise normal or above-normal abilities.
- Evidence of weaknesses in achievement is unexpected or would not be anticipated given child's other strengths.

Relevant medical reports, developmental history, family history, prior specialized services, etc., is coupled with below grade-level achievement or performance.



## Areas of Inadequate Achievement

Teams suspecting a disability must document eight areas where a child is suspected of having a disability or impairment (listening comprehension, oral expression, basic reading skills, reading fluency, reading comprehension, written expression, math calculations, mathematical problem-solving), which falls below age or state grade-level standards in order to meet the criteria for inadequate achievement (criteria A in Minnesota Rule 3525.1341). Not all areas of achievement must meet eligibility criteria for the student to receive special education services (see Chapter 10-Determining Eligibility for more information).

While federal law or state rule has not defined the eight areas, this section describes them to assist teams in the data collection effort.

**Area 1. Listening comprehension** - The ability to prescribe meaning to auditory input.

**Area 2. Oral expression** - The ability to use language to communicate ideas and thoughts to a listener. Oral expression is concerned with the production of language.

**Area 3. Basic reading skills:** The ability to read text, visuals and/or graphics.

**Phonemic awareness** - The ability to notice, think about, and manipulate individual sounds in spoken syllables and words (Minn. Stat. 122A.06 Subd 4.). It includes segmenting, blending, isolating sounds, and recognizing words that start with the same sound. It is not the same as phonics, which involves knowing how written letters relate to spoken sounds. [See the National Reading Panel Report for more information.](#)

**Sight-word recognition** - The ability to recognize and accurately name letters of the alphabet and commonly used words.

**Phonics** is the understanding that there are systematic and predictable relationships between written letters and spoken words. Phonics instruction is a way of teaching reading that stresses learning how letters correspond to sounds and how to apply this knowledge in reading and spelling (Minn. Stat. 122A.06 Subd 4.). Phonics instruction is inclusive of:

**Word analysis skills** - An individual's ability to apply structural and phonetic analysis to known and unknown or less familiar words as well as nonsense words.

**Orthographic processing** – At the beginning stages, the ability to visually discriminate letters and words, reproducing correct letter forms and written words. When reading moves to connected text, the ability to discern large units within words. The ability to match orthographic units with phonological representations.

**Morphographic processing** - The ability to identify patterns and draw meaning from word parts such as prefixes, roots and suffixes.

**Area 4: Reading fluency** - The ability of students to read text with speed, accuracy and proper expression (Minn. Stat. 122A.06 Subd 4.). When evaluating oral reading fluency, student should read accurately and with appropriate rate and prosody and intonation for facilitating reading comprehension. Rate and prosody are data that need to be considered because that is what has predictive validity for the development of reading comprehension over and above accurate decoding skills (Samuels & Farstrup, 2006). For more information [see Wisconsin Department of Instruction guidance on reading fluency](#). (Samuels, 2003; Rasinski, 2004).

**Area 5: Reading comprehension** – An active process that requires intentional thinking during which meaning is constructed through interaction between text and reader. Comprehension skills are taught explicitly by demonstrating, explaining, modeling, and implementing specific cognitive strategies to help beginning readers derive meaning through intentional problem-solving thinking processes (Minn. Stat. 122A.06 Subd 4.).

**Important:** Minnesota Statute section 122A.06 Subd 4. also defines vocabulary development as the process of teaching vocabulary both directly and indirectly, with repetition and multiple exposures to vocabulary items. Learning in rich contexts, incidental learning, and use of computer technology enhance the acquiring of vocabulary. This definition should help teams in addressing the adequacy of instruction in listening, oral expression, and reading comprehension since vocabulary exposure and training is required to access content in the general curriculum.

**Area 6. Written expression** - May be conceptualized as involving two separate components including transcription of writing including handwriting and spelling and generation of ideas organized into words, syntax and grammar. The two components together form written expression, which is the communication of ideas, thoughts and feelings.

**Area 7. Math calculation** - The application of mathematical operations (i.e., addition, subtraction, multiplication, division) and basic axioms (e.g., commutative property, inverse operations) to solve mathematical problems.

**Area 8. Mathematical problem solving** - The ability to use decision-making skills in the application of mathematical concepts to real-world situations; the functional combination of computation knowledge and application knowledge. Comprehension of the mathematical problems, recognizing relevant information, and identifying and applying appropriate calculations. (Hessler, 1993 p. 119).

**Important:** A student who understands basic mathematical concepts and algorithms, but who has not memorized math facts, should not be identified as having a severe achievement delay or discrepancy in this area.



## Exclusionary Factors that Contribute to Inadequate Achievement

The following are considered factors that, if determined to be the primary cause of poor achievement or learning difficulty, preclude a team from determining the student to have a specific learning disability. However, it is possible for an individual to have multiple disabilities or a specific learning disability with other co-existing conditions. It is also possible for some of the exclusionary factors, such as cultural or economic influences to be present yet determined not to contribute to the under achievement. For this reason, the team that will be evaluating the student must analyze data in each of the following areas to determine the degree to which, if any, each factor contributes to poor performance:

- Sensory issues
- Developmental cognitive disability
- Social/emotional behavioral issues
- Economic influences
- Environmental issues
- Lack of appropriate instruction
- Inconsistent education
- English Language and Cultural Diversity Learners

If the evaluation team determined that any of these factors were the primary cause of poor achievement, then a learning disability is ruled out. However, individuals may have multiple disabilities or a specific learning disability with other co-existing conditions.

### Factor 1: Sensory Issues

In order to attribute the primary cause of underachievement to a vision, hearing, or motor (V/H/M) impairment, a student must qualify under Minnesota special education eligibility criteria or have a Section 504 diagnosis. If the student has a V/H/M impairment, the team must determine that the impairment is not the primary reason for the student's inadequate achievement. The team may find it difficult to determine to what extent the V/H/M impairment contributes to poor achievement without further investigation and data collection.

Appropriate school personnel must screen students who display difficulty in V/H/M functioning to determine if further assessment and intervention are necessary. When a sensory deficit is identified, provide the student with accommodations via explicit instruction in area of academic concern.

### Vision Impairment (Blind/Visually Impaired, see Minn. R. 3525.1345)

A vision impairment is medically diagnosed by a licensed eye specialist. It includes problems with visual acuity, visual field, or congenital or degenerating eye condition (i.e., progressive cataract, glaucoma, retinitis pigmentosa, albinism, or nystagmus). In an educational setting, a visual impairment limits a student's access to educational media and program appropriate materials if no accommodations are provided.

**Hearing Impairment** (Deaf/Hard of Hearing, see Minn. R. 3525.1331)

Hearing impairment is verified by a certified audiologist and affects hearing in terms of a sensorineural, conductive, or unilateral sensorineural or persistent conductive loss. It affects a student's educational performance in academic achievement, use, and understanding of spoken English, or adaptive behavior affecting social functioning.

**Motor Impairment** (Physical Impairment, see Minn. R. 3525.1337)

A physical impairment is a documented medically diagnosed condition that affects a student's ability to manage or complete the motoric portions of classroom tasks within time constraints. In an educational setting, it also affects a student's organizational and independent work skills as well as academic achievement.

**Guiding Questions to Rule out the Effects of Vision, Hearing, or (V/H/M) Motor Impairments**

Below is a suggested list of questions to determine if a (V/H/M) impairment is the primary cause of underachievement:

- Do we have enough information to determine if a student has a (V/H/M) impairment?
- Does the (V/H/M) impairment limit the educational progress of the student? To what extent is medical intervention mediating impairment? Can the teacher make the curriculum and instruction accessible by differentiating instruction and/or accommodating the sensory deficit?
- To what extent does achievement improve with core and supplemental instruction after implementing appropriate accommodations for the sensory impairment? Did the team interpreting data from repeated measures see a boost in achievement across time?
- Has the educational staff taken adequate steps to ensure core instruction has met the criteria for Universal Design for Learning?

**Factor 2: Developmental Cognitive Disability (DCD)**

In an educational setting, a cognitive impairment affects the student's ability to learn and retain academic and independent living skills. Students with limited intellectual functioning will likely show low average performance across reading, math and written expression with corresponding low average abilities in processing speed, short-term memory, and fluid reasoning skills. Low abilities in these processing areas are likely to attenuate all areas of academic achievement.

In order to attribute the primary cause of a student's underachievement to a developmental cognitive disability, a student must qualify under Minnesota

*A developmental cognitive disability is a condition defined by limitations in adaptive behavior (below 15<sup>th</sup> percentile) and very low scores on an individually administered intelligence test (an IQ score of 50-70).*

eligibility criteria or have a Section 504 diagnosis. A developmental cognitive disability is determined by a team and an appropriately licensed school psychologist using Minnesota's eligibility criteria for DCD.

Low ability is not considered a disability under Reauthorized Federal IDEA 2004. As such, some students presenting with persistent low achievement and low-average aptitude will not qualify as SLD or DCD. Districts may want to develop policies or guidelines to provide sustained and intensive academic supports to maintain the achievement of students with low ability so they to continue to progress in increasingly rigorous curriculums. In some instances, additional problem-solving or targeted evaluations may help plan appropriate instruction to meet students' needs. Schools concerned with making adequate yearly progress may find it a priority to develop plans for individuals not likely to meet grade-level standards.

### **Factor 3: Social/Emotional Behavioral Issues**

When social/emotional or behavioral issues are identified, data-based decision-making teams may have provided both academic and behavioral interventions. Teams that suspect a disability while working to determine the relative impact of social emotional issues on achievement may want to consider including both a functional behavioral and academic assessment in the comprehensive evaluation. These may be the best sources of data for teams to determine the relative impact of social/emotional concerns on achievement. (See 34 CFR sections 300.304 and 306.)

Federal regulations require that schools employ non-discriminatory practices in reviewing academic and behavioral data to reduce the potential bias of culture and language. When intervening with students from culturally and linguistically diverse backgrounds, teams should involve a cultural representative who can properly label behaviors as deviant and not related to culture.

### **Guiding Questions to Rule Out the Effects of Social/Emotional Behavior**

Below is a suggested list of questions to determine if a social/emotional behavior is the primary cause of underachievement:

- How well does the student respond to academic instruction once individual positive behavioral supports are in place?
- What happens to academic performance when behavioral or social/emotional skills are taught?
- What happens to behavior when instruction is provided at the student's instructional level?
- What observations or student comments indicate the student's self-efficacy for learning in the area of concern?
- Is academic performance influenced by poor self-regulation? Is there evidence of poor sustained or focused attention?
- Is student performance different across classrooms, teachers, and content areas? In which combination of circumstances is behavior better or worse? Is there a teacher that the student performs better for than others?

- What happens to behavior as achievement improves? Expectations rise?

#### **Factor 4: Economic Influences**

Even in conditions of substantial poverty, many households maintain literacy activities of various kinds on a daily basis. Teams should gather data about the child's developmental history, experiences with language, and opportunities for learning to determine the relative impact of socio-economic status on persistent inadequate achievement. While it should never be assumed that poverty predicts poor achievement, it may influence a child's experiential learning opportunities and access to quality schooling, which may ultimately affect language and/or conceptual development.

Children living in extreme poverty may not have access to academically enriching experiences, develop adequate academic skills, and consequently, may not score as well as same-age peers on standardized tests. In some situations, economic influences and low expectations are the primary cause of a child's underachievement and negate eligibility for special education. Implementation of rigorous, well-designed, evidence-based practices should accelerate the achievement of students who fit this scenario.

For a child who learns at a normal rate, economic influences that would be considered exclusionary factors may include, for example:

- A limited range of life and educational experiences.
- Frequent absences from school because of mobility.
- Exposure to unhealthy living conditions, which may lead to disabilities (seen as a causative factor rather than an exclusionary factor).
- Lead exposure (would not rule out eligibility for mental impairment).

Use the Poverty Checklist found in the Reducing Bias Manual to learn more about meeting the needs of students living in poverty.

#### **Guiding Questions to Rule out the Effects of Socio-economic Status**

Below is a suggested list of questions to determine if an economic factor is the primary cause of underachievement:

- How do students from similar backgrounds participating in core and supplemental interventions perform? Is the student in question performing significantly differently?
- To what extent is there a history of poor instruction, inadequate exposure to content, etc?
- What does progress-monitoring indicate when a student actively participates in intensive interventions? Is there a bump in performance for most of the group? What positive behavioral supports are likely to improve attendance and motivation?
- What happens to achievement after extended absences? Does achievement regress beyond what is typical (compare progress monitoring data from those in interventions)?

## **Factor 5: Educational Environmental Issues**

Learning is primarily a visceral and emotional experience. Classroom environments must be engaging, motivating, safe, caring and supportive. Students must understand expectations, actively participate and engage in instruction, and have a learning environment structured to support learning.

Classrooms with cultures that are not supportive of the affective needs of students may adversely affect student performance. When students present with performance that does not transfer from classroom to classroom, year to year, or intervention to classroom, teams may determine that inadequate achievement is more likely due to environmental factors than special learning disabilities.

While teams may find gathering data on educational environmental issues difficult and sensitive, the result of this effort may yield valuable solutions or accommodations that may be applied to overall improved instruction.

### **Guiding Questions to Rule out the Effects of Environment**

Below is a suggested list of questions useful for determining if an environmental issue is the primary cause of underachievement:

- Does the student perform markedly better in certain classes or with specific staff?
- What is the level of connectedness of the student to classroom or instructional context?
- What is basis of the grading system?
- How are classroom expectations taught and reinforced? Are students involved in expectations and/or decision-making?
- How does staff build relevance to student's background into academic lessons?
- How much time is student actively engaged with content?
- Are students involved in formative assessment, goal setting, monitoring their progress, or otherwise involved in the design of instruction to motivate them?
- To what degree is instruction differentiated to accommodate needs?

Readers will note that many of the questions could be answered through systematic observation using the Classroom Management Checklist provided in Chapter 6, *Figure 6-1*.

## **Factor 6: Lack of Appropriate Instruction**

Teams must rule out lack of appropriate instruction in the area of concern. The goal is to have clear documentation that the student received high quality, research-based instruction, matched to student's academic need. In chapters 3-6, readers may review tools for documenting interventions, practices and student results. The following sources of information are helpful to determine if the student was provided with appropriate instruction:

- Evidence that the regular curriculum allows the majority of students (for culturally and linguistically diverse students use sub-group data) to reach proficiency on grade-level standards. If sub-groups of students are not making adequate progress within the regular curriculum, then comparison to peer group is inappropriate.
- Evidence that the student participated in rigorous and differentiated instruction aimed at accelerating achievement towards grade-level standards. Evidence may include documentation that student received intervention in addition to core instruction.
- Written intervention plans, progress monitoring data, and fidelity checks. Teams must consider whether the student received enough intervention and if the intervention was implemented with fidelity prior to being able to rule out lack of appropriate instruction.

### **Guiding Questions to Rule Out Lack of Appropriate Instruction**

The following questions may be helpful in determining whether the student received adequate instruction in reading and math:

- What data indicate that the student has had access to high-quality rigorous instruction sufficient to reach grade-level standards (using grade-level normative data to make this determination for students)? Examples may include:
  - District and/or school data that suggests the amount and quality of instruction required to reach proficiency of state standards.
  - School describes the instruction provided to all students and how it exemplifies the research-base both in time, quality and fidelity of practices:
    - Verification of formal, systematic and explicit instruction in the area of inadequate achievement.
    - Verification that instruction was provided regularly.
    - Data indicating the student attended school regularly to receive instruction.
    - Verification that core instruction was delivered according to its design and methodology by qualified personnel.
    - Data indicating that core instruction is sufficient to assist the majority of students (comparable peer group for culturally and linguistically diverse students) in achieving grade-level standards.
- What supplemental efforts, aligned with grade level standards were implemented to accelerate the student's rate of learning and performance? Example may include:
  - A description of the intervention or instruction.
  - Evidence that the intervention is/was scientifically-based.
  - The frequency and length of time it was provided.

- The person responsible for the intervention.
  - Evidence that the intervention was implemented with integrity (direct observation using checklists or intervention scripts, self-report/implementation logs, evaluation of permanent products, other).
  - Description of how intervention falls within the range of acceptable practice that research suggests is sufficiently rigorous to accelerate achievement.
  - Evidence indicating a discrepancy between the growth of a particular student and that of other students receiving the intervention (may be an aggregate of students who have participated in the intervention).
- Given equivalent rigorous instruction in all areas, is the student making adequate progress towards grade-level standards in some areas and not in others? Examples may include sub-skills within a subject area of concern or in other subject areas.

### **Factor 7: Inconsistent Education**

Evidence may include documentation that both intervention data and history of frequent absences across grades is available. Use intervention and progress monitoring data to identify the effects of instruction by:

- Choosing positive behavioral supports to improve attendance and analyze progress-monitoring data for bumps in achievement.
- Providing the student with the most intensive intervention with high frequency to attempt a boost in achievement across relatively short periods.

A profile of strengths and weaknesses in basic psychological processing may help determine if the student has not received adequate instruction. When the student displays processing abilities within normal range, the team may conclude that a processing deficit is not the likely reason for inadequate achievement. Given normal abilities in basic psychological processes, lack of instruction is likely the more plausible explanation.

### **Guiding Questions to Rule Out an Inconsistent Education Program**

The following questions may be helpful in determining whether an inconsistent education program is the primary reason for the student's underachievement:

- Is school attendance impeding the student's ability to learn?
- Has the student ever attended school? Has the student attended more than one school in the past year? If so, how many?
- What evidence is there of formal, systematic, and explicit instruction in the area of inadequate achievement? To what extent is there evidence of improved achievement or performance when the student is present for instruction and intervention?

- To what extent do basic psychological processes fall within the normal range for students of similar age?
- Are there any other factors (medical or other) impacting school attendance?

### **Factor 8: English Language and Cultural Diversity Learners**

Teachers must consider the acquisition of both the native language and English when considering ELL students for special education referral, which is a basic tenet of both the pre-referral process and the actual assessment. Research indicates that language and culture may mediate academic performance up to the fourth generation (Ortiz, 2008); therefore, decision-making teams should not assume that because a student was born in the U.S., there are no cultural or language influences in their academic performance.

#### **Guiding Questions for Ruling Out the Effects of Language Acquisition and Cultural Diversity**

The following suggested questions may ensure acquisition of sufficient information before any decisions to place a student in a special education setting:

- What is the amount and type of language input from each language?  
**Note:** This question is essential and affects the degree to which the team further examines the following questions.
- What is the separation and interaction of the two language systems?
- What social and psychological factors can be identified in bilingual acquisition and use?
- What is the student's level of proficiency in all four modalities (listening, speaking, reading, writing) of each language?
- What is the gap between proficiency in English and the student's native language and the impact on student's learning? Is there a difference in performance by subject?
- Are there indications that difficulty in reading or math is pervasive across languages? If instruction was provided in the native language and in English, was the student experiencing difficulty?

#### **Basic Research on First and Second Language Acquisition**

This section describes research on language acquisition. In assessing a student's proficiency in both languages consider the following:

- Amount of input, including the number of hours daily that the student hears and uses both the native language and English.
- Type of input (i.e., both the language modality--was the language input received through listening or reading or expressed through speaking or writing--and the

register or format of the language). The type of register can be formal, informal or personal. Familial and local dialects may be used in personal exchanges.

- Length of exposure to each language's input in the home, at school in their native country, and through the media have longer exposure and increased input. Evaluating proficiency in both languages is a critical component of both the intervention process and formal special education evaluation.
- Social and psychological factors.
- Bilingual language models available in school setting.

To address the degree of inadequate instruction or intervention of English proficiency as the sources of the student's difficulties, school must establish that:

- The student has failed to develop good native language skills despite receiving good input.
- The student's proficiency in English is less than expected given the formal and informal input he or she has received. The extent to which native language is modeled and or demonstrated to be acceptable to use within the building. Proficiency is considered in terms of input as well as age.

In addition to the type and amount of linguistic input, consider several other language acquisition issues as background information throughout the special education process, such as:

- Relative proficiency of each language.
- The interaction and separation of the two languages.
- Social and psychological factors that have an impact on language acquisition.

Document and describe these issues as part of the information gathered for ELL students who are referred for special education. The following graphic illustrates the kinds of information that should be gathered when a bilingual student is referred for special education services.

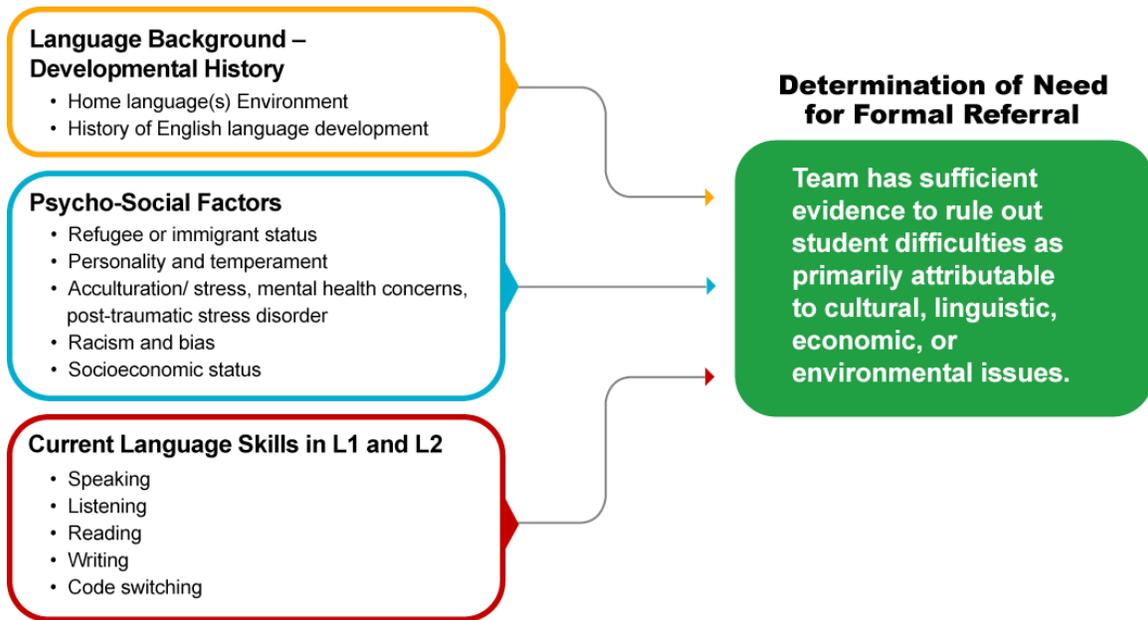


Figure 7-1. Language Profile.

Although communication differences obviously need to be addressed with non-native speakers, they are not typically evaluated when assessing American Indian and African American students whose native language is English. Even subtle differences in communication among English-speaking students may have a pronounced effect on test scores and classroom performance.



### Illustrative Example

Will, an African American student, grew up in a predominantly African-American neighborhood. His background and culture have influenced the development of his vocabulary and the pronunciation of some words. Kizis, another student raised on an American Indian reservation, has receptive understanding of Ojibwe and speaks a dialect of English that is influenced by Ojibwe.

Both Will and Kizis will have differences in how they select and use language to communicate. This difference extends beyond verbal language, to nonverbal communication, and mode of communication, all of which may influence performance on standardized measures.

In general, curriculum, the teacher's training, administration, classroom environment, expectations, methods for monitoring progress, and everything else related to the school as a system should be designed to allow learning to take place in children who are from the "mainstream" and otherwise typical.

The purpose of gathering data on language background and communication differences is to determine how "different" the individual is from the mainstream along these two dimensions. Students who seem not to benefit from instruction are thus "different" from those who do, and require special programming and educational assistance. This comparison is valid only when all students are comparable and have the same level of experience with schools, the same language, and so forth. Thus, culturally and linguistically diverse student may not demonstrate expected levels of learning in this system, not because they are incapable, but because they are "different."

*The extent to which an intrinsic factor can explain poor school performance correlates to the degree to which all other sources of the problem are eliminated or controlled.*

The focus of the preliminary stages of the referral and assessment process rests in understanding the student's degree of difference compared to the average, mainstream, monolingual English-speaking student for whom all these processes and procedures and instruction and intervention have been designed.

**Important:** The more "different" the student is deemed, the more it would be expected that poor performance is a function of this difference and not an internal problem. Conversely, the more similar a student is to the mainstream, the more likely that repeated failure to respond to appropriate instruction is due to an internal dysfunction.

Knowledge of the degree of the student's differences on the dimensions of English proficiency and acculturation not only assists in understanding the student's response to instruction, but also sets the level of expectation for performance on any task that may be given, including standardized tests, should the matter go that far.

Determining a student's level of language proficiency is relatively straightforward in Minnesota. [See Chapter 7 of the ELL Companion Manual on the Minnesota Department of Education Website for more information about available tools.](#) Students identified as ELL are regularly given the Test of Emerging Academic English (TEAE) and the Minnesota Student Oral Language Observation Matrix MN-SOLOM, which rates listening and speaking skills. [See the Minnesota Department of Education Website for more information about these tests.](#) Other standardized tests are used to gauge language development, such as the Woodcock-Munoz Language Survey and the Language Assessment Scale (LAS).

Be aware of the tendency to overestimate development, which can be avoided by paying attention to surface aspects of speech, including pronunciation or the presence of an accent. Accent is not an indicator of language proficiency, but rather an indication of when an individual first began to learn the language.

Any individual under the age of 9 or 10 years of age will likely be able to learn how to pronounce English within a year or two; teams may erroneously mistake them as having the same level of proficiency as their native-English speaking peers.

The following table provides a summary of myths related to language acquisition that can assist practitioners in avoiding assumptions about proficiency and development that may not be true or representative of the individuals they may be assessing.

Table 7-1  
*Language Acquisition Myths*

Myth	Reality
Accent is an indicator of proficiency.	No. It is a marker regarding when an individual first began to hear/learn the language.
Children learn languages faster and better than adults.	No. They only seem to because they have better pronunciation.
Language development can be accelerated.	No. Language developed to the level of <i>cognitive academic language proficiency (CALP)</i> facilitates the acquisition of a second language.
Learning two languages leads to a kind of linguistic confusion.	No evidence exists that learning two or more languages simultaneously produces any interference.
Learning two languages leads to poor academic performance.	No. On the contrary, students who learn two languages very well (CALP in both) tend to outperform their monolingual peers in school.
Code-switching is a language disorder and shows poor grammatical ability.	No. It is only an example of how bilinguals use whatever words may be necessary to communicate their thoughts as precisely as possible, irrespective of the language.



A relationship exists between acculturation, language proficiency, and the family's immigration history. Just because a student was born and educated since pre-school in the United States does not mean that the student will perform well on assessments administered in English.

### **Dimensions of Bilingualism and Relationship to Generations**

A second-generation student may not be fluent in his/her native language or in English. Therefore, assessments administered in either English or the native language will yield suppressed results.

*Language and culture can potentially impact performance on standardized tests up to the fourth generation.*

The table below illustrates a special case of bias derived from erroneous thinking that immigrant students born and raised in the U.S. will perform on standardized assessments on par with native English speakers born and educated in the U.S.

Table 7- 2  
*Immigration History and Language Use*

<b>Immigration History</b>	<b>Language Use</b>
<b><i>First Generation – Foreign Born</i></b>	
Newly Arrived	Understands little English. Learns a few words and phrases.
After several years of residence- Type 1	Understands enough English to take care of essential everyday needs. Speaks enough English to make self understood.
Type 2	Function capably in the work domain where English is required. May still experience frustration in expressing self fully in English. Uses immigrant language in all other contexts where English is not needed.
<b><i>Second Generation – U.S. Born</i></b>	
Preschool Age	Acquires immigrant language first. May be spoken to in English by relatives or friends. Will normally be exposed to English-language TV.
School Age	Acquires English. Uses it increasingly to talk to peers and siblings. Views English-language TV extensively. May be literate only in English if schooled exclusively in this language.
Adulthood – Type 1	At work (in the community) uses language to suit proficiency of other speakers. Senses greater functional ease in his first language in spite of frequent use of second.
Adulthood – Type 2	Uses English for most everyday activities. Uses immigrant language to interact with parents or others who do not speak English. Is aware of vocabulary gaps in his first language.
<b><i>Third Generation – U.S. Born</i></b>	
Preschool Age	Acquires both English and immigrant language simultaneously. Hears both in the home although English tends to predominate.

<b>Immigration History</b>	<b>Language Use</b>
School Age	Uses English almost exclusively. Is aware of limitations in the immigrant language. Uses it only when forced to do so by circumstances. Is literate only in English.
Adulthood	Uses English almost exclusively. Has few opportunities for speaking immigrant language. Retains good receptive competence in this language.
<b><i>Fourth Generation – U.S. Born</i></b>	
Preschool Age	Spoken to only in English. May hear immigrant language spoken by grandparents and other relatives. Is not expected to understand immigrant language.
School Age	Uses English exclusively. May have picked up some of the immigrant language from peers. Has limited receptive competence in this language.
Adulthood	Almost totally English monolingual. May retain some receptive competence in some domains.

**Note:** Adapted from Valdés, G. & Figueroa, R. A. (1994), *Bilingualism and Testing: A special case of bias* (p. 16).

The Acculturation Quick Screen (AQS) asks several questions about the duration that a student has lived in the U.S., duration in the district, first and second language proficiency, and characteristics of the current school. [View the AQS at http://www.crosscultured.com/index.asp](http://www.crosscultured.com/index.asp). Based on the answers, students are classified as:

- Significantly less acculturated--beginning to adapt to current school environment.
- Less acculturated--in the process of adapting but may experience stress and anxiety as a result.
- In transition--in the acculturation process and still experiencing some culture shock.
- More acculturated--still needs some support, but can generally understand and function in the new environment.
- Highly acculturated--understands and functions in the school environment without support; may need encouragement to maintain ties to traditional cultural community.

Cultural interventions related to the stage of acculturation are recommended to gain information for planning a comprehensive evaluation.

Use background information to determine how “different” the student is from the mainstream because the degree of difference sets up the expectations for performance on tests. Gauge this difference as “slightly different,” “different,” or “markedly different.” Teams should use caution not to overestimate the level of acculturation or English language proficiency of students.



## Basic Psychological Processing Deficits Relating Suspicion to Inadequate Achievement

The second component of the special learning disabilities (SLD) criteria requires teams to identify deficits in basic psychological processes.



Minnesota Rule 3525.1341 states: “The child has a disorder in one or more of the basic psychological processes which includes an information processing condition that is manifested in a variety of settings by behaviors such as inadequate: acquisition of information; organization; planning and sequencing; working memory, including verbal, visual, or spatial; visual and auditory processing; speed of processing; verbal and nonverbal expression; transfer of information; and motor control for written tasks.”

**Important:** It is best practice to find an empirical or logical relationship between inadequate academic achievement and information processing deficits with otherwise normal functioning in those abilities/processes not strongly related to the area of academic weakness.

### Area of Referral Concern with Likely Deficits in Information Processing

The table below shows basic psychological/cognitive processes that have an empirical relationship to achievement.

Table 7-3

*Referral Concerns and Their Corresponding Psychological Processes*

Referral Concern	Area of Deficit In Basic Psychological Processes
Language (listening comprehension and oral expression)	<ul style="list-style-type: none"> <li>• Phonological Processing (Expression)</li> <li>• Processing Speed (Input)</li> <li>• Working Memory—Auditory (Integration)</li> <li>• Long-term Memory—Associative Memory (Integration)</li> <li>• Executive Functions (Integration)</li> <li>• Motor Coordination Processing (oral) (Expression)</li> </ul>
Basic Reading Skills	<ul style="list-style-type: none"> <li>• Processing Speed (Input)</li> <li>• Auditory or Visual (orthographic) Processing (Integration)</li> <li>• Working Memory (Integration)</li> <li>• Long-term Memory (Integration)</li> </ul>
Reading Fluency	<ul style="list-style-type: none"> <li>• Processing Speed (Input)</li> <li>• Auditory Processing/Auditory Working Memory (Integration)</li> <li>• Associative Memory (Integration)</li> </ul>
Reading Comprehension	<ul style="list-style-type: none"> <li>• Fluid Reasoning (Integration)</li> <li>• Morphological Awareness (Expression)</li> <li>• Processing Speed (Input)</li> <li>• Working Memory (Integration)</li> <li>• Executive Functions (Integration)</li> <li>• Sustained Attention, Successive Processing (Integration)</li> </ul>
Written Expression	<ul style="list-style-type: none"> <li>• Orthographic Processing (Integration)</li> <li>• Oral Expression (Expression)</li> <li>• Fluid Reasoning (Integration)</li> <li>• Working Memory (Integration)</li> <li>• Executive Functions (planning, organizing) (Integration)</li> <li>• Motor Coordination (Expression)</li> <li>• Phonological Awareness (Expression)</li> </ul>
Math Computation	<ul style="list-style-type: none"> <li>• Processing Speed (Input)</li> <li>• Working Memory (Integration)</li> <li>• Long-term Memory—Associative Memory (Integration)</li> </ul>
Math Problem Solving	<ul style="list-style-type: none"> <li>• Fluid Reasoning (Integration)</li> </ul>

**Note:** Findings represent a synthesis from the literature and are subject to change pending additional research.



## Students Aging Out of Developmental Delay (Part B of

## IDEA) into Categorical Disability (Part B of IDEA)

**Note:** This section references the Reauthorized Federal IDEA 2004.

Inadequate achievement is demonstrated when a young student is unable to learn in response to usual classroom instruction or make progress when provided research-based interventions matched to the student's need. The determination of inadequate achievement must relate to age or grade-level standards and be identified through implementation of a screening process or response to intervention.

The aging out of young children from Part B Developmental Delay into Categorical Special Education Services under Part B must happen before the seventh birthday. Although teams will conduct this as a reevaluation, to qualify for SLD the child must meet initial criteria for SLD. The child may meet SLD eligibility criteria in one or more of the eight areas; however, it is not necessary to meet initial eligibility in all areas of academic need. Teams may choose to use either A, B, C or A, B, D if the team has valid and reliable data from a system of research based interventions. If the child is demonstrating inadequate achievement in an area where special education services have not been provided the team should use existing data or data gathered from classroom instruction and interventions. This may include screening, progress monitoring or other achievement data.

**Areas of Probable Inadequate Achievement** - While young children may legally meet SLD criteria in any of the eight areas of inadequate achievement, parents and educators will more likely identify areas of concern in the development of early language, literacy, and numeracy skills. Each of the three areas is discussed in detail below.

**Area 1: Language Development** - Regardless of a child's general cognitive abilities or therapeutic history, in general the risk for reading problems is greatest when a child's language impairment is severe in any area, broad in scope, or persistent over the preschool years (for more information see Snow, C. Burns, S. and Griffin, P. 1998).

*Students with language delays or deficits in the areas of syntax and/or semantic impairments are at higher risk than those with phonologic impairments.*

**Area 2: Phonological Awareness** - Students with delays or deficits in phonological awareness are at greater risk for later deficiencies in the development of basic reading skills. Phonological awareness includes discrimination of beginning or ending sounds, rhyming, syllable counting, automaticity, and rapid naming of letters. Some studies suggest that early identification should lead to direct teaching of phonological awareness skills, as well as integrated language instruction for effective intervention (National Reading Panel Report, 2000; National Center for Learning Disabilities). Explicit and systematic instruction and monitoring of skill acquisition in the areas of awareness of speech sounds in words and vocabulary knowledge will be helpful to teams in determining the need for specialized instruction.

The team needs to determine if the following four predictors are present in a young student by grade three by determining what components of the evaluation measure these areas and what the results indicate.

1. Poor automaticity in naming letter names and letter sounds.

2. Phonological awareness.
  - Discriminating and manipulating sound in sequence.
  - Discriminating sounds at beginning of words.
3. Rapid naming (in general).
4. Verbal working memory (short-term memory).

Children with syntactic and/or semantic impairments are at higher risk than those with phonologic impairments. Those with phonologic impairments have significantly more trouble on a letter identification task.

Young students with moderate to severe phonologic impairment in their preschool years are at risk for later deficiencies in phonological awareness and letter knowledge, the two best predictors of reading success.

The team should complete interventions in phonological awareness skills--explicit training designed to develop an awareness of speech sounds in words--prior to referral for a special education evaluation.

Phonological awareness training includes rhyming, segmenting into beginning, middle, and ending sounds, onset rhyme deletion, and blending sounds to make words. This training is most effective when combined with direct instruction that teaches young students the connections between sounds of language and the letters representing those sounds.

**Area 3: Number Sense** - Persistent delay in the development of number sense and relevant features of counting may demonstrate inadequate achievement in young students. The relevant features of counting are:

- One-to-one correspondence.
- Cardinality.
- Stable order of word tags.
- Understanding that any objects can be grouped and counted.
- Order irrelevance (objects can be counted in any order).

Young students with delays in counting strategies are at risk for delay in the development of later mathematical abilities. In addition to delayed counting, risk factors include phonological deficits, orthographic processing, memory retrieval deficits, delay in using language to solve problems, and pervasive deficits in expressive and receptive language.



## Quality Practices in Parent Involvement when Planning Comprehensive Evaluation

Begin the parent interview with a review of the previous interventions, their results, and, why those interventions were not successful. Then inform them that the team will now proceed to evaluation. Parent would have already signed permission for the evaluation.

The following questions help guide the initial interview.

**Note:** Ask broad questions first, then ask more targeted questions for elaboration, for example:

- Were there any difficulties with the pregnancy or birth of this child?
- Has this child ever been hospitalized? For what reason? Does your child have any medical conditions or accidents of which we may not be aware?
- Have there been any medical changes since we last visited?
- Does your child have behaviors that concern you or others? Explain.
- What is your view on how the interventions have impacted your child's learning?
- What does your child tell you about what is going on in school? Has he said anything more since our last visit?

The interviewer should explain to parents that formal testing would follow in order to determine if their child has a disability, and that a more in-depth developmental history is necessary.

Parental input on areas of eligibility is very important to obtain. If the parent says no to any of the following questions the interviewer should probe further. Remember to ask general questions first followed by more specific questions if the parent does not provide the answers.

- Does your child have trouble reading words? Sentences? Books?
- Does your child understand what they read? Does your child talk about what they read?
- How does your child read new words? Do they ask you for help right away? Do they try to sound out the words?
- In your opinion, does it take your child a long time to read?
- Can your child answer addition problems? Subtraction? Multiplication? Division?
- Can your child figure out things using numbers? (May need to give examples.)
- Can your child tell time using a clock with hands? A digital clock?

- What does your child use writing for? Can you understand what your child writes? If not, clarify if penmanship, spacing or spelling causes the problem. How does your child hold the pencil? Check on fine motor skills.
- Does your child write from left to right?
- Can your child write letters to form words?
- Do you notice any other problems in math? Reading? Writing?
- Listening comprehension covered through the information processing questions about following directions.
- Does your child understand stories read or told to her?
- How are your child's gross motor skills? Can he throw, catch, monkey bars, run, skip, etc.

### **Questions for Information Processing**

- How does your child recall information? What strategies do you know she uses? What happens when your child forgets things?
- Is your child able to use previously learned information in new situations?
- Does your child follow directions? Two-step directions? Three-step?
- Does your child remember routines?
- Does your child understand what he reads?
- Can your child assemble or repair things?
- How would you describe your child's ability to organize (objects, thoughts, use of time)?
- Does your child show any specific sensitivities to sound, touch, sight, etc?
- Is there anything about your child that we should know that we have not asked about yet?

### **Next Steps**

This chapter discussed what happens at the point where interventions are not working or sustainable. When interventions are not working or sustainable, the parent and/or school staff may suspect a disability. Information that influences what the hypothesized disability may be was explored through examining the exclusionary factors and basic psychological processes. A discussion of quality practices revealed how teams should examine exclusionary factors and basic psychological processes to further refine their hypothesis for why the learning problem persists.

This chapter provided example questions for teams wrestling with the contribution of factors that preclude a child from being identified as having a Specific Learning Disability. Documenting answers to the questions presented is vital so that special education staff receiving data from these systems are able to integrate this information into the comprehensive evaluation and eligibility determination process.

The following assessment process figure indicates the next step for using the data. Teams should document each step as students move through the pre-referral or system of scientific research-based system (SRBI) process.

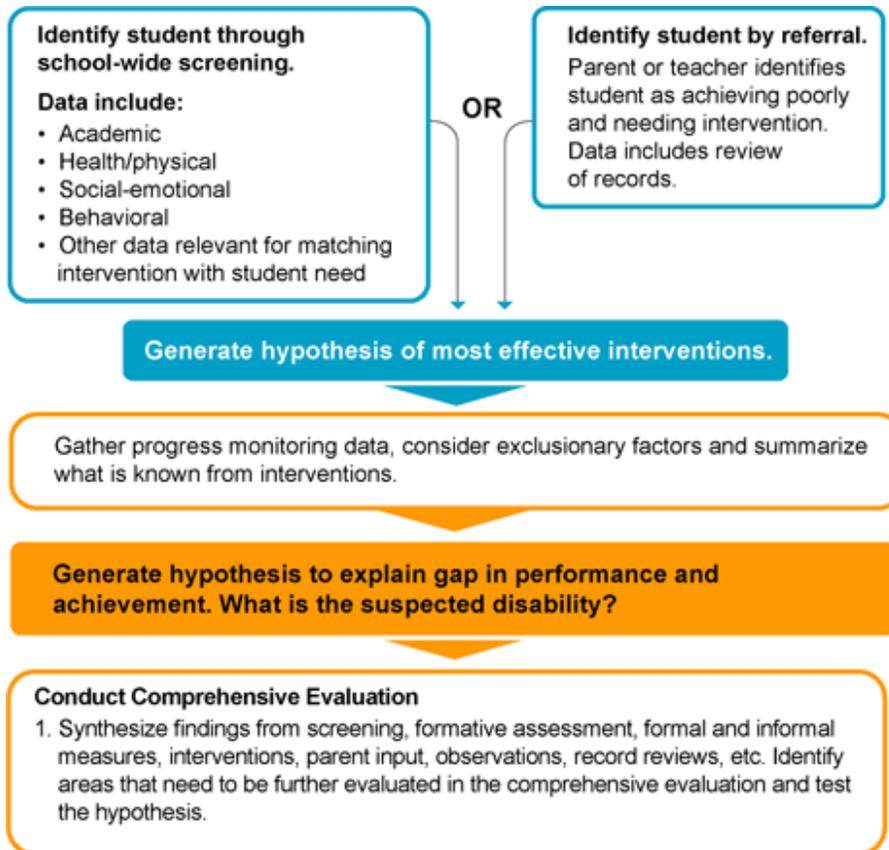


Figure 7-2. Assessment Process.

At this point, steps should have been taken to obtain prior written consent for a comprehensive evaluation. Within the prior written notice statement, there should be documentation of the information required in rule for if criteria A, B, D is used to make the eligibility determination.

If not already in process, the data from each step in the assessment process should be integrated into the guiding questions template. Data may include screening, record reviews, teacher interviews and documentation, intervention, progress monitoring, observation and parent interviews.

Table 7-4  
Guiding Questions

Guiding Question	Existing Data	Information Needed
How has the team determined the student has had sufficient access to high-quality instruction and the opportunity to perform within grade-level standards?		
What supplemental efforts, aligned with grade-level standards, were implemented to accelerate the student's rate of learning and level of performance?		
What, if any, modifications or accommodations are being made within core instruction to enable the student to access content standards?		
What has and has not worked to increase access and participation in core instruction (the general education environment)?		
What educational performance/achievement continues to be below grade-level expectations?		
<p>What factors, limit performance? What supplemental efforts have been successful in mediating the impact?</p> <p>What about the student's profile leads the team to suspect a disability and the need for special education and related services.</p>		
How is the student functionally limited from making progress toward grade-level standards?		

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