

Notes to Accompany DPI Sample Special Education Form ER 2 (Rev. 12/10):
Additional Documentation Required When Child Is Evaluated For Specific Learning Disabilities
June, 2011

Introduction

Federal IDEA regulations 34 CFR §§300.307-300.311 and Wisconsin eligibility rules PI 11.36 (6), Wis. Admin. Code, require consideration of a number of factors when determining if a student has a specific learning disability (SLD). This document is provided to assist individualized education program (IEP) teams properly document SLD eligibility decisions using Wisconsin Department of Public Instruction (DPI) Sample Form ER-2. The use of the ER-1 and ER-2 will assist IEP teams to conform with state and federal regulations specific to SLD identification and with the requirements for all initial evaluations and reevaluations found at 34 CFR §§300.304-300.306.

Citations from the federal regulations and Wisconsin rules are provided for each item on the form. It is not necessary to repeat information that has already been addressed elsewhere on the IEP team evaluation report.

Portions of the ER-2 apply when SLD is being considered for the first time, while documentation of some items is only required upon reevaluation of SLD*:

For **initial** SLD eligibility decisions using significant discrepancy to determine insufficient progress, complete the following items: A, B, C, D, E, F, G, H (option 2), I, and Signatures. Do not complete item "J".

For **initial** SLD Eligibility decision using progress monitoring data from intensive scientific, research or evidence-based intervention complete the following items: A, B, C, D, E, G, H (option 1), I, J, and Signatures. Do not complete item "F".

Upon **reevaluation** of students previously identified as having SLD, complete the following items: D, E, I, and Signatures.

*Note: For the purpose of this document, initial evaluation of SLD refers to the first time SLD is considered, even if this consideration is part of a special education reevaluation for a student previously identified as having another impairment.

A. Information demonstrating the student was provided appropriate instruction in regular education. [34 CFR §300.309(b)(1), PI 11.06(d)(1)(b) Wis. Admin. Code].

Complete this item for all evaluations where SLD is being considered for the first time.

As part of the evaluation for SLD, the IEP team must consider the connection between a lack of appropriate instruction and IEP team findings of inadequate achievement and insufficient progress. Discussion in the federal regulations states “the eligibility group considers evidence that the student was provided appropriate instruction and should not identify a child as eligible for special education services if the child’s low achievement is the result of lack of appropriate instruction in reading or math.” 71 Fed. Reg. 46656 (Aug. 14, 2006)

The consideration of “appropriate instruction” includes both student specific information and grade level information for all students in the same grade as the student being evaluated. “Regular education” reflects curriculum and assessments aligned to the WI Model Academic Standards.

Student specific documentation of “appropriate instruction” may include:

1. Verification that core (universal) instruction was provided regularly.
2. Data indicating the student attended school regularly to receive instruction.
3. Verification that core instruction was delivered according to its design and methodology by qualified personnel.
4. Data indicating differentiated instruction in the core curriculum was provided. Differentiated instruction is typically provided by classroom teachers. Evidence may include the type of differentiation, provided by whom, and for what period of time.

Grade level information may also be used to verify “appropriate instruction” in the area of student concern. Performance data for all students in the same grade as the referred student may help establish that the core curriculum in the area of student concern (e.g. reading comprehension) is effective for most students. Such data may include:

1. Wisconsin Knowledge and Concepts Examination (WKCE) participation and results.
2. District-wide assessments aligned with state and local standards.
3. Grade level common assessments.

If the referred student is part of a disaggregated WKCE group, whole grade data for the disaggregated group should also be reviewed and considered. The question to consider is whether or not the referred student performs like or unlike peers in the disaggregated group.

When considering the area of reading, federal regulations reference the essential components of reading identified in ESEA which includes: explicit and systematic instruction in phonemic awareness, phonics, reading fluency, vocabulary development, and reading comprehension strategies. 71 Fed. Reg. 46646 (Aug. 14, 2006).

For additional information about state standards and performance objectives see <http://dpi.wi.gov/standards/index.htm> and <http://dpi.wi.gov/oea/amo.html>.

B. Information demonstrating that the student received **repeated assessments of achievement reflecting student progress**. 34 CFR §300.309(b)(2)

Complete this item for all evaluations where SLD is being considered for the first time.

This section should provide documentation of repeated assessments of classroom achievement reflecting student progress. Data-based documentation is “an objective and systematic process of documenting a child’s progress. This type of assessment is a feature of strong instruction in reading and math” 71 Fed. Reg. 46657 (Aug. 14, 2006). Thus, federal regulations require such documentation be provided prior to identifying a student as having the impairment of SLD. This requirement is directly related to the previous element of “appropriate instruction”.

Repeated assessments are multiple, ongoing measures provided at regular intervals based on the instruction being provided and student needs. The frequency and number of repeated assessments is determined by the instructional models being used or a district-based decision making process. Districts that have fully implemented a response to intervention (RtI) system should have an easier time documenting this requirement as repeated assessments, such as progress monitoring tools, are more likely to be routinely used for students, particularly those experiencing achievement delays.

Documentation of progress monitoring data from intensive scientific, research or evidence-based intervention may be used to meet this requirement. “Data from annual statewide assessments required under the Elementary and Secondary Education Act (ESEA) would not meet the requirement for repeated assessments at reasonable intervals.” 71 Fed. Reg. 46657 (Aug. 14, 2006).

If data from repeated assessments is reported as part of previous interventions elsewhere (e.g. on the Evaluation Report form ER-1), those data based statements can be referenced here and do not need to be repeated.

Documentation of repeated assessments is required only for initial SLD evaluations in the identified area(s) of student concern. For students previously identified as having another impairment, but who are being considered for SLD for the first time, documentation of repeated assessments may include progress data from IEP goals, if such goals addressed an area of concern being considered as part of the SLD eligibility decision.

C. Information demonstrating that the student’s **parents were provided information on the above assessments** of achievement of their child. 34 CFR §300.309 (b)(2)

Complete this item for all evaluations where SLD is being considered for the first time.

This section should document the information provided to parents about repeated assessment. Such documentation could include correspondence sent by e-mail, written notes, descriptions of progress data sent to parents, or meetings with parents where data about student progress in the area of concern were shared. Summarize documentation succinctly (e.g. *parents received a weekly e-mail reporting progress beginning with a school meeting on September 12, 2012, continuing to the present time*).

If this information is reported elsewhere (e.g. on the review of existing data worksheet – EW 1), it can be referenced here and does not need to be repeated.

- D. **Relevant behavior noted during observation of the student** in his or her learning environment (including the regular classroom) and the relationship of that behavior to the student's academic functioning (*if using observational data of the student's academic performance and behavior done prior to the referral for the evaluation, see ER-1*). 34 CFR §300.310, PI 11.36 (6)(e) 1-2 Wis. Admin. Code

Complete this item for all evaluations where SLD is being considered for the first time and for all reevaluations of students previously identified as having SLD.

This section should include a statement of the student's specific learning behavior in the area(s) of concern noted during the required classroom observation. The relationship of the observed behavior to the student's academic functioning should be summarized. The observation may occur prior to or after the student was referred for an evaluation to consider SLD.

Once a school begins using data from a student's response to intensive scientific, research-based or evidence-based interventions to determine "insufficient progress" (required for all initial SLD evaluations after November 30, 2013), this section should include information from the observation during intensive intervention as well as other relevant observation(s) of learning behavior.

The SLD Assessment and Decision-Making Guide contains information about conducting an observation. See <http://www.dpi.wi.gov/sped/doc/elgguideld.doc>.

- E. Educationally relevant **medical findings** (if any). 34 CFR §300.311(4), PI 11.36 (6)(f) 5., Wis. Admin. Code

Complete this item for all initial evaluations and reevaluations.

Briefly describe any relevant medical findings. If there are no relevant findings, check "none".

- F. The **student received intensive intervention**, which was applied in a manner highly consistent with its design, closely aligned to pupil need, and culturally appropriate. PI.11.36 (6)(f) 4., Wis. Admin. Code

*Complete this item for all evaluations where SLD is being considered for the first time **when using significant discrepancy**.*

This section should provide a brief description of intensive intervention provided to the student. An intervention is the systematic use of a technique, program, or practice designed to improve learning or performance in specific areas of pupil need (PI 11.02 (6t)). The ER-2 statement should document the IEP team's determination that the intervention was provided was applied in a manner highly consistent with its design, was closely aligned to pupil need, and was culturally appropriate. Documentation should support that the intervention was implemented individually or in a small group, focused on single or small numbers of discrete skills, and was provided with substantial numbers of instructional minutes in addition to those provided to all pupils.

If documentation of previous interventions that meets the standard is included elsewhere (e.g. on the Evaluation Report form ER-1), those statements can be referenced here and do not need to be repeated. When progress monitoring data from intensive intervention is used to determine insufficient progress, this requirement will be met by completing item H.

G. Inadequate Classroom Achievement 34 CFR §300.309 (a)(1), PI 11.36 (c) 1., Wis. Admin. Code

Complete this item for all evaluations where SLD is being considered for the first time.

As part the evaluation, the IEP team must document the student does not achieve adequately for his or her age, or meet state-approved grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving. Documentation must include results from assessments of achievement which are individually administered, norm-referenced, valid, reliable, and diagnostic of impairment in the area(s) of concern. Achievement is inadequate when the student's score, after intensive intervention, on one or more assessments of achievement is equal to or more than 1.25 standard deviations below the mean.

If the IEP team determines achievement testing is not appropriate for the student because of the student's test behavior, language proficiency, another impairment that interferes with attaining valid and reliable scores, or the absence of a valid and reliable test appropriate for the student's age, testing is not administered. When this decision is made, the box marked "*It is not appropriate to consider standardized achievement testing*" should be checked followed by a brief summary of the reasons why the IEP team made this decision and the alternate empirical evidence used to determine inadequate classroom achievement exists in one or more areas using other empirical evidence.

A list of tests administered and brief summary of test results are sufficient documentation for this item. If this information is documented elsewhere (e.g. on the initial SLD eligibility checklist), it may be referenced here and does not need to be repeated.

WKCE data is not appropriate for this item. The WKCE is not an individually administered, norm referenced test of achievement, reliable and valid for the purpose of diagnosing inadequate achievement in one or more of the areas specified in the SLD rule.

H. Insufficient progress 34 CFR §300.309 (a) 2., PI 11.36 (c) 2., Wis. Admin. Code

Complete this item for all evaluations where SLD is being considered for the first time.

1. Complete **Option 1** for schools using progress monitoring data from intensive scientific, research-based or evidence-based intervention (required after November 30, 2013). PI 11.36 (c) 2. a., Wis. Admin. Code

Provide a brief summary of intensive interventions implemented and the progress monitoring data results reviewed by the IEP team to determine whether the rate of student progress was determined to be insufficient because the rate of progress of the referred student is:

- a. The same or less than that of same-age peers,
- b. Greater than that of same age peers but will not result in the referred student reaching the average range of achievement in the area in a reasonable period of time, or
- c. Greater than that of same-age peers, but the intensity of the resources necessary to obtain this rate of progress cannot be maintained in general education.

If this information is documented elsewhere (e.g. on the initial SLD eligibility checklist), it may be referenced here and does not need to be repeated.

2. Complete **Option 2** for schools using significant discrepancy (permissible until November 30, 2013). PI 11.36 (c) 2. b.

A brief summary of tests administered, results, and the basis for the IEP team decision regarding if whether a significant discrepancy exists is sufficient documentation for this item.

If the IEP team determines the student cannot attain valid and reliable standard scores for intellectual ability or achievement because of the student's test behavior, language proficiency, another impairment that interferes with attaining valid and reliable scores, or the absence of a valid and reliable test appropriate for the student's age, the regression procedure may not be used to determine significant discrepancy. When this decision is made, the corresponding box should be checked followed by a summary of the reasons for the decision and how a significant discrepancy was documented by other means, including, other empirical evidence used to identify a variable pattern of achievement or ability in at least one of the eight achievement areas.

If any of this information is documented elsewhere (e.g. on the initial SLD eligibility checklist), it may be referenced here and does not need to be repeated.

For more information on documenting significant discrepancy, refer to the Revised SLD Assessment and Decision-making Guide.

- I. The **effects of** a visual, hearing or physical (motor) disability; cognitive disability, emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level. 34 CFR §300.311(6), PI 11.36 (6) (f) 7., Wis. Admin. Code

Complete this item for all evaluations where SLD is being considered for the first time and for all reevaluations of students previously identified as having SLD

Data should be used to support the IEP team's decision regarding the consideration of potential exclusionary factors.

- J. If the student participated in a **process that assesses the student's response to scientific, research-based intervention** include a statement for each of the following: 34 CFR §300.311 (a) (7), PI 11.36 (6) (f) 8., Wis. Admin. Code

Complete this item only for initial SLD eligibility decision using progress monitoring data from intensive scientific, research or evidence-based intervention to determine insufficient progress.

If the school is not yet using progress monitoring data from intensive scientific research-based or evidence-based intervention to determine insufficient progress, mark the N/A box (N/A not allowable after November 30, 2013).

When completing this section, include documentation that the referred student's parents were notified about the performance data that would be collected and the general education instruction and interventions that would be provided, including the strategies for increasing the student's learning rate. Documentation must also be provided that the parent had been informed of their right to make a referral. Acceptable content for this section could refer to information provided to parents in student handbooks, district curriculum documents, and documents provided during parent teacher conferences.

Required Signatures 34 CFR §300.311(b), PI 11.36(6)(e) 3., Wis. Admin. Code

Complete this item for all initial evaluations and reevaluations when SLD is considered.

The IEP team assures that the decision of whether the child has a specific learning disability was based on information from a variety of sources and not on any single measure or assessment as the sole criterion. Each IEP team participant must sign below and indicate whether he/she agrees with the conclusions regarding whether or not the child is a child with a specific learning disability. If this does not reflect his/her conclusions, then that IEP team participant must also attach a statement with his/her conclusions.

Name and title	Signature	Agree or disagree