

### **6A-6.03018 Exceptional Education Eligibility for Students with Specific Learning Disabilities.**

(1) Definition. A specific learning disability is defined as a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. Associated conditions may include dyslexia, dyscalculia, dysgraphia, or developmental aphasia. A specific learning disability does not include learning problems that are primarily the result of a visual, hearing, motor, intellectual, or emotional/behavioral disability limited English proficiency or environmental, cultural, or economic factors.

(2) General education intervention procedures and activities. In order to ensure that lack of academic progress is not due to lack of appropriate instruction, a group of qualified personnel must consider:

(a) Data that demonstrate that the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and delivered by qualified personnel in general education settings; and,

(b) Data-based documentation, which was provided to the student's parent(s) or legal guardian(s), of repeated measures of achievement at reasonable intervals, graphically reflecting the student's response to intervention during instruction.

(c) General education activities and interventions conducted prior to referral in accordance with subsection 6A-6.0331(1), F.A.C., may be used to satisfy the requirements of paragraphs (2)(a) and (2)(b) of this rule.

(3) Evaluation. The evaluation procedures shall include the following:

(a) The school district must promptly request parental or legal guardian consent to conduct an evaluation to determine if the student needs specially designed instruction in the following circumstances:

1. The student does not make adequate progress when:

a. Prior to a referral, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

b. Prior to referral, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of specially designed instruction and related services; and,

2. Whenever a referral is made to conduct an evaluation to determine the student's need for specially designed instruction and the existence of a disability.

(b) In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C. The evaluation must adhere to the timeframe required by paragraph 6A-6.0331(3)(g), F.A.C., unless extended by mutual written agreement of the student's parent(s) or legal guardian(s) and a group of qualified professionals.

(4) Criteria for eligibility. A student meets the eligibility criteria as a student with a specific learning disability if all of the following criteria are met.

(a) Evidence of specific learning disability. The student's parent(s) or legal guardian(s) and group of qualified personnel may determine that a student has a specific learning disability if there is evidence of each of the following:

1. When provided with learning experiences and instruction appropriate for the student's chronological age or grade level standards pursuant to Rule 6A-1.09401, F.A.C., the student does not achieve adequately for the student's chronological age or does not meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas based on the review of multiple sources which may include group and/or individual criterion or norm-referenced measures, including individual diagnostic procedures:

a. Oral expression;

b. Listening comprehension;

c. Written expression;

d. Basic reading skills;

e. Reading fluency skills;

f. Reading comprehension;

g. Mathematics calculation; or

h. Mathematics problem solving.

2. The student does not make adequate progress to meet chronological age or grade-level standards adopted in Rule 6A-1.09401, F.A.C., in one or more of the areas identified in subparagraph (4)(a)1. of this rule when using a process based on the

student's response to scientific, research-based intervention, consistent with the comprehensive evaluation procedures in subsection 6A-6.0331(5), F.A.C.

3. The group determines that its findings under paragraph (a) of this subsection are not primarily the result of the following:

- a. A visual, hearing, or motor disability;
- b. Intellectual disability;
- c. Emotional/behavioral disability;
- d. Cultural factors;
- e. Irregular pattern of attendance and/or high mobility rate;
- f. Classroom behavior;
- g. Environmental or economic factors; or
- h. Limited English proficiency.

(b) Members of the group determining eligibility. The determination of whether a student suspected of having a specific learning disability is a student who demonstrates a need for specially designed instruction and related services and meets the eligibility criteria must be made by the student's parent(s) or legal guardian(s) and a group of qualified professionals, which must include all of the following:

1. The student's general education teacher; if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her chronological age;
2. At least one person qualified to conduct and interpret individual diagnostic examinations of students, including a school psychologist, speech-language pathologist, or reading specialist; and,
3. The district administrator of exceptional student education or designee.

(c) Observation requirement. In determining whether a student needs specially designed instruction and has a specific learning disability, and in order to document the relationship between the student's classroom behavior and academic performance, the group must:

1. Use information from an observation in routine classroom instruction and monitoring of the student's performance that was completed before referral for an evaluation; or
2. Have at least one member of the group conduct an observation of the student's performance in the student's typical learning environment, or in an environment appropriate for a student of that chronological age, after referral for an evaluation and parental or legal guardian consent has been obtained.

(5) Documentation of determination of eligibility. For a student suspected of having a specific learning disability, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection 6A-6.0331(6), F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;

(c) The educationally relevant medical findings, if any;

(d) Whether the student has a specific learning disability as evidenced by response to intervention data confirming the following:

1. Performance discrepancy. The student's academic performance is significantly discrepant for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, which include the peer subgroup, classroom, school, district, and state level comparison groups; and

2. Rate of progress. When provided with well-delivered scientific, research-based general education instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the achievement gap with typical peers or academic expectations for the chronological age or grade level in which the student is currently enrolled; and,

3. Educational need. The student continues to need interventions that significantly differ in intensity and duration from what can be provided solely through general education resources to make or maintain sufficient progress.

(e) The determination of the group concerning the effects on the student's achievement level of a visual, hearing, motor, intellectual, or emotional/behavioral disability; cultural factors; environmental or economic factors; an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and,

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the support provided to the individual(s) implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration and frequency of intervention implementation (e.g. number of weeks, minutes per week, sessions per week), and the student-centered data collected; and,

2. Documentation that the student's parent(s) or legal guardian(s) were notified about 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; interventions for increasing the student's rate of progress; and the parental or legal guardian's right to request an evaluation.

(g) The signature of each group member certifying that the documentation of determination of eligibility 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.

*Rulemaking Authority 1001.02(1), 1001.42(4)(1), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c) FS. History—New 7-1-77, Amended 7-2-79, 7-14-82, Formerly 6A-6.3018, Amended 1-11-94, 3-23-09, 1-7-16.*