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2006

*Special Education
Eligibility Standards*



Iowa Department of Education

July 2006

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State Board of Education



State of Iowa
Department of Education
Grimes State Office Building
Des Moines, Iowa 50319-0146

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Introduction

Iowa's Department of Education has conceptualized an educational model that provides instruction, support, enhancement and intervention to all children and youth. This is a Response to Intervention (RTI) model and is intended to be a general education, school-wide system. The model is designed with flexibility and fluidity to be applied across multiple settings and content areas.

The purpose of Iowa's RTI model is to identify appropriate and effective **interventions*** that result in improved individual performance. The decisions for determining an individual's educational needs are based on multiple sources of data, including those data gathered through the RTI process.

Special education and related **services** are not seen as a separate entity in this model. Rather, special education instruction supports and interventions are provided within the context of the overall RTI system. As the RTI process determines the education needs of an individual, all of the components required of a **full and individual evaluation** for special education and related services will be satisfied.

The RTI process provides the framework through which the Area Education Agency (AEA) and the Local Education Agency (LEA) are able to initiate **eligibility** procedures. The guiding principles, components and standards outlined in this document are applied to all individuals being considered for special education and related services.

Each AEA will be responsible for establishing specific **procedures** for the determination of eligibility. Each AEA and LEA will be held responsible for implementing these procedures. Determination of eligibility in each AEA and LEA shall:

- Identify and serve all children intended to be served under the *Individuals with Disabilities Education Act (IDEA)* (For further discussion see Appendix F: Breadth of the Mandate);
- Conform with state rules and federal regulations;
- Address initial placement and **exit** decision making;
- Meet the expectations outlined in *Special Education Assessment Standards, January 1996* that were adopted by the Iowa AEA Directors of Special Education Association;

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***Words in bold, underlined, and in italics:** The first time a word is used and it appears in bold, italics, and is underlined, that word is defined in Appendix A: Glossary.

- Define a process to collect and consider data within the context of the individual's unique educational circumstances related to:
 - * Progress
 - * Discrepancy
 - * Need
- Establish both the existence of a disability and the need for special education services.

Guiding Principles for Eligibility Decision Making

Guiding Principle 1:

The standards for eligibility decision making will be consistently applied within each AEA across all disciplines (e.g., Occupational Therapist, Physical Therapist, School Psychologist, Speech and Language Pathologist, School Social Worker, Special Education Consultant) and areas of concern (e.g., communication, hearing, vision, academic, behavior, physical, health or sensory).

Guiding Principle 2:

Data that are relevant to the area of concern and are collected during the course of the RTI process will be considered in the eligibility decision.

Guiding Principle 3:

It is a goal of the RTI process to identify specific, effective interventions for an individual. However, occasionally successful interventions are not identified. Under these circumstances, an individual might be identified as eligible when 1) a disability is identified and 2) a need for special education services that are reasonably calculated to provide educational benefit to the individual can be identified. The AEA and the LEA will continue to work on determining what strategies are effective for that individual. It is a shared responsibility of the AEA and the LEA to ensure that effective instruction occurs for all individuals.

Guiding Principle 4:

In some cases it may not be appropriate to implement a general education intervention prior to determining eligibility and providing special education and related services. Examples include, but are not limited to:

- a) an individual whose status has changed significantly due to a health or medical condition, injury, etc.;

- b) an individual who has an obvious and immediate need for a service that is only available through special education.

The Iowa Department of Education has adopted the position that disability labels across all ages are not needed in the educational setting for the following reasons:

- a) the use of labels does not identify an individual's unique needs;
- b) labeling encourages the perception that all individuals in a category have the same characteristics;
- c) a label, in and of itself, does not provide educators with information regarding the individual's instructional needs;
- d) educators' expectations based on labels may influence the performance of students;
- e) labeling, in most cases, is negatively loaded terminology and may be permanently stigmatizing;
- f) labeling puts the burden of failure on the student; and
- g) the use of labels may become the basis for assigning an individual to more restrictive services than required. Within the RTI model, each individual who has a disability, and who by reason of the disability needs special education and related services, is regarded as an eligible individual.

Standards for eligibility should help ensure appropriate identification of individuals from all racial, ethnic or linguistic groups for special education or related services.

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Guiding Principle 5:

Guiding Principle 6:

Standards for Eligibility

It is expected that each AEA, as required by the *Iowa Administrative Rules of Special Education*, will develop procedures to include the standards on the following pages. This will assure that all individuals who have a disability and need specially designed instruction will be appropriately eligible for special education.

Eligibility, as outlined in this document, has two major components; the Process Requirements, and the Content Requirements. Each of the major components has several sub-components.

Within a full and individual evaluation, the team, based on what the required data indicate, provides documentation of each major component and the related subcomponents with the decisions and conclusions drawn in the areas of disability and need.

Process Standards

The determination of initial eligibility for special education will be based on the results of a full and individual evaluation that is focused on identifying effective interventions, as well as determining the presence of an educational disability and need. Requirements of the *IDEA* and the *Iowa Administrative Rules of Special Education* will be met. Data from multiple sources **41.49(6)** and a variety of assessment methods must be used **41.49(5)** (For examples see Appendix B: Assessment Domains).

Iowa's special education eligibility process requires the consideration of three sets of interrelated educational data—progress data, discrepancy data, and need data—within the context of each individual's unique circumstances. This *ecological context* includes racial, ethnic, social, cultural, familial, linguistic, and educational variables.

Eligibility decisions are made by a team of individuals comprised of the individualized education program (IEP) team and other qualified professionals, as appropriate. The general requirements for team membership are: parents of the individual; general education teacher; at least one special education teacher or if appropriate, at least one special education provider of the eligible individual; a representative of the LEA who is qualified to provide or supervise the provision of specially designed instruction, and who is knowledgeable about general education

**Data Requirements,
41.48(3)**

**Team Membership
Requirements,
41.62**

curriculum and the availability of the resources of the LEA; an individual(s) who can interpret the instructional implications of the evaluation results; other individuals with knowledge or special expertise regarding the eligible individual, as appropriate; and the individual being considered for eligibility, as appropriate.

An individual, when qualified, may hold two or more positions on the above stated team. In addition to the above, the IEP team making an eligibility decision should include an AEA support person with knowledge or expertise of the individual and knowledge or expertise to interpret the instructional implications of the evaluation results and intervention outcomes.

Prior to a full and individual evaluation, informed parental consent must be obtained. In the RTI process, this occurs when the *team*, including the parents, and as appropriate, other qualified professionals considers the possible need for services such as special education.

The data and information supporting the eligibility decision are written and shared with the parent. The evaluation documentation provides evidence that the individual is in need of special education and related services.

For an individual who is eligible, data resulting from the full and individual evaluation, as well as data from the RTI process will be used to inform the development of the IEP.

An individual is not eligible for special education and related services if the learning difficulties are primarily a result of one of the following exclusionary factors

- lack of scientifically based instruction in reading;
- lack of instruction in mathematics;
- limited English proficiency;
- cultural or economic disadvantage.

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**Identification of
Eligible Individuals**

41.47 (2)

41.50 (5)

41.51 (256B)

41.52 (256B)

**Documentation
Requirements,**

41.103 and 41.50

**Exclusionary
Requirements,
41.50(2)**

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**Extended
Requirements,
41.48(4)**

**Identification
Process
41.48**

**Disability and Need
41.18(1) "g" and
41.18(2) "f"**

In addition to initial eligibility, the Process Standards and the Content Standards will be applied when:

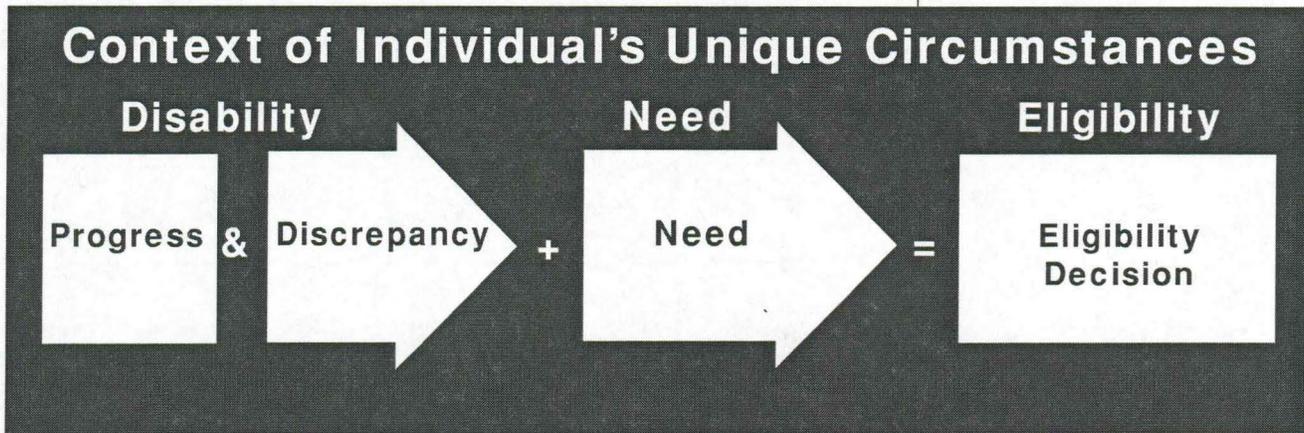
- Conducting a reevaluation.
- Exiting from all special education services.

For an individual who is not determined to be eligible, the data are used to develop further educational interventions.

Content Standards

The graphic on the following page depicts the framework for determining an individual's eligibility for special education and related services. There are three major elements to address when making an eligibility decision: Progress, Discrepancy, and Need. Each element has corresponding "components" that must be documented and "required questions" that must be answered and documented. There are a total of fourteen questions that guide an IEP team in making an eligibility decision. The individual's educational progress, discrepancy, and need are considered within the context of his or her unique circumstances. Additionally, the team is expected to use assessment practices (41.49) that are sensitive to ecological factors: racial, ethnic, social, cultural, familial, and linguistic.

The determination of an eligibility decision for special education services will rely on establishing both the presence of a disability and a need for special education instructional support or related services. The presence of a disability does not require specification of a disability category at the individual level. The individual may be identified as an eligible individual (EI). It is the responsibility of the IEP team and other qualified professionals for determining if a disability and need exists. The following definitions are intended to meet the breadth of the mandate (For further discussion see Appendix F: Breadth of the Mandate).

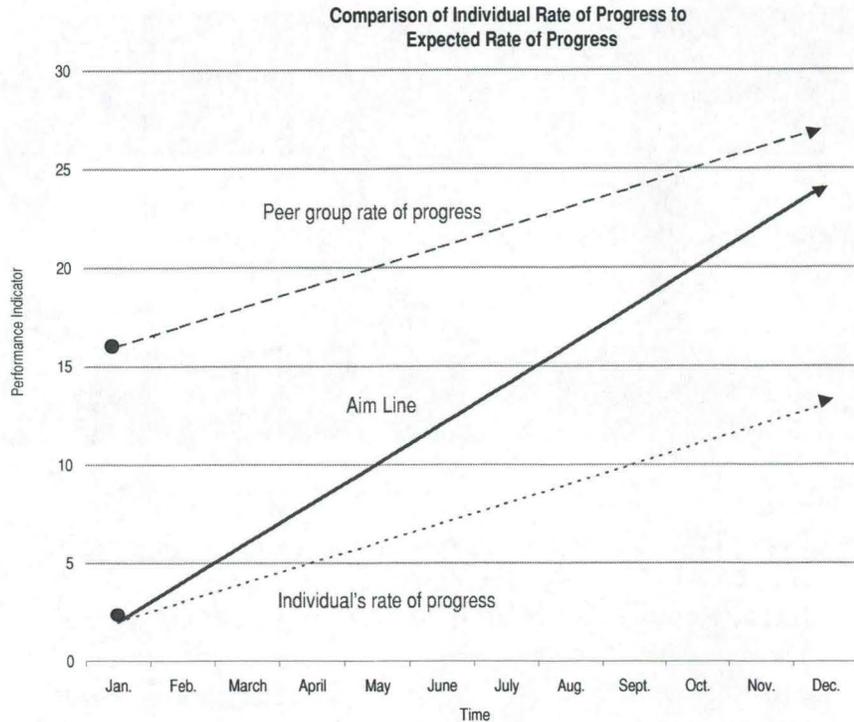


- **Disability:** A disability is a skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects educational performance. A disability 1) results in educational performance that is significantly and consistently different, diminished, or inappropriate when compared to the expectations for peers and 2) significantly interferes with:
 - a) access to general education settings and opportunities,
 - b) developmental progress,
 - c) involvement and progress in the general curriculum, or
 - d) interpersonal relationships or personal adjustment.
- **Need:** The judgment that an individual requires special education and related services in order to receive an appropriate education.

Progress

The individual's *rate of progress* is compared to the expected rate of progress. Progress data provide objective evidence of changes in an individual's progress that is justifiably attributed to the effect of the intervention.

Progress



Components

- **Performance Measure**

- * Area of Concern is operationally defined in meaningful and measurable terms, can be monitored, and the data used to make decisions.
- * An objective, relevant, ongoing **measure or performance indicator** of the individual's progress is selected and used to judge the individual's improvement.
- * Using the performance measure, **baseline** performance is established before implementing an intervention.
- * An individual's performance **goal** is established. The trajectory of improvement stated in the goal represents an enhanced slope of performance that can be realistically expected in the established period of time. Whenever possible, past slope of performance gain or the expected growth rate on a measure is determined to facilitate comparison.

- **Scientifically Research-based Intervention**
 - * To the maximum extent possible, a scientifically research-based intervention is selected that matches the individual's need.
 - * To the maximum extent possible, a scientifically research-based intervention is implemented with integrity for a sufficient period of time to allow for performance improvement.
- **Performance Monitoring**
 - * Individual's performance *data are collected* frequently, and repeatedly, using the measure of performance to determine the individual's response to the intervention(s).
 - * A *decision plan* is in place to determine the effectiveness of the intervention and consider changing the intervention if the individual's response is not consistent with the projected improvement.
 - * *Phase changes* are noted when the intervention is modified. Data collection on individual performance is continued.
 - * *Data are used to make decisions* on a regular and frequent basis.
- **Data analysis and conclusion**
 - * A comparison of expected performance and actual performance is made using the individual's performance measure.
 - * Comparison of the individual's performance rate or slope of improvement during intervention is contrasted with the expected rate or slope of improvement: (a) a comparison of the slope of improvement with the historical slope of improvement; or (b) a comparison of a normative rate reference based on the response of peers.
 - * Conclusions are drawn from the individual's response to intervention in concert with other data sources. **Convergent sources of data** are used to substantiate defensible conclusions about progress and response to intervention considerations. Other data may include record review, interview, observation, or additional test/assessment results.

Required Questions: Educational Progress

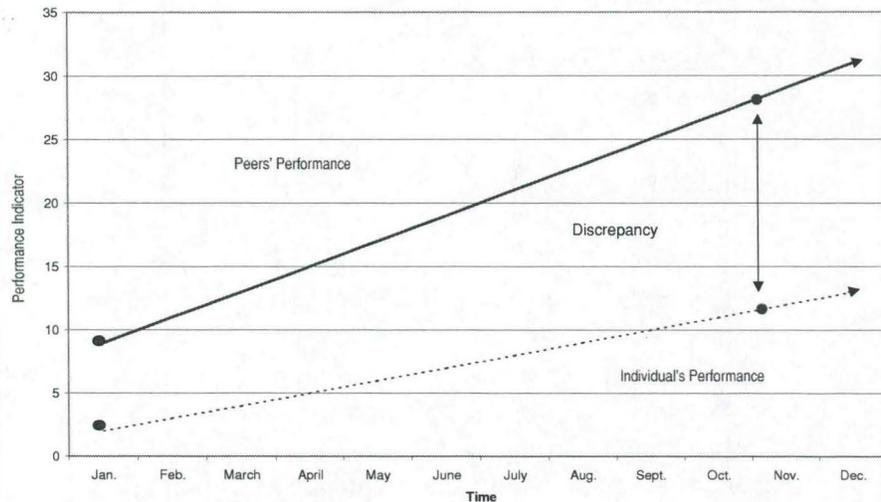
1. How does this individual's actual rate of skill acquisition compare to the expected rate of skill acquisition?
2. What is the frequency, intensity, and duration of the behavior? This question is required for a behavioral concern. The question may not apply to some concerns.
3. Have the intervention(s) been developed, implemented, and monitored with integrity? (See Appendix C: Intervention Integrity.)
4. Under what conditions did the individual experience the most growth?

Discrepancy

Discrepancy:

The difference between the individual's level of performance compared to peers' level of performance or other expected standards at a single point in time.

Individual's Performance Compared to Peers' Level of Performance or Other Standards

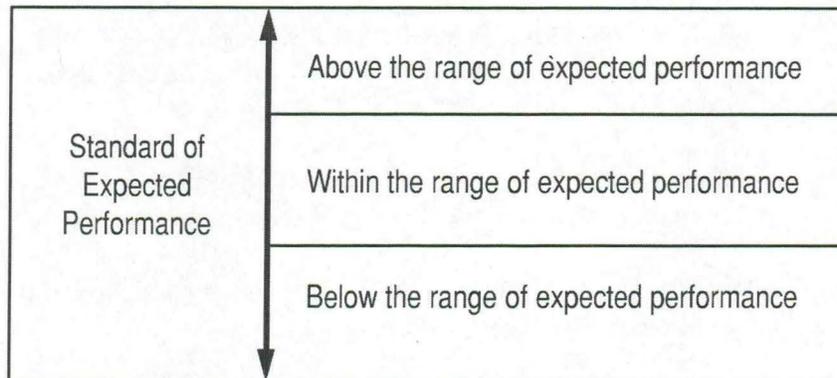


Components

- **Standard of Comparison**
A standard of comparison is selected and used to evaluate the individual's performance as compared to peers' performance on the same standard. The standard chosen must be relevant to the targeted area of concern. It is not limited to, but includes:

* Local district norms or AEA norms;

- * District measure of peer performance;
- * District standards and benchmarks;
- * Developmental norms;
- * Classroom expectations;
- * School policy



- **Behavior Definition**

- * A behavior that is measurable, observable, and specific is described;
- * An example of what is to be counted, and a non-example of what is not to be counted is given.

- **Measurement Strategy**

- * A data collection system that allows for frequent and repeated data collection is selected;
- * How and when data will be collected, what materials will be used, in what setting the data will be collected, and who will be responsible for collecting the data is determined.

- **Data Collection**

- * A representative comparison standard of performance is selected;
- * A representative sample of individual's level of performance data related to the standard of comparison is collected.

Need:

- **Data Analysis and Conclusion**

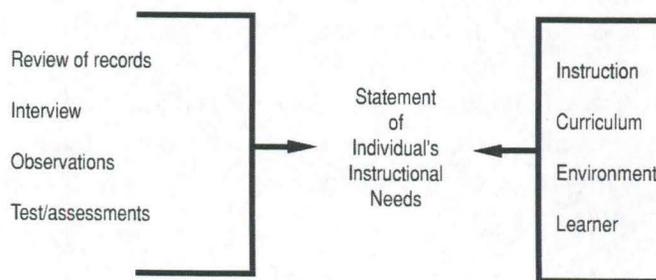
- * The individual's actual level of performance is compared to the expected level of performance and a difference is determined;
- * AEA procedures will be applied in determining if the existing discrepancy is significant.

Required Questions: Discrepancy

1. What are the *multiple sources of data* that demonstrate the individual's performance is significantly *discrepant* from that of peers or expected standards?
2. How does the individual's current level of performance compare to that of typical peers or expected standards?
3. What is the magnitude of the discrepancy? (See Appendix D: Magnitude of the Discrepancy.)
4. How important and significant is this discrepancy? (Meaningful in a practical sense and reliable in a statistical sense.)

Need:

The conclusion that the educational interventions required by the individual to be successful cannot be sustained without special education services.



Components

- **Use of Existing Data**

- * Consider what is known about the individual in relationship to the instruction, curriculum, and environment;

- * Consider the interventions attempted and the individual's response to those interventions;
- * Consider the information collected through a review of records, interviews, observations, and tests/assessments.
- * Determine if other information is needed to clearly define the individual's educational needs.

- **Data Analysis and Conclusions**

- * Consider what is needed to enable learning for the individual in the areas of curriculum, instruction, and changes to environmental demands (accommodations and modifications).
- * Consider the individual's learning characteristics, ecological variables, and any other relevant information, which helps inform what will enable learning;
- * Organize data into a summary statement of the individual's needs.

Required Questions: Need

1. What are the individual's needs in the areas of instruction, curriculum, and environment?
2. What are the instructional strategies, accommodations, and modifications that will enable the individual's learning performance to improve?
3. What accommodations and modifications were provided which enhanced the individual's performance and allowed opportunity to acquire educationally relevant skills?
4. What, if any, ecological variables contribute to the interventions/accommodations/modifications not enhancing the individual's performance? Explain.
5. What is the pervasiveness of the area of concern across settings and time?
6. What ongoing, substantial, additional services are needed that cannot be provided by general education?

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Glossary

Accommodations: supports or services provided to help an individual access the general education curriculum and help facilitate learning.

Area of Concern: educationally relevant domain in which an individual's performance is inappropriate, unacceptable or negatively impacts educational performance. An area of concern may be academic, behavior, physical, health, or sensory.

Baseline: a measure of performance prior to intervention. These initial data are used to monitor changes or the improvement in an individual's performance.

Convergent Sources of Data: data from multiple sources that combine to support a conclusion.

Diagnostic Assessment: the process of data collection for the purpose of specifying and verifying problems or areas of concern and identifying what an individual needs to enhance performance. (Salvia and Ysseldyke, 1991, p. 3)

Disability: A disability is a skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects educational performance. A disability 1) results in educational performance that is significantly and consistently different, diminished, or inappropriate when compared to the expectations for peers and 2) significantly interferes with:

- a) access to general education settings and opportunities,
- b) developmental progress,
- c) involvement and progress in the general curriculum, or
- d) interpersonal relationships or personal adjustment.

Discrepant/Discrepancy: the comparison of an individual's performance at a point in time to the performance of peers or other established standards at that same point in time.

Ecological Context/Variables: racial, ethnic, social, cultural, familial, linguistic, and educational variables and extraordinary circumstances which are unique to an individual.

Eligibility: means an individual, who by nature of his or her disability and need, requires special education and related services in order to receive an appropriate education.

Appendix A

Exit or Exiting Special Education Services: the determination that an individual is no longer eligible to receive special education and related services.

Full and Individual Evaluation (41.48(3)): the purpose of the evaluation is to determine the educational interventions that are required to resolve the presenting problem, behaviors of concern, or suspected disability, including whether the educational interventions are special education. The identification process, at a minimum, includes interactions with the individual, the individual's parents, school personnel, and others having specific responsibilities for, or knowledge of, the individual and the implementation of general education interventions. (41.48(1)(2).

Functional Assessment: assessment that leads to intervention(s). Functional assessment is not an assessment that leads to a label.

Goal: a statement that describes what an individual is expected to accomplish within a given time period. Each goal includes the conditions, (the time, situation, and measurement material); behavior, (the task to be improved); criterion, (represents an acceptable level of improvement); and the learner (individual).

Goal Area: refers to the domain in an area of concern. For example, reading is a goal area under which decoding, fluency, and comprehension fall. A new goal area may be behavior or math.

Interventions: direct instruction in the area of concern. Interventions are designed to meet the identified needs of an individual and are monitored on regular and frequent basis.

Measure/Performance Indicator: specific indicator or measure of performance; e.g., number of hitting incidences per day or number of correct words read per minute that will be assessed and documented to reflect progress in a goal.

Modification: changes made to the content and performance expectations for an individual.

Multiple Sources of Data (41.49): no single procedure or piece of data shall be used as the sole criterion for determining the eligibility of an individual. Information and data from instructional interventions, along with reviews, interviews, observations, and test/assessments will aide in the use of multiple procedures and the collection of multiple sources of data.

Need: The judgment that an individual requires special education and related services in order to receive an appropriate education.

Parents: a natural or adoptive parent; a guardian, but not the state, if the individual is a ward of the state; foster or surrogate parent. The term includes persons acting in the place of a parent, such as a grandparent or stepparent with whom an individual lives, as well as persons who are legally responsible for an individual's welfare.

Peers: for school-age individuals, this refers to individuals in the same grade as the targeted individual. For early childhood individuals this refers to individuals of the same age group.

Procedures: written documentation for the specific manner or method in with the Eligibility Standards, outlined in this document, will be implemented.

Professional Judgment: the reasoned application of clear guidelines to the specific data and circumstances related to each unique individual. Professional judgment adheres to high standards based on research and informed practice that are established by professional organizations or agencies. (Adapted from Katz, 1994).

Rate of Progress: objective evidence of performance across time. The rate of skills acquisition and/or slope of improvement are the rate of progress. This requires multiple data points which reflect assessment across time. A minimum of nine data points are typically required.

Reevaluation: a reevaluation is a data-based decision making process conducted by the IEP team and, as appropriate, other qualified professionals. The process includes a review of existing data and information and the gathering of new assessment data, if needed. The purposes of the reevaluation are to determine whether the individual continues to have a disability and need ongoing special education and related services; the present levels of performance in the area(s) of concern; and whether any additions or modifications are needed to enable the individual to meet the measurable IEP goals and to participate, as appropriate, in the general curriculum or in the case of early childhood, appropriate activities.

Rigor: requires that decisions be made with exactness, accuracy and preciseness.

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Services: direct instruction in the area of concern and includes special education and related services that will provide the individual with an opportunity to improve performance.

Standard of Comparison: specify how good is good enough. Standards may be based on peer performance, instructional placement standards, school policy/standards, developmental norms, medical standards, adult expectations (parent, teacher, and/or employer), local norms, AEA norms, professional judgment.

Team: a group of individuals who are involved in the development, implementation and decision making process as part of RTI. At a minimum, this includes the LEA instructional interventionist, the parent, the AEA support person, and other qualified individuals, as appropriate.

Assessment Domains

There are four main assessment domains: Instruction, Curriculum, Environment, and Learner (ICEL). AEAs are encouraged to assess these domains via functional assessment methods. Functional assessment methods are methods that lead to interventions with the high probability of success.

Functional assessments can occur by Review, Interview, Observation, and Test/assessment (RIOT).

- **Instructional domain.** This includes the selection and use of materials, placement of individual in materials, clarity of instructions, communication of expectations and criteria for success, direct instruction with explanation and cues, sequencing of lessons designed to promote success, variety of practice activities and pace of presentation of new content.
- **Curriculum domain.** This includes the long range direction of instruction, instructional philosophy/ approaches, instructional materials, stated outcomes for the course of study, standards and benchmarks, content of the course of study, arrangement of the content, and pace of the curriculum sequence leading to the outcomes.
- **Environmental domain.** This includes the physical arrangement of the room, furniture/equipment, classroom/ school rules, management plans, routines, expectations, peer context, peer and family influence, and task pressure.
- **Learner domain.** This is the last area to consider when planning interventions. At the point of considering the learner, it should be known that the curriculum and instruction are appropriate and the environment is positive. This area includes individual academic performance data and individual social/behavioral data.

Note: The data needed for a full and individual evaluation may be available through existing information and information gathered during the RTI process.

Appendix B

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Intervention Integrity

Intervention integrity includes treatment integrity as defined in current research and articles. It also refers to the implementation of an intervention as planned. If an intervention is not implemented as intended, an individual's progress, or lack of progress, cannot be attributed to the intervention. Valid conclusions and decisions cannot be made on the basis of an intervention that is not implemented with integrity.

The integrity of intervention implementation can be checked through:

- Interviews with the individual(s) who are implementing the intervention (teachers, parents, etc.);
- Observations in the setting in which the intervention is implemented; or
- Written documentation completed by the individual(s) who is implementing the intervention (teacher, parents, etc.)

Periodic checks are necessary to assure intervention integrity. These checks serve as reminders to implement an intervention as planned and also provide an opportunity to lend support to individuals who are implementing the intervention, answering questions, assisting in data analysis and helping to determine if a change in the intervention is warranted.

It is the **team's** responsibility to determine the integrity of intervention implementation.

Appendix C

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Magnitude of the Discrepancy

Determining a discrepancy is only one part of the multi-faceted eligibility decision making process. The fact that determining the magnitude of the discrepancy has its own appendix in no way diminishes the value and importance of determining the educational progress or need of an individual. AEAs are responsible for developing the specific procedures for determining the magnitude of the discrepancy.

The most important considerations in making a discrepancy decision are: (1) the use of trustworthy and predictable means of establishing the difference between the actual level of performance of the individual's targeted area of concern and (2) the expected level of performance. Therefore, the appropriate standard of comparison must be selected and the measurement of the discrepancy of the individual's performance compared to that standard. The discrepancy decision needs to be made on the most reliable, valid, recent, and relevant measures. Those measures that are direct measures should be considered and used first. Direct measures are those that can be seen, heard, or counted. Remember the error of measurement, and look at the entire picture for each individual.

Once a standard of comparison is selected and the individual's performance is measured and compared to this standard, a decision must be made as to the magnitude of the discrepancy and if the discrepancy is large enough to warrant special education. **It is important to remember that discrepancy alone does not indicate special education.** Educational Progress and Educational Need must also be considered. This decision is complex and requires *professional judgment*; but that judgment should be based on the data obtained.

The following are examples that an AEA may use when determining magnitude of discrepancy:

- When a measure is utilized that provides the opportunity to identify a percentile rank, a score near or below the 10th percentile, may be considered to be significantly discrepant.
- When standard scores are available, at least one standard deviation may represent a significant discrepancy.

Appendix D

- In some situations, discrepancy can be measured in terms of years behind in the curriculum. This needs to be a decision that is made relative to the targeted area of concern. For example, one would not want to wait until an individual was two years behind before providing instruction in early reading skills.
- Some sensory and medical standards have been set and should be identified by the disciplines that address those areas.

The team will make judgments regarding individual performance in areas where no precise guidelines or methods for comparison exist (e.g., behavioral concerns). An analysis of the intensity, frequency and/or the duration of the target behavior must be considered in relationship to the magnitude of the discrepancy. The team makes a decision as to whether or not this discrepancy is significant enough to make a compelling case to indicate that this individual has unique differences that warrant special education. Some example questions to help in this consideration are:

- To what degree does the target behavior interfere with the individual's learning or the learning of others?
- Has the target behavior been pervasive over time and resistant to intervention?
- Does the individual, engaging in the target behavior, endanger the safety of himself/herself or other individuals?
- Does the discrepancy indicate that the individual, given the same opportunities as others, has obtained a very different level of performance and will need very different instruction to reduce this discrepancy and obtain an acceptable level of performance?

Frequently Asked Questions

Appendix E

What are the exceptions?

At any point in the RTI process an individual may move to eligibility, provided there are clear data that support the presence of a disability, and clear evidence that supports the individual is in need of ongoing special education and related services; e.g., a new student who is performing substantially below peers and standards; an individual whose status has changed significantly due to a health or medical condition, injury, etc.; an individual who has an obvious and immediate need for a service that is only available through special education such as Braille instruction or a sign language interpreter.

What if components or required questions are missing or not well done?

The components need to be supported by evidence and the required questions need to be answered. Therefore, the missing parts will be completed prior to any consideration of eligibility.

What if you disagree with the eligibility decision made by the rest of the team?

Parents and IEP team members have legal rights to pursue due process including: resolution facilitation, mediation, and preappeal conference. In addition, educators (not parents) have the option to file a dissenting opinion.

What if the parents (or LEA) are requesting a full and individual evaluation before general education interventions are implemented?

The RTI process is explained in a way that the parents or LEA personnel understand that the individual will be receiving interventions to help the area of concern. In addition, during this process, data will be collected to determine the education progress, the discrepancy, and the instructional need for the individual. With this information the IEP team and the parents will determine the need for ongoing special education and related services. A written consent is required when parents request a full and individual evaluation. Refer to the Iowa Rules 41.104 to determine when a prior written notice is needed to meet the requirements of a formal denial or a formal request.

**Prior Notice
41.104**

What if the parents (or LEA) are requesting a disability label?

Iowa's Response to Intervention model utilizes a non-categorical designation for all individuals, birth through age 21. All individuals, within the model, who have a disability and who by reasons of the disability need special education and related services, are regarded as eligible individuals.

Can IQ and achievement tests still be conducted? If the answer is "yes," when can they be administered?

Yes. However, the team or the IEP team must deem such tests as being educationally relevant in determining appropriate instructional interventions. For the purpose of determining eligibility, an IQ test and/or an individual achievement test may be administered only after parental written consent has been obtained.

What if an outside agency requests an IQ or achievement testing?

The decision to administer a cognitive assessment is to be decided by the team if the team feels such an assessment is relevant to the instructional planning for the student. However, the team is under no obligation to administer an IQ test if a request is made by an outside agency. A letter sent out by Ted Stilwill (Director of Education) dated October 22, 2002 stated the following:

"The AEA is under no obligation to provide an assessment for purposes other than education programming. The provision of specific psychometric testing to meet the eligibility requirements of another agency or service is not the responsibility of the AEA."

How does the eligibility process apply/work for individuals with severe and profound difficulties, hearing impaired, vision impaired, OT, PT, speech and language?

The eligibility process is applied in the same way for all disabilities. In some circumstances, this may vary. (See next question.)

How does it apply/work for an individual who has an obvious and immediate need for a service that is only available through special education and related services?

In rare and unusual circumstances, an individual may be determined to be in immediate need of special education and related services. In these situations the IEP team gathers, reviews, and documents the data and other information that clearly defines the disability and the need for special education and related services.

Can you use IFSP data when considering an individual's eligibility for special education?

Yes, keeping in mind that adequate rigor and intervention integrity were used.

*Special Education
Eligibility Standards*

Breadth of the Mandate

Response to Intervention

In the State of Iowa, identification for special education services uses a Response To Intervention (RTI) process. This process has two purposes: (1) to identify, develop, and implement general education instructional interventions for those individuals who are in need; and (2) to identify those individuals who require special education and related services [Iowa Rules 41.47(1)]. It includes interactions with the individual, the parents, teacher, AEA support staff, and others having specific responsibilities for, or knowledge of, the individual and the presenting area of concern.

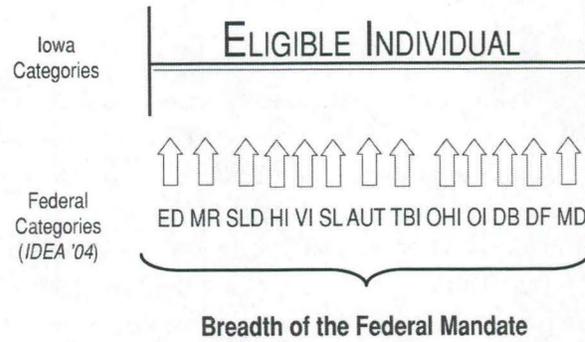
Determination of Eligibility:

Eligibility is the individual's right to receive special education and related services. Eligibility determination relies on the establishment of both the presence of a disability and the need for special education instructional support or related services. The IEP team will answer two questions: (1) Does the individual's academic, behavioral, physical, health or sensory performance level adversely affect educational performance? and; (2) Does the individual need/require special education services and related services?

Diagnostic Classification

The RTI model utilizes a non-categorical designation for all individuals, birth through age 21. Within this model and process, all individuals who have a disability and who, by reason of the disability, need special education and related services are regarded as individuals with a disability. (*IDEA 1997, 612(a)(3)(B)*). The RTI process allows access to performance in one or more of the performance domains listed in Table F1.

Eligible Individual (EI) will be used as a designation for individuals who are determined to be an individual with a disability and who are eligible to receive special education and related services. While specific disability designations are rarely utilized, the RTI process assures that all individuals with such disabilities, as defined in *IDEA*, are identified and served. The following figure illustrates how Iowa's noncategorical designation encompasses federal disability categories.



The federal categories of IDEA '04 are also compatible with the performance domains that are utilized in Iowa's noncategorical designation. Each of the federal categories falls within the realm of one or more of Iowa's performance domains. This is illustrated in the table below.

**Iowa Performance Domains and
Federal Categories — IDEA '04**

Table F1

Iowa Performance Domains	Federal Categories — IDEA '04
Academic Behavior Physical Health Sensory Adaptive Behavior Communication	Specific Learning Disability (SLD) Emotional Disturbance (ED) Mental Retardation (MR) Speech and Language Impairment (SL) Visual Impairment (VI) Orthopedic Impairment (OI) Other Health Impairment (OHI) Autism (AUT) Traumatic Brain Injury (TBI) Hearing Impairment (HI) Deaf-Blindness (DB) Deafness (DF) Multiple Disabilities (MD)

In certain circumstances, the educational diagnosis of a specific disability may enhance the development and ongoing provision of appropriate educational services. The IEP team may determine that a diagnostic classification is needed or is of educational benefit to the individual. A parent may also request a specific designation for the same reasons.

When an IEP team determines that a diagnostic classification is needed, or is of educational benefit to the individual, the team will consider the salient characteristics exhibited by the individual and present a comparison to the characteristics of individuals with like diagnostic classifications. For some categories the federal and

state definitions and/or medical diagnoses will aid in the process. In other categories, the team will use professional judgment to determine the appropriate diagnostic classification.

The following source was used in the research and preparation of this appendix:

Tilly III, W.D., Reschly, D.J., Grimes, J. (1999). Disability Determination in Problem Solving Systems: Conceptual Foundations and Critical Components. In D.J. Reschly, W.D. Tilly, J.P. Grimes (Ed.), *Special Education in Transition: Functional and Noncategorical Identification and Intervention in Special Education* (pp. 221-254). Longmont, CO: Sopris West.

*Special Education
Eligibility Standards*

Culturally and Linguistically Diverse Students

IDEA 2004 strengthens the previous statute's emphasis on the identification and reduction of disproportionality among subgroups of students in special education (Klinger et. al., 2004). This appendix will describe additional areas of inquiry and specialized areas of expertise that may be needed to prevent and reduce disproportionality in Iowa. During each phase of the RTI process — interventions, performance monitoring, data analysis and decision-making — the team collects and analyzes information on ecological/contextual variables in order to assess their impact on student performance.

Gathering Ecological/Contextual Information

School teams gather data from multiple sources, including interviews, reviews of school and medical records and observations, to assess the impact of ecological variables on an individual's performance. Families have important information regarding these variables. Using *culturally responsive* approaches, school teams engage families as partners in all stages of the RTI process.

Interpreter

When the family's primary language is not English, a member of the school team who is proficient in the family's language or a *trained interpreter*, should conduct interviews with the family.

Family Information

The family is asked to provide information about the individual's developmental, health and educational history; the family's cultural background and language; the individual's first and (if applicable) second language development; and the individual's current functioning at home and in the community. Other issues to be considered are the family and community expectations, child rearing and socialization practices, and the potential impact of language or previous experiences of the individual's performance (Ortiz, 1997).

Many authors have developed parent interview forms and checklists (Collier, 2000; Goldstein, 2000; and Roseberry-McKibbin, 2002). Parent interview formats have been developed by the Des Moines Independent School District (2002) and by the Iowa Department of Education, *Iowa Speech-Language Pathologist English Language Learner Guidelines Manual*, (December 2003).

English as a Second Language

For students whose primary language is not English, communication deficits only constitute a disability if the communication problem is present in both English and the individual's *primary language* (Iowa Department of Education Speech-Language Services, 2003). During the eligibility decision-making process for these students, the special education team must rule out language and *acculturation* as the primary reason for performance deficits.

Researchers (Cummins, 1994; Collier, 1992) describe two levels of language proficiency: *Basic Interpersonal Communication Skills (BICS)* and *Cognitive Academic Language Proficiency (CALP)*. A variety of formal and informal assessment instruments are available to measure both of these levels of language proficiency. ELL (English Language Learner) programs often measure an individual's BICS level to determine eligibility for ELL, but use measures from the CALP to evaluate annual progress. For students that have received ELL services this information should be available in the student's school record. However, an individual with limited English proficiency that has never been assessed for or received ELL services may be referred to a building problem solving team. In those cases, an assessment of the individual's English language proficiency is needed in order to develop appropriate interventions, evaluate the individual's response to interventions and to make eligibility decisions. A variety of individually administered assessment instruments are available to measure both levels of language proficiency (Woodcock and Munoz-Sandoval, 2001). Additional information is available in *Assessing Culturally and Linguistically Diverse Students* (Rhodes, Ochoa, and Ortiz, 2005).

Team Membership

An individual that understands the school's expectations and is knowledgeable about the individual's cultural or linguistic

background should participate or be consulted in the development, implementation, and evaluation of general education interventions. This person could be a member of the school staff or someone designated by the family that could identify issues related to the individual's language or culture that may be impacting performance.

School personnel knowledgeable about cultural and linguistic diversity, with the skills to differentiate between second language acquisition and disabilities, should be consulted during the eligibility decision-making process for students from diverse cultural or linguistic groups.

Peer Comparisons

For individuals from diverse racial, ethnic or linguistic groups, the individual's level of performance should be compared to other individuals with similar cultural and linguistic backgrounds and comparable exposure to the English language when feasible. Siblings, cousins, or other youngsters known to the individual's family may serve as a peer comparison. When similar peers are not available, professional judgement must be used to set performance expectations.

Performance Monitoring

Any materials or techniques used to measure progress must be selected and administered so as not to be discriminatory on a racial or cultural basis; and must be provided and administered in the language and form most likely to yield accurate information on the individual's performance (IDEA '04, Section 614(a)(b)(3)(i-v).).

Eligibility: Additional Ecological Considerations

An ecological assessment examines the relations between people and systems and the conditions that surround them. The team uses the information gathered to examine the fit between the culture of the individual and the expectations of the school. Mississippi Bend AEA 9 developed an *Ecological Assessment for Individual Students* (2004) to aid teams in assessing the impact of ecological factors across five domains: Communication, Cultural, Education, Economic/Environmental, and Extraordinary Circumstances. This assessment is an example of one approach to gathering and analyzing ecological and contextual information during the eligibility decision-making process.

Discrepancy and Need

For individuals from diverse racial, ethnic or linguistic groups the evaluation team asks if the discrepancy is:

- Due to cultural or linguistic differences between the individual and the school?
- Because the individual does not speak/understand the language of instruction?
- Because the individual has not had similar opportunities to learn as peers (e.g., lack of formal schooling or appropriate instruction)?

If the answer to any of the questions above is “yes,” more interventions in general education may be needed. In order to determine this, the team should ask the following questions:

- Were interventions designed and implemented with integrity?
- Did the interventions adequately address cultural and linguistic variables that may be impacting the individual’s performance.

If the response to these questions is “yes,” it may be presumed the impact of cultural or linguistic differences impacting student learning has been adequately addressed. If the response to either of those questions is “no,” culturally responsive interventions must be developed and implemented.

Systems-Level Assessment

The RTI process requires an on-going analysis of the general education system to identify factors that facilitate or impede learning (Klinger, 2005). The following questions provide examples of the types of issues that should be considered in the assessment of each domain.

Instructional Domain

- Are varied instructional methods and formats used to make learning experiences relevant for students from diverse backgrounds?

- Does the school respond to the environmental and economic conditions of individuals through its curriculum, instruction and practices?
- Does the school staff consistently articulate high academic and social expectations for all students?
- Are behavioral expectations explicitly taught and practiced to make hidden rules visible to individuals from diverse backgrounds?

Curriculum Domain

- Are learning materials inclusive and do they reflect positive images of people with diverse backgrounds and diverse abilities?
- Are culturally relevant materials used for targeted group instruction?

Environmental Domain

- Does the school value the diversity of communication skills/language represented by individuals in the educational environment?
- Is diversity celebrated within the classroom and in common areas by the visual display of various cultures on bulletin boards, in posters, and pictures?
- Do the family, individual, and school agree about school expectations?

Learner Domain

- How do others from the same cultural or linguistic group view the individual's performance?
- What are the individual's skills in their primary language?

(NCCRESt, 2005)

Appendix G Glossary

Acculturation: Process of learning aspects of culture other than one's own, influenced primarily by schools.

Basic Interpersonal Communication Skills (BICS): The kind of communication found in the everyday world that is supported by situational cues, gestures, and facial expressions. These skills take approximately two years to develop to a level commensurate with that of native speakers of the language (Cummins, 1992).

Cognitive Academic Language Proficiency (CALP): This kind of communication is found in academic settings and is strongly related to literacy and academic achievement. CALP emerges with formal schooling and takes approximately four to seven years to develop (Cummins, 1992).

Culturally responsive: The ability of an individual to learn from and relate respectfully to people from other cultures; including the ability to make adjustments in behavior based on knowledge of other cultures. This requires openness to experiencing and thinking about things from other points of view. (adopted from the *National Center for Culturally Responsive Educational Systems*.)

Primary Language: this is the language an individual learns first. It is used frequently during the early stages of language acquisition. It is also referred to as one's home language or first language.

Trained Interpreter: Trained interpreters have formal education in interpreting and abide by a professional code of ethics that includes confidentiality, impartiality, accuracy, and completeness. Good education interpreters should be familiar with educational terminology and have experience in schools.

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