

DATA USE AND SYSTEMS' ROLE TO GUIDE READING LITERACY ACHIEVEMENT

GENERAL EDUCATION Enactment of Data Use and Systems in schools to progress student reading literacy attainment.

§ **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF** [insert state name] a requirement that all districts, schools, and education staff become familiar with state data systems, requirements and analysis:

1. collecting and interpreting both school and student data to include screening and systematic assessments of progress,
2. sharing data,
3. framing questions from analysis of multiple sets of data reports, and
4. creating plans to assist individual student achievement.

It is ratified that each district and school in the state of [insert name state] will:

1. establish a school wide data use plan and ongoing review of implementation of that plan to monitor student progress toward goals;
2. guide and support teachers in use of data for instructional improvement to meet the needs of students and to support students in reaching their goals;
3. support and lead both students and their parents to be on track for postsecondary success by selecting goals and monitoring their progress toward those goals; and
4. ensure that school-level and student data needs are incorporated in district-wide data management systems planning and implementation.

It is adopted by [insert state name] that data be continuously utilized to provide new insights into student learning and how to improve it. This process is implemented so that facts, based on data, are utilized to identify the root causes of student learning problems, not just the symptoms. With data, all districts, schools, and teachers will collect, analyze, and require:

1. clear assessment on students' needs;
2. the expertise to target resources to address students' needs;
3. the ability to set students' goals;
4. the aptitude to determine whether the goals are being reached; and,
5. the ability to track the impact of staff development efforts.

This law implements and provides for the application of a data use plan under which students, Pre-K–12 enrolled or enrolling in public schools in [insert state name], are screened and assessed for literacy failure or grade-level reading attainment as may be necessary, and are provided appropriate supports dependent on multiple factors and at multiple times until proficient grade-level reading skills are secured.

§3.1 General Procedures

Districts, schools, and charter schools must establish written procedures for screening, assessing, and recommending students at risk for literacy failure within General Education settings. The state can no longer wait for these students to fail; all SEEDS will be provided with a systematic structure to learn. While districts, schools, and charter schools must follow federal and state guidelines, they must also develop internal procedures that address the needs of their student populations.

A. All entering kindergarten students will be screened for potential characteristics of SEEDS that could inhibit reading development. Kindergarten screening shall happen at least twice in the first semester of the year and once in the second semester.

B. Every student in grades 1, 2, and 3 shall be systematically assessed every two to three weeks during reading development stages of instruction to ensure they are reaching appropriate gains to achieve grade-level reading.

C. The law shall provide that, upon the request of a parent/ guardian, student, school nurse, classroom teacher, or other school personnel who have data to support that a student has a need for diagnostic testing in any grade, such testing will be conducted within 30 days.

§3.2 Screening Procedures

[Insert state name] is committed to data-driven instruction. State law requires universal screening. With the use of screening, teachers of reading can quickly assess if a child will experience reading difficulties and can provide early stage, targeted instruction by isolating the skills that need to be strengthened. Both research and practice support that these at-risk students, identified early through screening and provided a systemic process of a continuous cycle of assessment, data analysis, ongoing progress monitoring, and informed instruction, are most often aptly prepared to enter 1st grade on target for grade-level reading requirements and beyond.

A. All entering kindergarten students will be universally screened during the first, early weeks of reading instruction, again before the fall break, and also in the spring to evaluate reading progress. If a student is falling behind his or her peers, common characteristics will be identifiable early in these screening assessments. A teacher of reading will provide MTSS to most quickly and assuredly ameliorate the areas of weakness.

B. If a student is found to be at serious risk for literacy failure, a systematic assessment will be provided, and the school district, school, or charter school must notify the students' parents/guardians. The school district, school, or charter school must also implement a MTSS and a reading program (accelerated and/or intensive) that appropriately addresses students' reading difficulties and enables them to "catch up" with their typically-performing peers.

§3.3 Assessments for Reading Literacy

All students in pre-kindergarten, kindergarten and grades 1, 2, and 3 are to be systematically assessed for their reading development and comprehension grade-level skill attainment. The law acknowledges that early identification preferably happens in grades K-1, and that support systems will greatly improve every student's chances to realize reading literacy. It is understood that all students can be taught reading and literacy skills and perform at grade level. The purpose of this section is to ensure early intervention with SEEDS, with the goal of a successful school experience, and to bring to bear all resources that can be made available in a school setting to address any difficulty a student may have so that each student is ready and able to read for knowledge by grade 3. The following are requirements pursuant to this law:

A. Every student in public school shall be assessed for grade-level reading attainment. Every student in grades 1, 2, and 3 shall be systematically assessed, every two to three weeks during the year for grade-level reading skill attainment to ensure a successful skill progression.

B. In doing such assessments, students receiving below-grade-level scores shall be a top priority and the student will be provided support within a week (as defined in [insert state name] Statute, Section 4.0). When a student is identified and provided with systems of support, yet grade-level attainment is not accomplished within 30 days, then more intensive intervention is mandated (as defined in [insert state name] Statute, Section 4.0).

C. Assessments as required by [insert state name] Literacy Law shall have one or more of the following results:

1. No indication of need for services;

2. Indication of need for MTSS (Tier II) in general education reading services to ameliorate SEEDS literacy failure, [insert state name] Statute, Section 4 of this law;

3. Indication of need for assistance to improve the effect of general education reading instruction through *intense* intervention services (MTSS-Tier III); and,

4. Referral for further formal diagnostic assessment for the existence of SEEDs factors and eligibility for the receipt of Special Education services.

D. If the student has not made adequate progress, the student shall receive a diagnostic assessment for all other issues of learning disorders such as seeking identification of dyslexia and specific learning disabilities as defined in [insert state name] Statute, Sections 1.8, 1.9, and 1.12 of this law, and/or social, cultural, and environmental factors that put a child at risk for literacy failure as that term has been defined in [insert state name] Statute, Section 1.2.

E. Students in need of services and/or assistance shall have it provided to them. Services shall be provided in accordance with [insert state name] state and federal law, [insert state name] Statute, Section 1.12 of the law.

F. New students enrolling in public schools shall be screened and assessed, if needed, for at-risk reading attainment at appropriate times in accordance with content area subject teacher request, request of parents or guardians, or poor school progress.

G. [Name of state department of education and or name of board of trustees of each school district board] shall provide for the treatment of any SEEDS determination or learning disorders, [insert state name] Statute, Section 3 of this law, and shall adopt any rules and standards necessary to administer this section.

H. The screenings/assessments required shall be done directly by specialists (certified teachers of reading, guidance counselors, pupil appraisal personnel, or any other professional employees of the school system) who have been appropriately trained, all of whom shall operate as advocates for the students identified as needing services or assistance. Persons who have not been trained to do such screenings/assessments shall do no screenings/assessments, consistent with the requirements established for such training by [insert state name]'s Literacy Law. Screening/assessment specialists shall be professional employees of the school system who have been appropriately trained, all of whom shall have met the following requirements:

1. Screening/Assessment Specialists Training Requirements

a. Identification and knowledge of the following

- i. SEEDS pursuant to [insert state name] Statute, Section 1, of this law;
- ii. Characteristics of ADD and HD;
- iii. Characteristics of social, cultural, and emotional at risk literacy failure factors; and
- iv. Characteristics of gifted SEEDS (*or Twice Exceptional in many states*).

b. Use of appropriate screening instruments

- i. Kindergarten Screening Instrument(s) State approved/to determine developmental strengths and needs (see www.state-literacy-law.org Appendix B – Instruments for SEEDS identification and screening/assessment tools);
- ii. Checklist;
- iii. Social/Emotional Factors At Risk Checklist;
- iv. Informal Reading/Language Inventories;
- v. Rapid Automatic Naming Tests;
- vi. Written Language Samples;
- vii. Informal Mathematical Assessment; and
- viii. Norm-Referenced Tests.

- c. Administration and interpretation of selected screening instruments
 - i. Training of Personnel to Administer Instruments; and
 - ii. Interpret Screening Results
- d. Operation and procedures of school building level committee
 - i. Membership;
 - ii. Referral Process;
 - iii. Interventions in the Classroom;
 - iv. Documentation; and
 - v. Decision-Making Process.
- e. Selection of appropriate classroom strategies, accommodations, and modifications
- f. Child advocacy

2. The number of hours in each must be documented. Retraining is not necessary if any previous training can be documented within the last three years. See www.literatenation.org or www.state-literacy-law.org for [insert state name] approved screening/assessments instruments.

I. A private assessment can be obtained by the parents/ guardian of the student. The school or district may take into account the assessment, administer additional assessments, or provide intervention based on the private assessment.

J. The federal ESEA requires annual testing of all students in reading and math in grades 3–8. Once in high school, all students must meet state-set proficiency standards, thus the state is compelled to ensure that ongoing assessment and progress monitoring of reading achievement gains are encouraged for all students. Additionally, the most recent reauthorization of the IDEA 2004 is consistent with ESEA in emphasizing quality of instruction and documentation of student progress. A process based on the student’s response to scientific, research-based intervention (SCIENTIFICALLY-VALIDATED) is one of the criteria included in IDEA 2004 that states may use in determining whether a student has a specific learning disability, including dyslexia. Regardless of the process in place, the parents or guardians always have the right to request a referral for assessment at any time. This right needs to be clearly communicated to the parent/guardian.

The IDEA 2004 also allows local education agencies (LEAs) to use up to 15 percent of their Special Education funds for Early Intervening Services (EIS) to support prevention and early identification of SEEDS in General Education, to minimize over- identification for Special Education eligibility and reduce unnecessary referrals to Special Education. EIS is intended to provide academic and behavioral supports and professional development regarding early literacy and behavior especially in grades PK–3. LEAs identified as having a disproportionate number of minority students identified for Special Education services are required to implement a program with EIS funds.

K. The International Dyslexia Association indicates that there may be unexpected difficulties that students with dyslexia demonstrate in the area of reading, writing, and math despite the provision of effective foundational reading instruction and, thus, screening and assessment will identify and accelerate MTSS. Additionally, students with dyslexia and learning disabilities may be gifted and their difficulties more difficult to appreciate because of their intellect. The state of [insert state name] acknowledges formal assessment and diagnostics are necessary to understand these difficulties and the relationship to the student’s cognitive abilities, reading fluency, writing, and math.

§3.4 Literacy Failure Diagnosis

A district-level committee may adopt a list of assessments/ reading instruments for use in the district in addition to the assessments/reading instruments on the state’s list based on data-validated research concerning reading skills development and reading comprehension (see www.state-literacy-law.org for a state approved list of foundational reading instruction programs). A list of assessments/reading instruments adopted under this subsection must provide for diagnosing the reading development, fluency, and comprehension of students participating in a program.

Districts, schools, and charter schools must follow federal and state guidelines; they must also develop the following

standards and procedures:

- A. Schools administer assessments/reading instruments to diagnose student reading development, fluency, and comprehension;
- B. Schools train specific educators in administering the assessments/reading instruments;
- C. Schools apply the results of the assessments/reading instruments to the instructional program;
- D. Schools adopt a list of assessments/reading instruments that a school district may use to diagnose student reading development and comprehension;
- E. Districts shall administer, at the kindergarten level and in grades 1, 2, and 3, an assessment/reading instrument on the list adopted by the district- level committee. The district shall administer the assessment/reading instrument in accordance with the state's recommendations;
- F. District office shall:
 - 1. Report to the district-level committee the results of the assessment/reading instruments for each student;
 - 2. Report, in writing, to a student's parent or guardian the student's results on the assessment/ reading instrument;
- G. Districts shall notify the parent or guardian of each student in kindergarten and grades 1, 2, and 3 who is determined, on the basis of assessment/reading instrument results, to be a SEEDS. The district shall implement accelerated MTSS [insert state name] Statutes, Sections 4.2 and 4.3 of this law that provides reading instruction and strategies that address reading deficiencies in students;
- H. Districts shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail, that the notice is clear and easy to understand, and is written in English and in the parent or guardian's native language.

§3.4 Literacy Failure Diagnosis

A district-level committee may adopt a list of assessments/ reading instruments for use in the district in addition to the assessments/reading instruments on the state's list based on data-validated research concerning reading skills development and reading comprehension (see www.state-literacy-law.org for a state approved list of foundational reading instruction programs). A list of assessments/reading instruments adopted under this subsection must provide for diagnosing the reading development, fluency, and comprehension of students participating in a program.

Districts, schools, and charter schools must follow federal and state guidelines; they must also develop the following standards and procedures:

- A. Schools administer assessments/reading instruments to diagnose student reading development, fluency, and comprehension;
- B. Schools train specific educators in administering the assessments/reading instruments;
- C. Schools apply the results of the assessments/reading instruments to the instructional program;
- F. Schools adopt a list of assessments/reading instruments that a school district may use to diagnose student reading development and comprehension;
- G. Districts shall administer, at the kindergarten level and in grades 1, 2, and 3, an assessment/reading instrument on the list adopted by the district- level committee. The district shall administer the assessment/reading instrument in accordance with the state's recommendations;
- F. District office shall:
 - 3. Report to the district-level committee the results of the assessment/reading instruments for each student;

4. Report, in writing, to a student's parent or guardian the student's results on the assessment/ reading instrument;

G. Districts shall notify the parent or guardian of each student in kindergarten and grades 1, 2, and 3 who is determined, on the basis of assessment/reading instrument results, to be a SEEDS. The district shall implement accelerated MTSS [insert state name] Statutes, Sections 4.2 and 4.3 of this law that provides reading instruction and strategies that address reading deficiencies in students;

H. Districts shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail, that the notice is clear and easy to understand, and is written in English and in the parent or guardian's native language.

3.5 Data Gathering

At any time (from kindergarten through grade 12) that a student continues to struggle with one or more components of reading and/or experiences literacy failure, districts, schools, and charter schools must collect additional information about the student. This information shall be analyzed and used to evaluate the student's underachievement and to determine what actions are needed to ensure the student's improved academic performance. Some of the information that the district or charter school collects is in the student's cumulative folder; other data is available from teachers and parents/guardians.

A. To ensure that under achievement in SEEDS is not due to lack of appropriate instruction in reading, other criteria should be considered. This information should include data that demonstrates the student was provided appropriate instruction and data- based documentation of repeated assessments of achievement at reasonable intervals (progress monitoring), reflecting formal assessment of student progress during instruction. Additional information to be considered includes the results from some or all of the following:

1. Vision screening;
2. Hearing screening;
3. Teacher reports of classroom concerns;
4. Basal reading series assessment;
5. Accommodations provided by classroom teachers;
6. Academic progress reports (report cards);
7. Samples of school work;
8. Parent conferences; and
9. Speech and language screening through a referral process.

B. One of the actions that the district, school, or charter school has available is to recommend that SEEDS be administered a diagnostic assessment if the student demonstrates poor performance in one or more areas of reading and/or the related area of spelling that is unexpected for the student's age, grade, or intellectual development;

C. When the district, school, or charter school recommends a student be formally assessed, the following procedures for assessment must be adhered to as determined by [insert state name] Statute, Section 3.6 of this law.

§3.6 Formal Assessment

Students formal assessment diagnostic is dependent upon multiple factors including the student's reading performance, reading difficulties, poor response to supplemental scientifically based reading instruction (MTSS), teachers' input, and input from the parents or guardians. Additionally, the appropriate time for assessing is early in a student's school career, the earlier the better. While earlier is better, SEEDS should be recommended for assessment even if the reading difficulties appear later in a student's school career. (See www.state-literacy-law.org, Appendix C for a list of formal

assessment instruments.)

A. These procedures must be followed:

1. Notify parents or guardians of proposal to perform a formal assessment diagnostic on a student;
2. Inform parents or guardians of their rights;
3. Obtain permission from the parent or guardian to assess the student; and
4. Assess student, being sure that individuals/ professionals who administer assessments have training in the evaluation of SEEDS, [insert state name] Statute, Section 3.3 of this law.

B. The notices and consent must be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless it is clearly not feasible to do so.

C. Tests, assessments, diagnostics, and other evaluation materials must

1. Be validated for the specific purpose for which the tests, assessments, and other evaluation materials are used;
2. Include material tailored to assess specific areas of educational need and not merely materials that are designed to provide a single general intelligence quotient;
3. Be selected and administered so as to ensure that when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills;
4. Include multiple measures of a student's reading abilities, such as informal assessment information (e.g., anecdotal records, lists of books the student has read, audio recordings of the student's oral reading); and
5. Be administered by trained personnel and in conformance with the instructions provided by the producer of the evaluation materials.

D. The district, school, or charter school administers measures that are related to the student's educational needs. Depending upon the student's age and stage of reading and intellectual development, the following reading areas should be assessed:

1. Reading real and nonsense words in isolation (decoding);
2. Phonological awareness;
3. Letter knowledge (name and associated sound);
4. Rapid naming;
5. Reading fluency (rate and accuracy);
6. Reading comprehension; and
7. Written spelling.

E. Based on the student's individual academic difficulties and characteristics, additional areas that can be assessed include vocabulary, written expression, handwriting, and mathematics.

§3.7 English Language Learners (ELL)/Limited English Proficiency (LEP)

Much diversity exists among English language learners (ELLs). The identification and service delivery process for SEEDS must be in step with the student's linguistic environment and educational background. Involvement of a language proficiency assessment committee is recommended.

A. Additional data gathering may be required to include language proficiency documentation that includes the following:

1. Home language survey;
2. Assessment related to identification for limited English proficiency (oral language proficiency tests and norm-referenced tests);
3. Linguistic environment and second-language acquisition development;
4. Previous schooling in and outside of the United States; and
5. Comprehensive oral language proficiency testing in English and the student's native language whenever possible.

These data gathering procedures are important to determine:

1. Whether the student's current classroom setting is appropriate given his or her language abilities;
2. The appropriate languages for assessing the student's academic achievement and cognitive processing;
3. The degree to which language proficiency in both the first and second language influences or explains the student's test performance on the academic achievement and cognitive processing measures; and
4. Whether the student's difficulties in reading are the result of a disability or a reflection of the normal process of second language acquisition.

B. Additionally, personnel involved in the evaluation process of ELLs for SEEDS, needs to be trained in bilingual assessment and interpretation procedures. It is strongly recommended that personnel involved in the assessment and interpretation of assessment results have the following knowledge:

1. Understanding of first and second language acquisition stages;
2. Impact of culture on student performance;
3. Knowledge regarding bilingual education and English as a second language programming and MTSS teaching methods;
4. Knowledge in how to interpret results of student's oral language proficiency in relation to the results of the test measuring academic achievement and cognitive processes; and
5. Understanding of how to interpret results of similar or parallel tests given in more than one language.

C. To appropriately understand test results, the examiner(s)/committee of knowledgeable persons must interpret test results in light of the student's language development (in both English and the student's native language), educational history, linguistic background, socio-economic issues, and any other pertinent factors that affect learning.

§3.8 SEEDS Determination

A. A district, school, or charter school team or committee of knowledgeable persons determines whether the student is a SEEDS, after reviewing all accumulated data, including the following areas:

-
1. Observations of the teacher, district, charter school staff, and/or parent/guardian;
 2. Data gathered from the classroom (including student work and the results of classroom measures) and information found in the student's cumulative folder (including the developmental and academic history of the student);
 3. Data-based documentation of student progress during instruction/intervention;
 4. Results of administered assessments; and
 5. All other accumulated data regarding the development of the student's learning and his or her educational needs.

B. Difficulties in the area of reading for SEEDS will reflect unexpectedly low performance for the student's age and

educational level in the following areas:

1. Reading real words in isolation;
2. Decoding nonsense words;
3. Reading fluency (both rate and accuracy); and
4. Written spelling.

C. Unexpectedly low reading performance, including reading fluency, will be the result of a deficit in phonological processing, including the following:

1. Phonological awareness,
2. Rapid naming, and
3. Phonological memory.

D. Many SEEDS will have difficulty with the secondary characteristics of literacy, including reading comprehension, written composition, spelling, grammar, and rote math skills.

E. A committee of knowledgeable persons must also incorporate the following guidelines as authorized by this state law:

1. The student has received MTSS instruction, [insert state name] Statute, Section 4 of this law;
2. The student has an unexpected lack of appropriate academic progress (in the areas of reading and spelling) relative to their age/ grade/intellectual development;
3. The student has adequate intelligence (an average ability to learn in the absence of print or in other academic areas);
4. The student exhibits characteristics associated with SEEDS; and
5. The student's lack of progress is not due to sociocultural factors such as language differences, irregular attendance, or lack of experiential background.

F. Based on the above information and guidelines, the committee of knowledgeable persons determines and identifies SEEDS and the committee of knowledgeable persons also determines whether the student has a disability under the federal Rehabilitation Act of 1973, §504 and the 2008 ADA. A student is considered to have a disability under §504 if the condition substantially limits the student's learning. Students with additional factors that complicate SEEDS may require additional support or referral to Special Education.

§3.9 Referral to Special Education

A. At any time during the assessment for reading failure identification process or instruction, students may be referred for evaluation for Special Education. At times, students will display additional factors or areas complicating their instruction and requiring more support than what is available through instruction (MTSS). At other times, students with severe at-risk characteristics or related disorders will be unable to make appropriate academic progress within any of the programs described in the procedures related to SEEDS. In such cases, a referral to Special Education for evaluation and possible identification as a child with a disability within the meaning of the IDEA 2004 (20 U.S.C. section 1400 et seq.), the federal Rehabilitation Act of 1973, §504, and the 2008 ADA should be made as needed. See [insert state name] Statute, Section 1.5 of this law.

B. If a SEEDS is found eligible for Special Education in the area of reading, the school district must include appropriate reading instruction on the student's Individualized Education Program (IEP). Appropriate reading instruction includes the descriptors listed at www.state-literacy-law.org, Appendix D, Foundational Reading Instruction.

C. If a SEEDS is referred for Special Education, districts and charter schools must follow the Individuals with Disabilities Education Act (IDEA). In IDEA 2004, §1401 (30), SEEDS is considered one of a variety of etiological foundations for "specific learning disability." 34 CFR 300.8(c)(10) states that a "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical

calculations. The term includes such conditions as perceptual disability, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not apply to students who have learning problems that are primarily the result of visual, hearing, or motor disabilities; of mental retardation; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

Note on Federal law: IDEA 2004 indicates that states must permit the use of a process based on a student's response to scientific, research-based intervention as one of the criteria for determining whether a child has a learning disorder. Currently, the research base for a MTSS model is strongest at the elementary level, where large-scale implementation has been occurring for many years. Within IDEA 2004 exists the category of Specific Learning Disability students, who need to qualify under state and federal requirements to receive these services as a Special Education service. Currently, in most states over 50% of students qualified for Special Education are in this category. There are significant numbers of students who fall below qualifying for this designation, yet fail to learn to read appropriately by national and state standards. [insert your state name] is in compliance with IDEA 2004 and adoption of a MTSS model to proactively address the beginning signs of reading and other academic struggles with SEEDS students.

EFFECTIVE DATE. This section is effective [insert date].