



**School District Self-Review
Monitoring Protocol
Revised April 2010**

**Disproportionate Identification of
Racial and Ethnic Groups for
Special Education and Related
Services
(Indicator 9)**

For self-reviews to be conducted based on
data from the 2009-10 school year

New York State Education Department
Albany, NY 12234

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Self-Review Monitoring Protocol For Districts Identified for Significant Disproportionality Under Indicator #9 of the State Performance Plan

Overview of Self-Review Requirements

School districts that are identified under federal Indicator #9 of the State Performance Plan by the State Education Department (SED) as having significant disproportionality based on race and ethnicity in the identification of students with disabilities are required to complete this self-review monitoring protocol. School districts must determine if the disproportionate representation of racial and ethnic groups in special education and related services is the result of inappropriate identification through implementation of the district's policies, procedures and practices used in the identification of students with disabilities.

Focus of the Self-Review

The self-review monitoring process is a focused review of a school district's policies, procedures and practices (i.e., implementation of policies and procedures) that most closely relate to the identification of children as students with disabilities.

This review has four focus areas described below:

- I. School-wide Approaches and Prereferral Interventions.** The Board of Education must have written policy that articulates a school-wide approach to prereferral interventions throughout the district. Both the policy and its implementation will be reviewed in order to determine if there are equitable opportunities for students to receive supportive interventions that enable them to be successful in the general education environment. Procedures and practices will also be analyzed to determine if the policy is implemented in a consistent manner for all students and that students of different racial or ethnic groups are not treated differently in any schools of the district.

- II. Referral of Students to the Committee on Special Education (CSE).** The practices of the school district will be reviewed to determine if teachers and administrators make appropriate use of prereferral interventions and if student referrals are handled consistently school-wide.

- III. Individual Evaluations of Students with Disabilities.** The school district's evaluation practices will be reviewed to determine if students of all racial and ethnic groups, and particularly students of the identified group, have received appropriate evaluations. The evaluations must include a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the student that may assist in determining whether the student is a student with a disability.

IV. Eligibility Determinations. The district's CSE process will be examined to determine to what extent students of the identified racial and ethnic groups are provided appropriate instruction and resources to promote learning prior to referral and that the CSE recommendation is based on the students' evaluations.

Directions for Completing the Self-Review

- **Checklist to Complete the Disproportionality Self-Review Monitoring Protocol (Attachment 1)** – This form provides a step-by-step process to complete the self-review. The district must maintain documentation for every step of the review process for later verification. There are six forms (Attachments 2-7) that must be completed as part of the self-review monitoring process.
- **School District Self-Review Monitoring Protocol (Attachment 2)** – This form establishes the protocol to conduct the self-review. The protocol:
 - specifies the regulatory requirements relating to the four focus areas;
 - identifies documentation (e.g., written policies, data charts, student record reviews, interview summaries, CSE meeting minutes) that must be reviewed; and
 - identifies information to “look for” in reviewing documentation (e.g., consistent application of prereferral interventions for students across all racial/ethnic groups within the district).

The school district must use this form to guide the self-review and to document its compliance findings in detail and identify, for self-correction purposes, any corrective action and improvement activities needed to address compliance issues. This form is **not submitted to SED**, but should be used to guide the district to self-correct compliance issues.

- **Data Analysis of Students Referred to the CSE (Attachment 3)** – This chart is used to assist the district in determining if students of the identified racial/ethnic groups in all buildings within the district have had equal access to prereferral interventions and that all students have been treated equally in the referral process. This chart will help the team determine patterns of over- or underutilization of prereferral interventions.
- **Individual Student Record Review (Attachment 4)** – This form is used to guide the collection of information from individual student records (i.e., evaluations, IEPs). The School District Self-Review Monitoring Protocol (Attachment 2) should be referenced in determining what documentation in a student's record must be reviewed and what information to look for in the review of that documentation. Using this form, for each regulatory citation for each individual student in the sample, a determination must be made whether the requirement was met or was not met or was not applicable to the individual student. One form should be used for each student record reviewed. Information from these forms is used to determine compliance.

- **Focused Rubric to Evaluate the CSE Process (Attachment 5)** – This form is used to focus on key decision points during the CSE meeting that affect determination of eligibility. The rubric provides information about how the CSE addresses these key points and if the CSE makes decisions consistently across the district. It may also provide insight into how the CSE decision-making process may or may not contribute to an over- or under-identification of students by race/ethnicity. All instances of “minimally addressed or no evidence” must be reported as noncompliance.
- **Interview Questions to Identify Improvement Activities (Attachment 6)** – This form is used to interview staff to identify issues relating to school-wide approaches and prereferral supports and services, referrals of students to the CSE and individual evaluations of students with disabilities. The information learned from staff interviews should assist the team to identify improvement activities. Documentation of improvement activities must be noted in Attachment 2 for any issues needing improvement.
- **Disproportionality Self-Review Monitoring Report (Attachment 7)** – This form is a sample of the electronic report the school district will complete to document the results of the district’s self-review to SED. For each regulatory requirement, the district must document its findings of compliance or noncompliance.

Identification of Noncompliance

The team must carefully review all findings from all the documentation and evidence to make its determination of compliance for each regulatory requirement. Any absent or inappropriate policy, procedure or practice must be reported as a noncompliance issue. Please refer to these criteria below when making determinations of compliance/noncompliance.

When other required documentation from Attachments 3 and 5 provide evidence of noncompliance, the issue must be reported as “noncompliant.”

Report to the State Education Department (SED)

The only documentation to be submitted to SED is the Disproportionality Self-Review Monitoring Report (Attachment 7). This report must be submitted electronically. To complete this form, go to <http://pd.nysed.gov> and follow the directions for completion and submission. The district should **NOT** submit the other forms completed or the documentation reviewed during the self-review unless requested by SED.

Pursuant to the New York State Archives and Records Administration Records Retention and Disposition Schedule ED-1, the school district must maintain documentation of its review for a period of **seven years**. This documentation is subject to review by SED and, therefore, should be maintained in an easily retrievable and organized manner.

SED Review of Self-Review Monitoring Report

SED will review the Self-Review Monitoring Report and respond as follows:

1. If the school district reports to SED that, based on its self-review, the district has not identified any compliance issues relating to its policies, procedures and practices, SED will arrange for a review of that determination.
2. If the school district reports to SED that, based on its self-review, the district has one or more compliance issues relating to its policies, procedures and practices, SED will notify the district that it must correct all instances of noncompliance not later than one year from the identification of the issues. SED will periodically contact the school district to ensure that correction of noncompliance has occurred within a year.

Technical Assistance Resources

The following sources may assist you in addressing issues of disproportionate representation by race and ethnicity of students with disabilities receiving special education and related services.

- Technical Assistance Center on Disproportionality (TAC-D) - The Metropolitan Center for Urban Education at New York University
<http://steinhardt.nyu.edu/metrocenter/tacd.html>
- Regional Special Education Technical Assistance Support Centers (RSE-TASC)
<http://www.vesid.nysed.gov/specialed/techassist/rsetasc/>
- National Center for Culturally Responsive Educational Systems
<http://www.nccrest.org/publications.html>

Questions

Questions regarding the Disproportionality Self-Review Monitoring Protocol may be directed to the Policy Unit at (518) 473-2878 or to the Special Education Quality Assurance Regional Offices at <http://www.vesid.nysed.gov/specialed/quality/qaoffices.htm> .

Checklist to Complete the Disproportionality Self-Review Monitoring Protocol

Activity	Components of the Review
1. School superintendent or designee selects the team members to conduct the self-review	<ul style="list-style-type: none"> • Identify a team leader for the review process. • Select team members, number to be determined by team leader. Suggested team members include: school administrator, special education teacher, general education teacher, parent of a student with a disability, school psychologist, guidance counselor. • To provide objectivity and to benefit from technical assistance during the self-review process, it is strongly recommended that the district invite someone from outside the district such as a RSE-TASC specialist and one or more representatives of a diverse racial or ethnic background from the community to participate in the self-review.
2. Conduct an initial meeting of the review team to discuss timelines for the review and the process to review and collect the required information	<ul style="list-style-type: none"> • Assign staff responsible to: <ul style="list-style-type: none"> ◦ Identify the sample of students and analyze data (Attachment 3). ◦ Ensure the sample of students is sufficient, and complete the student record reviews (Attachment 4). ◦ Complete “Focused Rubric to Evaluate the CSE Process” (Attachment 5). ◦ Plan for and conduct staff interviews (Attachment 6). • Identify the process to complete the self-review and due dates. • Establish meeting dates to review the results.
3. Identify other sources of data and information that must be reviewed	<p>The self-review protocol is designed to respond to district-wide data. Depending on the depth of the district’s needs, the review team may find it necessary to review its building data to identify which buildings of the district are disproportionately over or under identifying students.</p>
4. Select a sample of student records to be reviewed	<p><u>For use with Attachment 3 – Data Analysis.</u></p> <p><u>For each race/ethnicity group where the data indicated overrepresentation in special education:</u></p> <p>Compile a list of all students with disabilities referred to the CSE between January 1 of the <u>previous</u> academic year and January 31 of the <u>current</u> academic year (a 13 month period). These dates may be expanded in order to get an adequate number of records needed for representation.</p> <ul style="list-style-type: none"> • For school districts with 20 or fewer students on this list, review all student records. • For school districts with 21-200 students on this list, randomly select 20 student records. • For school districts with more than 200 students on this list, randomly select 30 records. • Ensure the sample of student records includes <u>all or a significant number</u> of students from the identified group, and a proportion of other students from other races/ethnicities. • Add to the number of records to be reviewed if, based on the record reviews, you are finding inconclusive patterns of policy

Activity	Components of the Review
	<p>implementation.</p> <p>For each race/ethnicity group where the data indicated <u>under representation</u> in special education:</p> <p>Compile a list of all students from the under-represented group without IEPs who scored a 2 or lower on the grades 3-8 English language arts and/or math assessment in the previous academic school year.</p> <p>For school districts with 20 or fewer students on this list, review all student records.</p> <ul style="list-style-type: none"> • For school districts with 21-200 students on this list, randomly select 20 student records. • For school districts with more than 200 students on this list, randomly select 30 records. • Ensure the sample of student records includes <u>all or a significant number</u> of students from the identified group, and a proportion of other students from other races/ethnicities. • Add to the number of records to be reviewed if, based on the record reviews, you are finding inconclusive patterns of policy implementation. <p><u>For use with Attachment 4 – Student Record Review.</u> You may use the same student list compiled for use with Attachment 3, but add to the number of records reviewed if additional students are needed to reach the suggested sample.</p>
5. Complete the Self-Review Monitoring Protocol	<p>Complete the self-review monitoring protocol. In order to complete the School District Self-Review Monitoring Protocol (Attachment 2), the district team must complete the activities contained in Attachments 3, 4 and 5 to obtain the information necessary to make decisions about compliance/noncompliance. In addition, the completion of staff interviews (Attachment 6) will assist the district in determining improvement activities.</p>
6. Complete the Data Analysis on Students Referred to the CSE	<p>Complete Attachment 3. The information from this chart will be important for analysis of focus areas:</p> <ul style="list-style-type: none"> I. School-wide Approaches and Prereferral Interventions II. Referral of Students to the CSE IV. Eligibility Determinations <p>It will also assist the district team in understanding if its prereferral procedures and practices are contributing to disproportionate identification of students of certain racial and ethnic groups.</p>
7. Complete the Individual Student Record Review form for each student	<p>Document findings for each student on the student record review form (Attachment 4). To complete this review, you will need to review student evaluations. A summary of individual findings needs to be developed.</p>
8. Complete the “Focused Rubric to Evaluate the CSE Process”	<p>This rubric (Attachment 5) is designed to be used as a tool by the district to assess how the CSE process may affect the disproportionate representation of students of certain racial and</p>

Activity	Components of the Review
	ethnic groups receiving special education and related services. The rubric lists five key regulatory requirements affecting eligibility determinations. This tool can be used as an observation or group debriefing form.
9. Conduct Staff Interviews	Interview questions that focus on prereferral, referral to the CSE and evaluation are provided in Attachment 6. Conduct these interviews individually or in groups. Information from these interviews will assist in identifying improvement activities to address findings of noncompliance.
10. Convene a self-review team meeting to discuss the findings	<ul style="list-style-type: none"> • Review the results of each applicable focus area of the self-review monitoring protocol (Attachment 2) and document whether the district's policies, procedures and/or practices are compliant or noncompliant with State requirements. • The team will review the documentation of evidence collected by the team from the multiple sources identified as "Look at" and use this information in determining if the district is in compliance with the regulatory requirements selected for each of the four focus areas. Each focus area section provides a space for the team to use in summarizing its findings.
11. Analyze the data to identify the specific nature and extent of the areas in need of improvement	<p>The team will question and probe data to determine relevant factors relating to disproportionality (e.g., consistent application of prereferral intervention for students across all racial/ethnic groups and in all buildings within the district). On the Self-Review Monitoring Protocol (Attachment 2):</p> <ul style="list-style-type: none"> • Document findings of noncompliance using the forms and criteria provided. • Describe the specific details of noncompliance. • Identify what must be corrected and how it will be corrected. • Set a timetable for correction. All noncompliance must be corrected no later than one year from the date of identification (i.e., date report submitted to SED). • Identify and document improvement activities.
12. Submit the complete Self-Review Monitoring Report to the Superintendent or Chief School Officer for approval	The Superintendent of Schools or Chief School Officer should review the completed self-review protocol to accept responsibility for the accuracy of the compliance report.
13. Submit the Self-Review Monitoring Report to SED	<p><u>Manner of Submission:</u> Web-based electronic submission To submit this form, go to http://pd.nysed.gov The Superintendent of Schools or Chief School Officer of the school district must verify that the report provides accurate data and information. Print the report after submitting to SED for record-keeping purposes.</p>

Maintain all documentation used to complete the self-review for seven years. Records should be retained in an organized and easily retrievable format. All documentation is subject to SED review.

SCHOOL DISTRICT SELF-REVIEW MONITORING PROTOCOL

Indicator #9 – Disproportionate Identification of Students in Need of Special Education and Related Services by Race and Ethnicity

School District: _____

Form Completed By: _____

Name/Title	Phone Number	E-mail
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Date Review Completed: _____

Team Members Participating in the Self-Review:	
_____	_____
_____	_____
_____	_____
_____	_____

For reviews required for significant discrepancy by race/ethnicity, indicate the names of community representatives from diverse racial and ethnic backgrounds.

_____	_____
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Directions

SCHOOL DISTRICT SELF-REVIEW MONITORING PROTOCOL

This form (Attachment 2) establishes the protocol to conduct the self-review. The district must conduct a review of each focus area as identified on this protocol. Each section of the protocol provides the following information:

Four focus areas that must be reviewed:

- I. School-wide Approaches and Prereferral Interventions
- II. Referral of Students to the CSE
- III. Individual Evaluations of Students with Disabilities
- IV. Eligibility Determinations

Citation and Issue: Regulatory requirements are identified that have been determined by SED to be most closely related to having significant disproportionality based on race and ethnicity in the identification of students with disabilities.

Documentation and Evidence: For each focus area, the protocol provides a specific list of documentation (information to “look at”) and evidence (information to “look for”) that must be considered in the district’s review of its policies, procedures and practices in the identified focus area.

Determination of Compliance Y (Yes) or N (No): A notation of Y indicates that the district is in compliance with the specific regulatory requirement. A notation of N indicates that the district is not in compliance with the regulatory requirement. The determination of compliance for some issues may be able to be made based solely on the review of individual student records. For other issues, the school district may need to consider other sources of documentation as well, as indicated on the protocol.

As applicable to each regulatory citation:

- **Determination of Y (compliance):**
 - One or more of the total number of individual student records reviewed (Attachment 4) show evidence that a particular regulatory requirement has been met (i.e., marked “Y” or “NA”); **and**
 - Other required documentation from Attachments 3 and 5 provide evidence of compliance.

- **Determination of “N” (noncompliance):**
 - Fewer than 100 percent of the total number of records reviewed (Attachment 4) show evidence that a particular regulatory requirement has been met’ **or**
 - Other required documentation from Attachments 3 and 5 provide evidence of noncompliance.
 - In cases where 100 percent or more of the total student records reviewed show evidence that a particular requirement has been met, but other evidence from Attachments 3 and/or 5 show findings of noncompliance.

The team should carefully review all findings from all the documentation and evidence to make its determination of compliance for each regulatory requirement.

Findings: This section is to be used to document the specific details of its findings that would identify issues of inappropriate policies, procedures and or practices.

- As examples:
 - “70 percent of the records reviewed showed evidence that assessments were administered in the student’s native language.”
 - A review of the CSE decision-making process in five out of seven instances showed the report of the student’s evaluation was not discussed in determining if the student had a disability.

In these examples, findings of noncompliance must be made.

Corrective Actions and Improvement Activities: The team must identify any corrective actions necessary to correct identified compliance issues. The district should also note any improvement activities necessary in the identified focus area, whether related to a compliance finding or not, to address the school district’s significant disproportionality based on race and ethnicity in the identification of students with disabilities.

This form (Attachment 2) must be kept on file by the school district and is not submitted to SED unless requested.

I. School-wide Approaches and Prereferral Interventions

The Board of Education’s written policy for school-wide approaches and prereferral interventions will be reviewed to determine if it:

- provides equitable opportunities to provide supportive interventions that allow a student to be successful in the general education environment, and
- is implemented in a consistent manner for all students in all schools of the district.

Citation (8 NYCRR)	Issue	Determination of Compliance	
		Yes	No
§200.2(b)(7)	Each Board of Education shall adopt written policy that establishes a plan and policies for implementing school-wide approaches, which may include a response to intervention process and prereferral interventions in order to remediate a student’s performance prior to referral for special education.		
Documentation		Evidence	
Look at: <ul style="list-style-type: none"> • Written Board of Education plan and policy for school-wide approaches and prereferral interventions • Building procedures implementing Board of Education policy • Data Analysis of Students Referred to the CSE (Attachment 3) • Available resources for prereferral interventions / early intervening services school-wide and by building • Interviews to identify improvement activities (Attachment 6) 		Look for evidence of: <ul style="list-style-type: none"> • Consistent implementation of policy district-wide through: <ul style="list-style-type: none"> ○ staff knowledge and use of the district’s prereferral intervention system; ○ alignment of building procedures to district’s policy; ○ patterns of data showing an over- or under-utilization of prereferral interventions for students by racial/ethnic groups; ○ prereferral interventions are available to all students by type, degree and frequency across all racial and ethnic groups. • Discrepancies in the type of prereferral supports available to students by building. • Resolution of behavioral/academic difficulties of under-represented groups as a result of pre-referral/early intervening services. 	

Please note: The Data Analysis of Students Referred to the CSE (Attachment 3) must be completed to determine compliance/noncompliance for this focus area.

Findings

Description of specific details of noncompliance in policy, procedures and practices:

Corrective Action required:

Improvement activities recommended:

II. Referral of Students to the CSE

The practices of the school district will be reviewed to determine if prereferral interventions are consistently available to all students prior to referral to the CSE.

Citation (8 NYCRR)	Issue	Determination of Compliance	
		Yes	No
§200.4(a)(2)(iii)	A request for a referral submitted by persons other than the parent, student or a judicial officer shall:		
§200.4(a)(2)(iii)(a)	<ul style="list-style-type: none"> state the reasons for the referral and include any test results, records or reports upon which the referral is based that may be in the possession of the person submitting the referral. 		
§200.4(a)(2)(iii)(b)	<ul style="list-style-type: none"> describe in writing intervention services, programs or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aids or support services provided for this purpose, or state the reasons why no such attempts were made. 		
§200.4(a)(9)	The building administrator, upon receipt of a referral, may request a meeting with the parent or person in parental relationship to the student, the student, if appropriate, and the person making the referral to determine whether the student would benefit from additional general education support services as an alternative to special education.		
Documentation		Evidence	
Look at: <ul style="list-style-type: none"> Individual Student Record Review (Attachment 4) <ul style="list-style-type: none"> Written referral Documentation of building principal meetings and agreements to withdraw the referral with documentation of alternative methods to address the child's needs Interviews to identify improvement activities (Attachment 6) 		Look for evidence of: <ul style="list-style-type: none"> Written referrals include information about reasons for the referral and interventions that were tried or reasons why no such attempts were made. Building administrator's involvement in attempts to ensure that general education support services are considered. General education supports and services and behavioral interventions are implemented prior to referral regardless of a student's race or ethnicity. 	

Please note: Individual Student Record Review (Attachment 4) must be completed to determine compliance/noncompliance for this focus area.

III. Individual Evaluations of Students with Disabilities

The district's evaluation procedures and practices will be reviewed to determine if students of all racial and ethnic groups have received appropriate evaluations that include a variety of assessment tools and strategies to gather relevant functional, development and academic information about the student that may assist in determining whether the student is a student with a disability.

Citation (8 NYCRR)	Issue	Determination of Compliance	
		Yes	No
§200.4(b)(6)(i)	Assessments and other evaluation materials used to assess a student under this section:		
§200.4(b)(6)(i)(a)	<ul style="list-style-type: none"> are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer; 		
§200.4(b)(6)(i)(b)	<ul style="list-style-type: none"> are used for purposes for which the assessments or measures are valid and reliable; 		
§200.4(b)(6)(i)(c)	<ul style="list-style-type: none"> are administered by trained and knowledgeable personnel in accordance with the instruction provided by those who developed such assessments; and 		
§200.4(b)(6)(i)(d)	<ul style="list-style-type: none"> are selected and administered so as not to be discriminatory on a racial or cultural basis. 		
§200.4(b)(6)(v)	No single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student.		
§200.4(b)(6)(vii)	The student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities.		
§200.4(b)(6)(xvi)	Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills.		

Please note: Individual Student Record Review (Attachment 4) must be completed to determine compliance/noncompliance for this focus area.

Documentation	Evidence
<p>Look at:</p> <ul style="list-style-type: none"> • Individual Student Record Review (Attachment 4) <ul style="list-style-type: none"> ◦ Individual evaluation reports • Staff interviews to identify improvement activities (Attachment 6) 	<p>Look for evidence of:</p> <ul style="list-style-type: none"> • Results of the evaluation provide information in all areas related to the suspected disability. • Results of the evaluation provide the information necessary to determine disability and need for special education. • Assessments and other evaluation materials are in the student's native language or other mode of communication and in the form most likely to provide information on what the student knows and can do academically, developmentally and functionally. • Assessments and other evaluation materials are administered for purposes for which the assessments or measures are valid and reliable. • Multiple measures are used to determine if a student is a student with a disability.

IV. Eligibility Determinations

The district's CSE process to make eligibility determinations will be evaluated to determine to what extent:

- the CSE considers if appropriate instruction and resources to promote learning prior to referral are available to students of different racial and ethnic groups;
- the CSE's recommendation is based on the student's evaluations.

Citation (8 NYCRR)	Issue	Determination of Compliance	
		Yes	No
§200.4(c)(1)	Upon completing the administration of tests and other evaluation materials, the CSE and other qualified individuals must determine whether the student is a student with a disability, as defined in section §200.1(zz). (See Attachment 2A)		
§200.4(c)(2)	A student shall not be determined eligible for special education if the determinant factor is:		
§200.4(c)(2)(i)	<ul style="list-style-type: none"> • lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies; 		
§200.4(c)(2)(ii)	<ul style="list-style-type: none"> • lack of instruction in math; or 		
§200.4(c)(2)(iii)	<ul style="list-style-type: none"> • limited English proficiency. 		
§200.4(d)	Prior to the development of the recommendation, the Committee shall ensure that the appropriateness of reading and math instruction and other resources of the general education program, including support services and academic intervention services, has been considered.		
Documentation		Evidence	
Look at: <ul style="list-style-type: none"> • Individual student record reviews (Attachment 4) <ul style="list-style-type: none"> ○ Individual evaluations ○ IEPs • Debriefing of CSE members (Attachment 5 – Focused Rubric to Evaluate the CSE Process) 		Look for evidence of: <ul style="list-style-type: none"> • The CSE discusses what attempts have been made to provide remedial instruction or other general education support alternatives to special education. • Eligibility decisions are based on evaluation data demonstrating that students require special education as defined in regulation and not due to lack of appropriate general education instruction or supports. • The CSE considers student evaluations in developing the IEP recommendations. 	

Please note: Individual Student Record Review (Attachment 4) and Focused Rubric to Evaluate the CSE Process (Attachment 5) must be completed to determine compliance/noncompliance for this focus area.

Findings

Description of specific details of noncompliance in policy, procedures and practices:

Corrective Action required:

Improvement activities recommended:

The following chart may be used to calculate the percentage of student records with evidence of compliance. Compile the results based on the results of each record reviewed for each citation (Attachment 4). Consider these results along with other required documentation in making a final compliance determination for this focus area.

Summary of Individual Student Record Review

Citation	Total Number of Records Reviewed	Total Number of Records with a finding of Y or NA	Percentage of Records in Compliance
§200.4(c)(1)			
§200.4(c)(2)(i)			
§200.4(c)(2)(ii)			
§200.4(c)(2)(iii)			
§200.4(d)			

**Part 200 – Regulations of the Commissioner of Education
Section 200.1(zz) – Definitions of Disability Classifications**

- (zz) *Student with a disability* means a student with a disability as defined in section 4401(1) of the Education Law, who has not attained the age of 21 prior to September 1st and who is entitled to attend public schools pursuant to section 3202 of the Education Law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who requires special services and programs approved by the department. The terms used in this definition are defined as follows:
- (1) *Autism* means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance as defined in paragraph (4) of this subdivision. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria in this paragraph are otherwise satisfied.
 - (2) *Deafness* means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's educational performance.
 - (3) *Deaf-blindness* means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.
 - (4) *Emotional disturbance* means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:
 - (i) an inability to learn that cannot be explained by intellectual, sensory, or health factors.
 - (ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
 - (iii) inappropriate types of behavior or feelings under normal circumstances;
 - (iv) a generally pervasive mood of unhappiness or depression; or
 - (v) a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance.
 - (5) *Hearing impairment* means an impairment in hearing, whether permanent or fluctuating, that adversely affects the child's educational performance but that is not included under the definition of *deafness* in this section.
 - (6) *Learning disability* means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which

manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, as determined in accordance with section 200.4(j) of this Part. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include 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.

- (7) *Mental retardation* means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.
- (8) *Multiple disabilities* means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which cause such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.
- (9) *Orthopedic impairment* means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputation, and fractures or burns which cause contractures).
- (10) *Other health-impairment* means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems, including but not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, attention deficit disorder or attention deficit hyperactivity disorder or tourette syndrome, which adversely affects a student's educational performance.
- (11) *Speech or language impairment* means a communication disorder, such as stuttering, impaired articulation, a language impairment or a voice impairment, that adversely affects a student's educational performance.
- (12) *Traumatic brain injury* means an acquired injury to the brain caused by an external physical force or by certain medical conditions such as stroke, encephalitis, aneurysm, anoxia or brain tumors with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries or brain injuries from certain medical conditions resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgement, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not include injuries that are congenital or caused by birth trauma.
- (13) *Visual impairment including blindness* means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

Data Analysis of Students Referred to the Committee on Special Education (Prereferral Interventions)

District: _____ School Year: _____

Person Completing Form: _____ Date Completed: _____

Purpose: Prereferral interventions, when implemented in a consistent manner school-wide, have shown to reduce the number of students who may need special education and related services in order to progress within the general education curriculum. This chart is intended to assist the district in determining if students across all racial and ethnic groups exhibiting academic or behavioral needs have equal access to prereferral interventions or if the district's practices may be contributing to over-identification of students by race and ethnicity.

The information gathered and analyzed will assist the district team to determine compliance of the items identified in the focus area I. School-wide Approaches and Prereferral Intervention.

Directions:

1. Identify those students who have been referred to the CSE between January 1 of the previous academic year and January 31 of the current academic year (a 13 month period), and select a representative sample of students based on district demographics. (These dates may be expanded in order to get an adequate number of records needed for representation.) You may use the following guidance in selecting the sample:
 - For school districts with 20 or fewer students on the list, review all students for data analysis.
 - For school districts with 21-200 students on this list, randomly select 20 students for data analysis.
 - For school districts with more than 200 students on this list, randomly select 30 students for data analysis.
 - Ensure the sample of students includes all or a significant number of the students in the identified group.
 - Add to the number of students to be reviewed if, based on the review of data, you are finding inconclusive patterns.
2. Review student record information to complete the form.
3. Analyze results to identify if prereferral interventions are provided equitably by type, degree and frequency across all racial/ethnic groups, document the findings below and transfer the compliance findings to Attachment 2.

Summary of Findings

Citation (8NYCRR)	What to Look For	Finding
§200.2(b)(7)	Patterns of data show prereferral interventions are provided equitably by type, degree and frequency across all racial/ethnic groups.	<input type="checkbox"/> Yes <input type="checkbox"/> No

A finding of "no" is reported as noncompliance.

Student	Building	Grade	Racial/Ethnic Group	Name and Title of Person Making Referral	Type(s) and Name(s) of Prereferral Interventions (AIS, Counseling, Tutoring, Behavioral Management, Instructional Modification, Other) or Rationale for Direct Referral to CSE	Duration (Number of Weeks)	Frequency (Number of times per week)	Reason for CSE Referral (Behavior, Academic, Both, Other)	Found Eligible by CSE (Y/N)

Developed by the Office for Civil Rights, modified with permission. Revised sections include: modified title and terminology and deletion of data on preschool and free or reduced price lunch.

Individual Student Record Review Form

Directions:

This form is designed to assist the team in compiling documentation of compliance findings based on reviews of individual student records. It must be kept on file by the school district and is not submitted to SED unless requested.

A separate form must be used for each student record reviewed.

Each compliance issue must have a notation for each student record reviewed.

- Put “Y” (yes) in the column if the student’s record review shows evidence that the requirement has been met for this student.
- Put “N” (no) in the column if the student’s record review lacks evidence that this requirement has been met.
- Put “NA” (not applicable) in the column if the item is not applicable to this student. An item should be noted as NA if it clearly does not pertain to the individual student.

For example:

Documentation for the individual evaluation procedure that “materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure they measure the extent to which the student has a disability and needs special education, rather than measure the student’s English language skills” (§200.4(b)(6)(xvi)) would be “NA” if the student does not fit into the category of limited English proficient.

- In the “Source of Data/Comments” column, indicate the specific record information used to make a determination. Provide comments such as “the evaluation should have been in the native language, other than English, but was not.”

School District:	Building:
Person Completing Form:	Date of Record Review:
Student Name/ID:	DOB:
School:	Race/Ethnicity:
Grade/Program:	Disability:

Referral of Students to the CSE

Citation (8 NYCRR)		Y/ N/ NA	Source of Data/Comments
§200.4(a)(2)(iii)	A request for a referral submitted by persons other than the parent, student or a judicial officer shall:		
§200.4(a)(2)(iii)(a)	<ul style="list-style-type: none"> state the reasons for the referral and include any test results, records or reports upon which the referral is based that may be in the possession of the person submitting the referral. 		
§200.4(a)(2)(iii)(b)	<ul style="list-style-type: none"> describe in writing intervention services, programs or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aids or support services provided for this purpose, or state the reasons why no such attempts were made. 		
§200.4(a)(9)	The building administrator, upon receipt of a referral, may request a meeting with the parent or person in parental relationship to the student, the student, if appropriate, and the person making the referral to determine whether the student would benefit from additional general education support services as an alternative to special education.		

Individual Evaluation

Citation (8 NYCRR)		Y/ N/ NA	Source of Data/Comments
§200.4(b)(6)(i)	Assessments and other evaluation materials used to assess a student under this section:		
§200.4(b)(6)(i)(a)	<ul style="list-style-type: none"> are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer; 		

Citation (8 NYCRR)		Y/ N/ NA	Source of Data/Comments
§200.4(b)(6)(i)(b)	<ul style="list-style-type: none"> are used for purposes for which the assessments or measures are valid and reliable; 		
§200.4(b)(6)(i)(c)	<ul style="list-style-type: none"> are administered by trained and knowledgeable personnel in accordance with the instruction provided by those who developed such assessments; and 		
§200.4(b)(6)(i)(d)	<ul style="list-style-type: none"> are selected and administered so as not to be discriminatory on a racial or cultural basis. 		
§200.4(b)(6)(v)	No single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student.		
§200.4(b)(6)(vii)	The student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities.		
§200.4(b)(6)(xvi)	Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills.		

Eligibility Determinations

Citation (8 NYCRR)		Y/ N/ NA	Source of Data/Comments
§200.4(c)(1)	Upon completing the administration of tests and other evaluation materials, the CSE and other qualified individuals must determine whether the student is a student with a disability, as defined in section §200.1(zz). (See Attachment 2A)		
§200.4(c)(2)	A student shall not be determined eligible for special education if the determinant factor is:		
§200.4(c)(2)(i)	<ul style="list-style-type: none"> lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies; 		
§200.4(c)(2)(ii)	<ul style="list-style-type: none"> lack of instruction in math; or 		
§200.4(c)(2)(iii)	<ul style="list-style-type: none"> limited English proficiency. 		

Citation (8 NYCRR)		Y/ N/ NA	Source of Data/Comments
§200.4(d)	Prior to the development of the recommendation, the Committee shall ensure that the appropriateness of reading and math instruction and other resources of the general education program, including support services and academic intervention services, has been considered.		

Focused Rubric to Evaluate the CSE Process

This rubric is designed to be used as a tool by the district to assess how the district's CSE process may affect disproportionate representation of students of the identified racial and ethnic groups in special education. The rubric lists five key regulatory requirements affecting eligibility determinations. This rubric focuses on the district team's attention to aspects of the CSE decision-making process that may affect the over representation of students when inappropriately or inadequately applied during the identification of students as students with disabilities.

The five key aspects of the CSE process include:

1. Upon completing the administration of tests and other evaluation materials, the CSE and other qualified individuals must determine whether the student is a student with a disability, as defined in section 200.1(zz). [§200.4(c)(1)]
2. A student shall not be determined eligible for special education if the determinant factor is lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies. [§200.4(c)(2)(i)]
3. A student shall not be determined eligible for special education if the determinant factor is lack of instruction in math. [§200.4(c)(2)(ii)]
4. A student shall not be determined eligible for special education if the determinant factor is limited English proficiency. [200.4(c)(2)(iii)]
5. Prior to the development of the recommendation, the Committee shall ensure that the appropriateness of the resources of the general education program, including educationally related support services and academic intervention services, has been considered. [§200.4(d)]

Directions on how to use the Rubric

The rubric should be used as a debriefing form. The district team should identify the number of CSE meetings to evaluate and meet with CSE members outside of a CSE meeting to ask them to respond to each item and to rate to what extent the CSE addressed each area. **All instances of “minimally addressed or no evidence” for each regulatory citation must be documented on the Self-Review Monitoring Protocol (Attachment 2) and the report to SED (Attachment 7) as *noncompliance*.**

This activity will be addressed by the CSE members as a group, not as individuals. Consensus should be the goal, but if the CSE is not able to achieve consensus, that should be noted and the minority opinion should also be considered by the review team.

In addition to identifying compliance issues, this process should allow the district to make an overall quality assessment of each of the key areas that relate to eligibility determinations and will assist the team to identify improvement activities.

Focused Rubric to Evaluate the CSE Process

Name of District: _____ <input type="checkbox"/> CSE <input type="checkbox"/> Subcommittee	Location: _____
Observers: _____	Date of Observation _____
Type of Meeting: <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Reevaluation <input type="checkbox"/> Other	
Student's Preferred Language: _____	Parent's Preferred Language: _____

Citation (8 NYCRR)		Not Applicable	Strong Focus	Generally Addressed	Minimally addressed or No Evidence
§200.4(c)(1)	1. Upon completing the administration of tests and other evaluation materials, the CSE and other qualified individuals must determine whether the student is a student with a disability, as defined in section §200.1(zz). (See Attachment 2A)				
§200.4(c)(2)(i)	2. A student shall not be determined eligible for special education if the determinant factor is lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies.				
§200.4(c)(2)(ii)	3. A student shall not be determined eligible for special education if the determinant factor is lack of instruction in math.				
§200.4(c)(2)(iii)	4. A student shall not be determined eligible for special education if the determinant factor is limited English proficiency.				
§200.4(d)	5. Prior to the development of the recommendation, the Committee shall ensure that the appropriateness of the resources of the general education program, including educationally related support services and academic intervention services, has been considered.				

Indicate what took place at the meeting and which of the five areas need improvement:

Staff Interviews to Identify Improvement Activities

The district will conduct interviews with administrators, general education teachers and evaluators of students with disabilities. How the interviews are conducted will be at the discretion of the district. For example:

- the self-review team leader may choose to conduct all interviews; or
- the self-review team members may also be involved in the interview process;
- these interviews may be conducted individually or in small groups; or
- the interviews may be conducted in various formats, including discussions at staff meetings;
- the interview questions could be converted into a survey for a broader distribution; or
- the team may develop additional interview questions.

The self-review team will determine who must be interviewed, but it is recommended that at least a representative sample of instructional staff and administrators from across the district be interviewed.

The information collected should be recorded and analyzed to provide information regarding the quality of the district's prereferral, referral and evaluation procedures as they relate to disproportionality of students with disabilities in special education. This information will assist the district in determining improvement strategies to address areas of noncompliance with State and federal laws and regulations identified through the self-review process.

The interview questions provide information to identify improvement activities for the following focus areas of the self-review protocol (Attachment 2):

- I. School-wide Approaches to Prereferral Interventions
- II. Referral of Students to the CSE
- III. Individual Evaluations of Students with Disabilities

Staff Interview Questions				
General Education Teacher	Administrator	Evaluator	School District: Interviewer: Date(s):	Interviewee(s): Title(s):
Disproportionality Focus Area: School-wide Approaches and Prereferral Interventions				
•	•		Describe the prereferral system in your building. Describe your role in the process.	
•			Have you ever referred a student for prereferral interventions? What were your criteria in doing so?	
•			Did the prereferral interventions provided address your concerns for the student you referred? If no, why not?	
•			Do you feel you have sufficient support to implement the recommended prereferral interventions for the student you referred?	
•	•		Describe the effectiveness of the prereferral intervention system in your building and the impact on referrals to CSE.	
•	•		Do you feel that all students have access to the prereferral intervention system?	
	•		Has information been provided to all instructional and administrative personnel on the range of general education support services available in the district?	
Disproportionality Focus Area: Referral of Students to the CSE				
•	•		Describe the process for how CSE referrals are handled in your building. Describe your role in the process.	
•			Have you ever referred a student to the CSE? What were your criteria in doing so?	
•			Describe the information you are required to provide in making a CSE referral.	
	•		When do you consider requesting a meeting with the student's parent to determine if general education supports and services could be implemented as an alternative to special education?	
	•		Describe what you do when you receive a CSE referral.	
	•		Describe the process to analyze and monitor CSE referrals school-wide.	
	•		Describe the process the school district uses to review data related to referrals to special education to detect any pattern that might indicate a problem with disproportionate referrals of students of a particular race or native language.	
Disproportionality Focus Area: Individual Evaluation of Students with Disabilities				
		•	Describe the school district's criteria for selecting and administering nondiscriminatory evaluation and assessment instruments (e.g., using trained personnel and using properly normed assessments).	

Staff Interview Questions			
General Education Teacher	Administrator	Evaluator	School District: _____ Interviewer: _____ Date(s): _____
			Interviewee(s): _____ Title(s): _____
		•	Are assessments and other evaluation materials provided and administered in the student's native language or other mode of communication in the form most likely to yield accurate information? If no, explain why.
		•	Describe your level of involvement at the CSE meeting.

Sample of electronic form

Disproportionality Self-Review Monitoring Report to the New York State Education Department

Directions:

1. Go to <http://pd.nysed.gov>.
2. Log on using the same user id and password as assigned for PD data submissions.
3. Click on: Disproportionate Representation of Racial and Ethnic Groups in Special Education and Related Services.
4. Follow the online directions to complete the form.
5. Enter district's identifying information.
6. Provide appropriate verification from the Superintendent of Schools or Chief School Officer that the information as reported is true and accurate.
7. Using documentation from the Monitoring Protocol (Attachment 2), click the box under the "Yes" or "No" column as appropriate for each regulatory requirement. All citations must have a compliance indication.
8. Print a copy before submitting to SED.
9. Click "Submit"

School District Code: _____

School District Name: _____

Contact Person: _____

Email: _____

Telephone: _____

Statement of Verification of Accuracy

I verify that the information submitted in this report is accurate based upon the findings from the Disproportionality Self-Review Monitoring process conducted during the current academic school year. (online form will identify the dates of the current academic year).

Superintendent or Chief School Officer

Date submitted: ___/___/___

Sample of electronic form

Directions: Transfer findings for each regulatory citation from the last column of Attachment 2, "Determination of Compliance."

Citation (8 NYCRR)	Issue	Are the district's policies, procedures and practices in compliance with federal and State laws and regulations?	
		Yes	No
I. School-wide Approaches and Prereferral Interventions			
§200.2(b)(7)	Each Board of Education or Board of Trustees shall adopt written policy that establishes a plan and policies for implementing school-wide approaches, which may include a response to intervention process, and prereferral interventions in order to remediate a student's performance prior to referral for special education.	<input type="checkbox"/>	<input type="checkbox"/>
II. Referral of Students to the CSE			
§200.4(a)(2)(iii)	A request for a referral submitted by persons other than the parent, student or a judicial officer shall:		
§200.4(a)(2)(iii)(a)	<ul style="list-style-type: none"> state the reasons for the referral and include any test results, records or reports upon which the referral is based that may be in the possession of the person submitting the referral. 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(a)(2)(iii)(b)	<ul style="list-style-type: none"> describe in writing, intervention services, programs or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aids or support services provided for this purpose, or state the reasons why no such attempts were made. 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(a)(9)	The building administrator, upon receipt of a referral, may request a meeting with the parent or person in parental relationship to the student, the student, if appropriate, and the person making the referral to determine whether the student would benefit from additional general education support services as an alternative to special education.	<input type="checkbox"/>	<input type="checkbox"/>
III. Individual Evaluations of Students with Disabilities			
§200.4(b)(6)(i)	Assessments and other evaluation materials used to assess a student under this section:		
§200.4(b)(6)(i)(a)	<ul style="list-style-type: none"> are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer; 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(b)(6)(i)(b)	<ul style="list-style-type: none"> are used for purposes for which the assessments or measures are valid and reliable; 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(b)(6)(i)(c)	<ul style="list-style-type: none"> are administered by trained and knowledgeable personnel in accordance with the instruction provided by those who 	<input type="checkbox"/>	<input type="checkbox"/>

Sample of electronic form

Citation (8 NYCRR)	Issue	Are the district's policies, procedures and practices in compliance with federal and State laws and regulations?	
		Yes	No
	developed such assessments; and		
§200.4(b)(6)(i)(d)	<ul style="list-style-type: none"> are selected and administered so as not to be discriminatory on a racial or cultural basis. 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(b)(6)(v)	No single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student.	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(b)(6)(vii)	The student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities.	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(b)(6)(xvi)	Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills.	<input type="checkbox"/>	<input type="checkbox"/>
IV. Eligibility Determinations			
§200.4(c)(1)	Upon completing the administration of tests and other evaluation materials, the CSE and other qualified individuals must determine whether the student is a student with a disability, as defined in section 200.1(zz). (See Attachment 2A)	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(c)(2)	A student shall not be determined eligible for special education if the determinant factor is:		
§200.4(c)(2)(i)	<ul style="list-style-type: none"> lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies; 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(c)(2)(ii)	<ul style="list-style-type: none"> lack of instruction in math; or 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(c)(2)(iii)	<ul style="list-style-type: none"> limited English proficiency. 	<input type="checkbox"/>	<input type="checkbox"/>
§200.4(d)	Prior to the development of the recommendation, the Committee shall ensure that the appropriateness of reading and math instruction and other the resources of the general education program, including support services and academic intervention services, has been considered.	<input type="checkbox"/>	<input type="checkbox"/>