**24:05:25:12.  Documentation of eligibility for specific learning disabilities.** For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of:

 (1)  Whether the child has a specific learning disability;

 (2)  The basis for making the determination, including an assurance that the determination has been made in accordance with this section;

 (3)  The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

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

 (5)  Whether:

 (a)  The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and

 (b)  The child does not make sufficient progress to meet age or state-approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development;

 (6)  The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;

 (7)  If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

 (a)  The instructional strategies used and the student-centered data collected; and

 (b)  The documentation that the child's parents were notified about:

 (i)    The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

 (ii)   Strategies for increasing the child's rate of learning; and

 (iii)  The parents' right to request an evaluation;

 (8)  If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and

 (9)  If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean relative to age or state approved grade level standards.

 **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 33 SDR 236, effective July 5, 2007.

 **General Authority:** SDCL 13-37-1.1.

 **Law Implemented:** SDCL 13-37-1.1.