

OHIO DEPARTMENT OF EDUCATION

Ohio's Third Grade Reading Guarantee and Students with IEPs

This document serves as guidance from the Ohio State Department of Education relating to the applicability of the *Third Grade Reading Guarantee legislation* to students with disabilities. Consistent with the intent of the law, implementation should ensure that all students, including students with disabilities, receive additional support and services required to achieve success. One intended effect of the law is that school districts will identify the needs of students earlier, and implement targeted support *reading services* for all students.

Students with significant cognitive disabilities are not held to any of the provisions of the TGRG. Students with significant cognitive disabilities are exempt from all provisions of the Third Grade Reading Guarantee; and

- IEP teams may specify that a child in any grade, kindergarten through grade three, is exempt from all provisions of the Third Grade Reading Guarantee if the student is participating in a significantly modified curriculum.
- Under this exemption, the student is exempt from all provisions of the Third Grade Reading Guarantee. This includes:
 - Annual reading diagnostics;
 - Reading improvement and monitoring plans;
 - Special teacher qualifications for the reading teacher; and
 - Student retention in the third grade.

This exemption should be an annual IEP team discussion and decision.

The student's IEP should address the Ohio Academic Content Standards -Extended and should include goals around precursors to literacy. For example, the IEP should address the student's mode of communication and communicative intent.

Otherwise, retention requirements in the TGRG are applicable to all students, regardless of disability status with some limited exceptions, noted below.

TGRG legislation specifies that all students scoring below the designated level on the third grade reading OAA must be retained, except for the following students (ORC 3313.608(A)(2)):

- *Limited English proficient students* who have been enrolled in U.S. schools for less than three full school years and have had less than three years of instruction in an English as a Second Language program;
- *Special education students* whose IEPs specifically exempt them from retention under the Third Grade Reading Guarantee;
- Students who demonstrate reading competency on a *Reading OAA Alternative* approved by ODE; and
- Any student who has received *intensive remediation for two years* **and** *was previously retained* in kindergarten through Grade 3.

A student that advances because of this exception must continue to receive intensive reading instruction in the fourth grade, which requires an altered instructional day to accommodate reading interventions, or whatever reading interventions are required by the student's IEP or 504 plan.

- For students with IEPs, to be eligible to be excused from retention in the third grade, the student should meet one of two criteria;
 - 1) the student is completing a curriculum that is significantly different from the curriculum completed by other students required to take Grade 3 Reading OAA or
 - 2) the student requires accommodations that are beyond the allowable accommodations as outlined in OAC 3301-13-03(H). If the student meets one of these criteria, the IEP team then decides if the student will be excused from the Third Grade Reading Guarantee retention provision.

The Individuals with Disabilities Education Act (IDEA) requires that a free appropriate public education (FAPE) is available to all children with disabilities who need special education and related services. Further, FAPE is required regardless of whether a student with a disability has been retained or is advancing from grade to grade. [34 CFR 300.101(c)]. The retention requirement of TGRG does not function as a penalty to special education students. Rather, the retention requirement is a means to ensure that students with disabilities experience academic success in future grades through purposeful intervention.

General Questions for TGRG Related to Special Education

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1. *May students on an IEP be retained?*

Yes. Application of the *TGRG* applies to all students. These requirements do not violate federal law or adversely impact the quality of education made available to students with disabilities. Part B of the Individuals with Disabilities Education Act (IDEA) specifically does not address standards for retention or promotion of students with disabilities. Because IDEA does not address promotion and retention standards, there is nothing to require or prevent a state from applying those standards (in state law) to a child with a disability.

2. *What are the TGRG assessment requirements for a child who is blind and receives reading instruction through Braille?*

All students with disabilities should be given the reading diagnostic that the district has chosen. Students with disabilities may have allowable accommodations as documented on the IEP. If the diagnostic is attempted but no score is given, then this should be noted. The district can determine if some other measure would assist in providing valid data to assist the team in program planning for the student in reading. Also, the district should have a teacher qualified to work with students with visual impairments assist the team in determining appropriate reading instruction. This individual might determine what “some other measure” may be utilized to assist in planning reading instruction.

3. *What are the TGRG requirements for a child reading with Braille in regard to needed components of the diagnostic?*

TGRG requirements are the same for a student learning to read with Braille. These students need to be assessed with the district-selected diagnostic that may be brailled (and possibly with “some other measure” to assist in planning reading instruction) and a Reading Improvement and Monitoring Plan (RIMP) must be completed if necessary. The “some other measure” can be used for informing instructional practices but not for determining on-track/not on-track status.

4. *Are teachers able to give extended time on TGRG diagnostic assessments if the student's IEP documents the need for this accommodation on classroom assessments and assignments?*

Yes. It is permissible if additional time is an allowable accommodation for that particular diagnostic assessment.

5. *What assistance can be provided by teachers who are struggling with administering certain assessments in early grades to deaf students?*

Under TGRG requirements, all students with disabilities should be given the diagnostic that the district has chosen. All students with disabilities may be provided allowable accommodations as long as those are documented on their IEP and align with the diagnostic's administration manual. If the diagnostic is attempted but no score is given, then this should be noted. The district can determine if some other measure would assist in providing valid data to assist the team in program planning for the student in the area of reading. The "some other measure" can be used for informing instructional practices but not for determining on-track/not on-track status.

In addition, the district should have a teacher of the Deaf/Hearing Impaired working with students with Deafness/Hearing Impairments to help determine the "some other measure" and to assist the team in determining appropriate reading instruction for the student.

6. *If a student is on an IEP, should he or she also have a Reading Improvement and Monitoring Plan (RIMP)? If so, may he or she receive services from both programs?*

Yes. Students with disabilities are required to have an IEP that addresses their educational needs. In addition to the requirements of IDEA, the TGRG also applies to students with disabilities on an IEP. As such, if a student with disabilities is identified as reading below grade level, the student must be placed on a RIMP to meet the requirements of TGRG and to remedy the reading deficiency. Services could be provided through the use of both IDEA and TGRG, and possibly through the use of federal Title I reading funding. However, this would be a determination by the district based on requirements of IDEA, No Child Left Behind (NCLB) and TGRG.

7. *Can the RIMP be used as Multi-tiered Systems of Support (MTSS) documentation necessary as part of a special education evaluation under IDEA instead of doing two sets of paperwork?*

Yes. However, Special Education Services will designate paperwork according to state and federal guidelines. The RIMP may serve as documented evidence. The special education multidisciplinary evaluation and eligibility group members may use information from the RIMP.

8. *Are teachers who have Visually Impaired students required to write a RIMP?*

Yes, a reading improvement and monitoring plan is required for all students who are found not on-track for reading according to TGRG. This is a requirement for all students. ODE-developed diagnostic assessments can be printed offline and Brailled if needed; this is done at the school-level.

9. *Can students on an IEP be serviced by a Title I teacher?*

Yes. If the school is Title I school-wide, then yes, the student can be served by the Title I teacher. The child may also be served if the school is identified as Targeted Assistance and the child has been placed on the "most at risk" list.

10. Can students on an IEP have accommodations on the Ohio Achievement Assessments? What are the accommodations?

Yes. Accommodations the student receives in the classroom are typically, but not always, available to the student for purposes of statewide testing. Accommodations should be implemented during daily classroom instruction as well as during assessments. Allowable accommodations are specified in each assessment's administration manual. For more about allowable accommodations for Ohio statewide assessments, refer to Ohio's Statewide Assessment Rules Book. <http://education.ohio.gov/Topics/Testing/Testing-Forms-Rules-and-Committees/Ohio-Statewide-Assessment-Program-Rules-Book>

11. Does the IEP trump the Multi-tiered Systems of Support (MTSS) program of reading instruction/intervention?

No. The TGRG law goes above and beyond federal law in establishing criteria for set amounts of time for reading. However, an IEP documents the types of services and amount of time a student needs to ensure mastery of the goals and objectives listed on the IEP. The IEP could be expanded to address additional services needed to allow the student to meet all requirements of TGRG. For example, the 90 minutes of reading that is required for students retained in third grade may be determined by the IEP to best be implemented in the special education classroom, general education classroom or a combination of both. Any additional time needed would be added to that 90 minutes.

Example: If a retained third-grade student is currently on an IEP for reading and the special education teacher pulls the student out individually to work on reading for the Tier 2 time, is this acceptable for the "intensive instruction" – or does the intensive instruction have to be in addition to the 90 minutes of reading time AND the extra special education time?

If a retained student is in Tier 2, they need 90 minutes of daily scientific-research-based reading instruction PLUS Tier 2 time and the IEP services can work in conjunction with these minutes. Otherwise, the student would be receiving 90 minutes plus Tier 2 minutes plus IEP minutes of intensive reading instruction.

Example: After the 90-minutes of reading in class (which does have some special education reading time), can the special education teacher pull that child (who has been retained in third grade), individually, for an EXTRA intensive instruction, or does the intensive instruction have to be a different teacher than the special education teacher?

Yes, the special education teacher may teach the extra reading intervention that is meeting the specific reading deficit and RIMP goals. What matters is that the deficits have been identified and intervention implemented and progress monitoring is occurring.

12. Are all IEP students expected to participate in the general education reading instruction?

The IEP team needs to balance the curriculum used for a student with a disability. The team may determine that it is more appropriate for the student to use an alternate core program. That

alternate core, however, should be such that it assists the student in remediating lacking skill sets while still assessing grade-level content skills. All students, including special education students, receive instruction in reading that is appropriate to their needs. In general, the most effective way to do this is by having IEP teachers serve students in their regular classroom. This means that if a student is in a pull-out program, the special education teacher will come to serve the child instead of having the child leave his/her primary classroom.

However, there may be a small percentage of students with disabilities who have an IEP that describes special reading interventions that would more appropriately be delivered in the special education setting. The IEP may note that a student is served in a self-contained IEP. For a retained student in this situation, and when specified in the RIMP, the 90 minutes of reading may be delivered in the special education classroom by a special education teacher who meets the qualifications under TGRG.

Instruction for IEP students needs to be focused at the appropriate level and with appropriate content, and students should receive instruction in reading that is more intensive, or extensive, than children who learn to read more easily. IEP students can profit from instruction that is provided by the regular classroom teacher during the 90 minutes of reading, but may also receive additional instruction from the IEP teacher.

13. Can Multi-tiered Systems of Support (MTSS) interventions be delivered in the IEP classroom by the IEP teacher?

Yes, if the local school personnel, taking into consideration the skills of all the teachers involved, think this is the best solution. The Ohio Department of Education (ODE) wants to strongly guard against a situation in which IEP students actually receive less reading instruction than their peers because they are taken to a special education classroom where their time is divided between instruction in content, reading and mathematics.

Tier 3 instruction for retained students should take place outside of the 90 minutes. ODE highly encourages schools and districts to involve as high a percentage as possible of their special education students in the 90 minutes of reading instruction. In all cases, careful consideration should be given to the setting and the instructional personnel to most effectively meet the students' needs for instruction in reading.

14. If an IEP states that the student cannot be retained if he/she is meeting the IEP goals, does the IEP trump requirements of the TGRG law?

No, the IEP team must develop IEPs within the scope of both federal and state law. IDEA does not address the promotion or retention of a child with a disability as an IEP team decision. Further, a retention or promotion decision is not synonymous with a placement decision for IDEA purposes. TGRG addresses the retention of students, specifically requiring retention for students who score unsatisfactory on the third-grade reading assessment.

15. Should the IEP be changed to reflect the Multi-tiered Systems of Support (MTSS)/reading intervention time?

No. The TGRG law goes above and beyond federal law in establishing criteria for set amounts of time for reading for retained students. However, an IEP documents the types of services and amount of time a student needs to ensure mastery of the goals and objectives listed on the IEP. The reading goals and objectives listed on the IEP should align with goals listed on the RIMP and all staff should be assisting the student with interventions directed at the stated goals and objectives. And, the IEP documents the type of special education services.

16. Is the Multi-tiered System of Support (MTSS) model used only for special education students?

No. Under IDEA, districts may choose to use the multi-tiered systems of support for determining whether a student is eligible for special education services under Specific Learning Disability (34 C.F.R. § 300.207).

MTSS is a tiered-intervention process that integrates assessment and intervention within a multi-level prevention system to maximize student achievement. It is an approach that benefits all students.

17. Are students who already are on an IEP for reading difficulties in need of being placed in Multi-tiered Systems of Support (MTSS) as well?

Yes. Best practices indicate that MTSS should fit within the IEP plan for the student. Part of receiving special education is to receive specialized instruction. This includes the provision of intensive instruction and specific interventions that address the respective skill set of the student.

18. Students who are promoted to the fourth grade must be provided intensive reading instruction during an altered day. Is this a pull-out program where students work with a reading specialist?

This is a district decision. It is important to ensure these students, who will need more support and instructional services than a typical fourth grader, get the intervention services they need to help them to be on grade level with their peers. This should be more than what they've received in the past. They should participate in their general reading instruction and additional reading intervention services. The IEP should reflect such.

19. Will an IEP student who moves into the district but has no documentation of receiving more than two years of intensive remediation be retained?

Yes. The definition of special education is specialized instruction – which means it should be more intensive than the instruction received within the general education environment (34 CFR § 300.39). There must be documentation of the intensive reading remediation in the IEP. If a district can obtain documentation from the previous district that demonstrates the student has received more than two years of intensive remediation, the district may promote the student assuming all other criteria are met.

20. What is intensive remediation?

The IEP must document that the student has received more than two years of intensive remediation. Intensive remediation may include any type of program offering intensive reading instruction that is identified as appropriate by the IEP team.

Regarding retention under TGRG, any student who has received *intensive remediation for two years and was previously retained* in kindergarten through Grade 3 may be exempt from retention. A student that advances because of this exemption must continue to receive intensive reading instruction in the fourth grade, which requires an altered instructional day to accommodate reading interventions, or whatever reading interventions are required by the student's IEP or 504 plan.

21. Are students on a Section 504 Plan able to qualify for promotion?

Possibly, there is no provision that applies exclusively or solely to students on a Section 504 plan. (Section 504 plans are not equivalent to IEPs under the TGRG law).