2013-2014

Technical Assistance for RSA and 3rd Grade Progression

Frequently Asked Questions about RSA and Third Grade Graduation Law

New Technical Assistance Document revises and replaces existing Technical Assistance Document 2012-13 and Implementation Guide 2012-2013

Oklahoma State Department of Education

2013-2014

Summary: The purpose of this RSA Technical Assistance Document (TAD) is to provide school districts with updates and changes relative to RSA and third-grade student progression policies, including information on alternative assessments, promotion criteria and resources.

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*Questions marked with an asterisk * are recently added questions.*

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Questions marked with an asterisk * are recently added questions.

CHAPTER 1: THE RSA LAW

70 O.S. § 1210.508B

What is the purpose of the Oklahoma RSA?

The purpose of the Oklahoma Reading Sufficiency Act is to ensure that each child attains the necessary reading skills by completion of the third grade, which will enable that student to continue developing reading skills and to help them succeed throughout school and life.

Why was third grade chosen as the grade for retention?

The development of reading skills is the key for foundational reading and being ready for fourth grade. Third grade is a critical year for independent reading. In Oklahoma, third grade is the first year a student is required to participate in criterion-referenced tests.

What Oklahoma Core Curriculum Test (OCCT) score does a third-grade student need to achieve for promotion to fourth grade?

Third-grade students must score a Limited Knowledge or higher on OCCT Reading to be promoted [Section 1210.508C].

Can the parents appeal to the school board for their child to be promoted if they do not meet the requirements?

No. Parents cannot appeal the decision. The decision to retain a child in the third grade lies solely with the school/district after a careful review of all criteria.

Will students scoring an Unsatisfactory on the OCCT be retained in other grades?

No. Third grade is the only grade at which scoring Unsatisfactory on the OCCT would require mandatory retention for public school students unless they qualify for one of the good-cause exemptions. [Section 1210.508C]

CHAPTER 2: READING SUFFICIENCY PLAN

70 O.S. § 1210.508C (B-H)

What is the process for submitting the Reading Sufficiency Plan?

All Oklahoma School Districts must submit their district and site RSA plans to meet the requirements for the reading goal, required assessments, and reporting for the 2013-2014 school year.

- Complete all sections of Annual Reading Plan
- All Associated Sites are certified by School Site Principals
- District Plans are certified by District Superintendent
- Submitted for Approval to Oklahoma State Dept. of Education

Do all districts have to submit a Reading Sufficiency Plan?

*Yes, all **Oklahoma School Districts must submit** their district and site RSA plans to meet the requirements for the reading goal, required assessments, and reporting for the 2013-2014 school year.*

Do all districts have to submit a Reading Sufficiency Plan for approval?

In order for a district NOT to electronically submit Reading Sufficiency Plan to OKSDE for approval, all of the following conditions must be met:

- Have All Site Plans Been Previously Approved by OKSDE?
- Were There No Changes in Expenditures from The Previous School Year?
- Do All Site Expenditures Meet The Following Criteria?
    - Individual and small group tutoring
    - Purchase of a training in the use of screening and assessment measures
    - Summer Reading Academy school programs
    - Saturday School Programs
- Are All of Your Sites Meeting 100% of The RSA Goal Calculator?
- No School Sites on Needs Improvement List?

*If any responses from the above are "NO" then the Annual District Reading RSA Plan must be electronically submitted for approval by **August 30, 2013**.*

CHAPTER 3: PARENT OR GUARDIAN WRITTEN NOTIFICATION

70 O.S. § 1210.508C (I)

When should the school notify parents that the student has a reading deficiency?

It is law that parents be notified in writing. It is ***recommended*** *that the parent is notified* ***within 30 days*** *after student is identified as having a reading deficiency according to one of the 13 Oklahoma State Board of Education approved reading assessments.* ***Provide written notification to parents of (K-3) students reading below grade level with the following information****:*

- A description of the current services that are provided to the student
- A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;
- That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is exempt for good-cause
- Strategies for parents to use in helping their child succeed in reading proficiency
- That while the results of the criterion-referenced test administered are the initial determinant, they are not the sole determiner of promotion and that portfolio reviews and assessments are available
- Implementation of the specific criteria and policies of the school district for midyear promotion

By End of Second Quarter According to School District's Approved Calendar:

Provide written notification to parents of (K-3) students reading below grade level with the following information:

- Student has been identified as having a substantial deficiency in reading;
- Are on an Academic Progress Plan (APP), formally known as "Program of Reading Instruction"
- Student has potential need to attend a Summer Academy Reading Program.

Do you get signatures again in December for children who are already on a plan and need to continue on the plan?

Once you have parents' or guardians' signatures, they will need notification of the student's progress on an ongoing basis, at least three times per year, i.e., beginning, middle, and end.

Can the parents appeal to the school board for their child to be promoted if they do not meet the requirements?

The decision to retain a child in the third grade lies solely with the school/district after a careful review of all criteria. Parents cannot appeal the decision.

What if a student is absent or the student or parent refuses to allow the student to take the third grade reading test?

The law requires third grade students to take the OCCT Reading and Math test. If they do not attend school during the testing window and take the assessment, they must demonstrate reading proficiency through the portfolio or the alternative assessment for promotion.

May parents "opt out" and choose for their child not to take a criterion assessment?

There is nothing in the RSA law preventing a parent from opting out of a formative assessment. If parent chooses to "opt out" of screening their child then it is very difficult for the teacher to target instruction specifically to the student's needs.

Is information about third-grade progression available to parents?

Yes, iREAD, a pamphlet for parents of Oklahoma's third-grade students is available from OSDE Office of Instruction. It is designed to help parents understand what Oklahoma law says about reading requirements for third-grade students and promotion to fourth grade. It also describes what the school is required to do to help students reading below grade level.

What options are available for parents of retained third graders to ensure their child is given every chance for improvement?

The law requires the provision of one of the following [Section 1210.508C]:

- Supplemental tutoring in scientifically-research-based reading services, including tutoring before and/or after school
- A parent-guided "Read at Home" assistance plan developed by OSDE and is available on the Reading and Literacy webpage of the OSDE website. The link is http://ok.gov/sde/parent-resources; LOVE.READ.LEARN!
- A mentor or tutor with specialized reading training.

What is LOVE.READ.LEARN!?

Oklahoma REAC³H Coaches will introduce schools/parents to easy-to-understand activities that integrate five key skills based on research by the National Reading Panel. Parents are quoted as saying the methods and games they learn can be used during every day literacy activities with their kids. The Dollar General Literacy Foundation is generously underwriting the LOVE.READ.LEARN! training and materials. The LOVE.READ.LEARN! program is managed by the Volunteer USA Foundation/Barbara Bush Foundation for Family Literacy.

Will LOVE.READ.LEARN! satisfy the strategies for parents to use in helping their child succeed in reading Parent Notification Requirement of (70 O.S. § 1210.508C(I) ?

Yes, parents of K-3 Oklahoma students are encouraged to attend a LOVE. READ. LEARN! Parent Workshop facilitated by Oklahoma REAC³H Coaches.

How can families and communities get more involved in reading programs?

Oklahoma State Department of Education has many services and resources for our families and communities. These include the following:

The Office of Parent and Community Engagement

Its mission is to assist parents, caregivers, family and community members, and other stakeholders and allow participants to engage in strategies that will assist in helping students achieve the maximum academic success. http://www.ok.gov/sde/parent-community-engagement For More Information, Contact: ***Melodie Fulmer, (405) 522-6225.***

Limited English Proficient and Immigrant, Title III-A

http://ok.gov/sde/title-iii#Forms_and_Tools, For More Information, Contact: ***Melissa McGavock, (405) 522-3218.***

Migrant Education Program, Title I, Part C

The Migrant Education Program is available to schools and families in certain regions of Oklahoma. Its focus is on helping families who work in agriculture who know the importance of a good education for their children and realize the impact it can have on the entire family. To be eligible for this opportunity, parents must have moved to a new community within the past three years and have worked or are working at an agricultural job.

http://www.ok.gov/sde/title-i-part-c#Parent_Information, For More Information, Contact: ***Melissa McGavock, Becky Nixon, or Jose Henriquez, (405) 522-5158.***

CHAPTER 4: NO SOCIAL PROMOTION

70 O.S. § 1210.508C (J)

Must students pass the OCCT reading test the second year in third grade?

No. To be promoted to fourth grade, students must have a score of Limited Knowledge or above on the OCCT or meet one of the six good-cause exemptions that apply. According to the law, students could be retained twice in grade 3 and therefore stay in third grade for three years.

CHAPTER 5: SIX GOOD-CAUSE EXEMPTIONS

70 O.S. § 1210.508C (K)

What promotion options are available for third-grade students who have scored Unsatisfactory on the reading portion of the OCCT?

Third-grade students who score an Unsatisfactory on OCCT Reading may be exempted from the retention requirement and be promoted to fourth grade if they are eligible for one of the six good-cause exemptions.

Must a student meet all of the criteria of any particular good-cause exemption in order to receive the good-cause exemption?

Yes, the law is clear on this. A student may only receive a good-cause exemption if they meet all criteria to meet any one of the six good-cause exemptions.

***A district has a set of twins in third grade. They feel one will do fine on OCCT and the other will score Unsatisfactory and not meet any of the Good-Cause Exemptions. There is a law about classroom placement for twins. Will RSA trump this twin law or will it trump RSA?**

The Sibling Placement law (cited) below only applies if both siblings meet the requirements for the 4th grade. Here, one does not, so the law wouldn't apply. (One would be retained, and the other could be promoted.) The law is 70 O.S. 24-154 regarding classroom placement of multiple-birth siblings. That statute only applies in cases in which placement of both siblings in the same grade is appropriate; it does not apply when the multiple birth siblings are not in the same grade.

Good-Cause Exemption 1: ELL Students

ELL Students are Identified English Language Learners (ELL) on a screening tool *approved by OSDE of Bilingual/Migrant Education and have a Language Instructional Educational Plan in place prior to administration of the OCCT and have less than two years of instruction in an ELL program.*

What is an English Language Learner Program?

An example of an English Language Learner Program is found through the following link which is an excellent document from the National Clearinghouse for English Language Acquisition about program types:

http://www.ncela.gwu.edu/files/uploads/5/Language_Instruction_Educational_Programs.pdf

As we are looking over the other "good-cause" exemptions for SB 346, it states that limited-English-proficient students who have had less than two years of instruction in an English language learner program may be promoted to 4th grade. Do the 2 years correlate to academic years or calendar years? For example, if a student arrives within the district for the first time and begins an ELL program in the middle of second grade, would she be given this exemption because she has had 1.5 academic years of an ELL program but 2 calendar years?

Districts should go by academic year.

How should schools identify students who are Limited-English Proficient (LEP)/English Language Learner (ELL)?

These students must be identified on a screening tool approved by the Oklahoma State Department of Education Office of Bilingual/Migrant Education in order to qualify for one of the conditions of the first good-cause exemption. The following link is for the Language Instruction Education Plan (LIEP) for English Language Learners (ELLs). http://www.ok.gov/sde/sites/ok.gov.sde/files/Bilingual-LIEP12.pdf

What else must identified LEP and ELL students have in place to qualify for good-cause exemption?

A Language Instruction Educational Plan (LIEP) in place prior to the administration of the third grade criterion referenced test and the student must have had less than two (2) years of instruction in an English Language Learner (ELL) program.

Are there resources available for understanding more about Bilingual/Migrant Education Screening tools?

Yes, the following link will provide extensive information about Bilingual/Migrant Education. http://ok.gov/sde/title-iii

Is it ok to delay identification of ELL students for two years so the student will be eligible for Good-cause Exemption 1?

No. This is in violation of Title III.

Good-Cause Exemption 2: OAAP Students

*(**IEP Students assessed with OAAP**) - Students with disabilities on an Individualized Education Plan (**IEP**) who are assessed with Oklahoma Alternate Assessment Program (**OAAP**)*

Are all IEP students eligible for this good-cause exemption?

No. Only students with disabilities who are eligible to participate in the OAAP may qualify under this exemption. Eligibility for participation in the OAAP is determined by the IEP team through the completion of the Criteria Checklist (OSDE Form 12).

Are OAAP students exempt from taking one of the 13 formative assessments?

No. All students are required to participate in the formative assessment component of the RSA. An APP must be written for all students who are not reading on grade level because it is required by the RSA. The teacher will note on the APP that the assessment was given and document the child's performance. Even if a student is unsuccessful on one of the 13 formative assessments, information must still be gathered to address the educational needs and progress of the child. Good-cause exemptions only apply to the retention component of the RSA.

Good-Cause Exemption 3: Alternative Assessments

*Students who demonstrate an acceptable level of performance (**minimum of 45th percentile**) on a state-approved alternative reading test*

What alternative assessment may be administered at the end of the year OR at the end of a Summer Academy Reading Program to determine if a student qualifies for a good-cause exemption and promotion to fourth grade?

Rule 210:15-27-2 authorizes the use of the following nationally norm-referenced tests in the determination of a good-cause exemption for promotion to fourth grade. The student must score at or above the 45th percentile to demonstrate an acceptable level of performance.

- Stanford Achievement Test, Tenth Edition (SAT 10)
- Iowa Tests of Basic Skills (ITBS) Complete Battery, Form A, C, or E, Level 9, Reading Comprehension
- Iowa Tests of Basic Skills (ITBS) Core Battery, Form A, C, or E, Level 9, Reading Comprehension
- TerraNova, Third Edition Complete Battery, Level 13, Reading

Districts are strongly encouraged to administer the alternative standardized assessment at the end of a Summer Academy Reading Program. An alternative standardized assessment may only be administered for student promotion purposes following the administration of the spring test form of the third-grade OCCT in Reading. An approved alternative standardized reading assessment may be administered at any time prior to the start of the next academic year, if there are at least 20 days between administrations and different test forms are administered.

Will the state provide the approved alternative assessments?

No. The State Board of Education approved the alternative assessments listed above and set the scores for them. School districts are responsible for providing these assessments.

The good-cause exemption about alternative testing mentions the tests you can give, Stanford, Iowa, and TerraNova, but it does not tell us who can give these tests, who will grade them, and how much will each test given cost the school district. Do you have this information?

Guidelines are provided in the Administration Manual of each alternative assessment listed in the rule.

After third graders take OCCT, do they have to wait 30 days to take an alternative test?

No. After the OCCT has been administered any of the four alternative standardized assessments may be given.

Do districts have to offer remediation (i.e. Summer Academy) before retesting a student on one of the alternative tests?

No. After the OCCT has been administered any of the four alternative standardized assessments may be given.

When giving alternative tests, may districts give one of the paper-pencil tests that can be scored locally or are any of the approved alternative tests available online so that results are immediate?

Yes. The student must score at the 45th percentile or above on one the following alternative tests:

- Stanford Achievement Test, Tenth Edition (SAT 10)
- Iowa Tests of Basic Skills (ITBS) Complete Battery, Form A, C, or E, Level 9, Reading Comprehension
- Iowa Tests of Basic Skills (ITBS) Core Battery, Form A, C, or E, Level 9, Reading Comprehension
- TerraNova, Third Edition Complete Battery, Level 13, Reading

Guidelines are provided in the Administration Manual of each alternative assessment listed in the rule.

***If a student does not score at the 45th percentile or above on one of the approved alternative assessments, how long must a student wait before taking a different alternative test?**

20 days. An approved alternative standardized reading assessment may be administered at any time prior to the start of the next academic year, if there are at least 20 days between administrations and different test forms are administered.

May a district accept an approved alternative assessment that was administered by an independent agency?

The district is responsible for assuring that an approved alternative assessment is administered by district trained personnel to maintain consistency, validity and security.

Good-Cause Exemption 4: Portfolio

Section 1210.508C (K) *states that a student who scores an* ***Unsatisfactory*** *on the third-grade reading portion of the OCCT may be promoted to fourth grade if the student qualifies for one of the six good-cause exemptions.*

Are there guidelines provided by the state for the third-grade student portfolio?

Yes. As provided in Rule 210:15-27-2, to be accepted as meeting the portfolio option for demonstrating mastery of the required reading skills to be eligible for a good-cause promotion, the student portfolio must:

- Be selected by the student's reading teacher;
- Be an accurate picture of the student's ability and only include student work that has been independently produced in the reading teacher's classroom;
- Include evidence the benchmarks assessed by the third-grade OCCT Reading assessment have been met.
    - multiple choice items and passages that are approximately 50 percent literary text and 50 percent expository text that are between 200-600 words with an average of 350 words
    - Such evidence could include chapter or unit tests from the district's adopted core reading curriculum that are aligned with the Oklahoma State Standards
    - teacher-prepared assessments that are aligned with the Oklahoma State Standards
- Be an organized collection of evidence of the student's mastery of the Oklahoma State Standard Benchmarks for Language Arts that are assessed by the third-grade OCCT assessment.
- For each benchmark, there must be at least four examples of mastery as demonstrated by a grade of 70 percent or above; and
- Be signed by the student's reading teacher, principal, and superintendent attesting that it is an accurate assessment and the student possesses the required reading skills to be promoted to fourth grade.

Do the same portfolio guidelines apply to IEP students?

Yes. The state portfolio guidelines apply to all students, including IEP students.

Is the student portfolio the only tool used for good-cause exemption and/or promoting a third-grade student to fourth grade?

No. An approved student portfolio and one of the four state approved reading alternative assessments are the two state-approved options for good-cause exemption and midyear promotion. The student must be offered both options. However, the student must only demonstrate proficiency on one of the options in order to receive a good-cause exemption or be promoted midyear.

If a teacher is monitoring the progress of a student, is a portfolio needed?

Yes. A portfolio provides ongoing information on how a student is independently performing. There are specific requirements of necessary elements that must be included in a portfolio used for promotion. If a teacher chooses to follow the rigor of the state portfolio requirements, a portfolio may be used for progress monitoring as well as promotion.

Can parts of the OCCT assessment be used as part of the portfolio for good-cause exemption or midyear promotion?

No. Reporting categories do not provide enough information to determine whether a student has mastered that particular area of the Oklahoma State Standards.

When will schools receive OCCT scores to identify those students who scored Unsatisfactory on the OCCT reading portion?

Dates for receiving OCCT scores will vary.

Is there a timeline for information to be available on the WAVE for easy retrieval of third grade test scores?

*The Department understands the need for expeditious reporting of third grade reading scores. Over a year ago, the Department began discussions with the testing vendor to begin planning for third grade test scores to take priority. The vendor has planned to have third grade test results reported to districts on May 9th. Districts should be able to access all score reports via CTB's file sharing serve at that time. Simultaneous downloads into the WAVE system have been planned. It is important to note that a school is not required to wait for the test results to begin utilizing good-cause exemptions for promotion. Immediately following test administration, a district may choose to begin offering alternative tests. (**Certain rule requirements apply.**) To that same point, a teacher may compile student portfolios throughout the entire third grade school year. (**Rule requirements also apply.**)*

How will classroom teachers know which students scored unsatisfactory on the OCCT before they leave at the end of the school year?

Teachers are advised to gather portfolio materials on every student.

S*hould teachers keep a portfolio for every student?*

Yes. It is best practice to keep a portfolio for every student. Portfolios are designed for students who are reading on grade level.

When should portfolios begin in a student's academic career?

Portfolios should begin when students enter school in PreK or K.

Is it possible for teachers to document the student's portfolio work digitally? **For example, may the teacher take photographs or scans of the work and store on a flash drive?**

Yes. It is highly recommended for teachers to have the majority of students' work in hard copies.

The portfolio exemption states that it must be independently produced. If a child has an IEP that states that test can be read to a child can that be included as an artifact in the portfolio as long as they score a 70 % or above?

Reading all assessment section other than the reading portion is allowable. Reading the Reading portion of the assessment to a student invalidates the assessment as a Reading assessment. When a reading assessment is read to a student it no longer is a reading assessment but a listening comprehension assessment.

Good-Cause Exemption 5: IEP Student Who Has Been Retained Once

Students with disabilities who take the ***OCCT*** *and whose* ***IEP*** *states that they have received intensive remediation in reading for more than two years but still show a deficiency in reading and were previously retained in kindergarten, first grade, second grade, or third grade (****or in a transitional grade****).*

What is intensive remediation in reading "intensive instruction" and in reading "program of reading instruction"?

The meaning of each of these terms is equivalent under the RSA law. It is a reflection that the student has received intensive remediation for more than two years. Intensive remediation may include any type of program offering intensive reading instruction that is documented on the student's APP or identified as appropriate by the IEP team.

Is there a requirement that the student have an IEP in place for two years to satisfy any requirement of good-cause exemption number 5?

No. There is no requirement that the student have an IEP in place for two years to satisfy any requirement of good-cause exemption number 5.

Do the reading remediation requirements apply to a student who has an IEP with the primary exceptionality of speech impairment? For instance, is the district required to provide intensive remediation for more than two years in order for the student to qualify for the good-cause exemption?

*Yes. The relevant good-cause exemption in statute [**Section 1210.508C**] states that students with disabilities who participate in the OCCT and have an IEP that reflects that the student has received the intensive remediation in reading as required for more than two years, but still demonstrates a deficiency in reading and was previously retained in kindergarten, first grade, second grade, or third grade, are eligible for a good-cause exemption. This applies to all students who meet the IEP criteria; including students whose IEP reflects speech impairment as the primary exceptionality.*

For exemption 5, I was under the impression that the student must have Reading Goals in the IEP, but on page 19 of the RSA FAQ from the Oklahoma State Department of Education website it states that students who have speech impairments as their primary exceptionality will qualify for the exemption if they have been previously retained. Is this true, and can you elaborate?

The RSA rule that has been promulgated by the State Board of Education states that the student's identified disability (in the IEP):

- *Identify reading as an area of education need for the student OR*
- *Identify some type of special education service in the area of Reading[2] in order for the good-cause exemption to apply.*

Regardless of the primary exceptionality that has been identified, if the student meets one of these requirements, the student will qualify for the exemption. (Assuming other criteria such as previous retention and IEP are met.) The determination of whether a particular disability qualifies under this exemption must be determined on a case-by-case basis.

*Based on the criteria in the rule, "Expressive Language (Oral Language) or Listening Comprehension" related disabilities **may** qualify the student for the good-cause exemption. And, in other circumstances, the same diagnosis may not qualify the student for a good-cause exemption depending on whether the IEP meets the above-stated criteria.*

If the student[1]s Oral Language/Expressive Language disability meets the definition in the rule, the good-cause exemption will apply. If the student's listening/comprehension related disability meets that definition, the good-cause exemption will apply.

In any circumstance, the district will have to show that the Oral Language/Expressive Language disability meets the above stated definition. If it does, the student qualifies for the good-cause exemption.

May a student with an IEP who is reading below grade level and has never been retained be promoted using a portfolio that contains products reflecting below grade-level achievement?

No. The student must show proficiency at grade level by demonstrating mastery of the Oklahoma State Standards. The expectations for students with disabilities who participate in the OCCT are the same as non-disabled students who participate in the OCCT. Portfolios reflecting below grade-level mastery do not meet this requirement.

Are students with an IEP given any alternate means by which to achieve the goals needed in order to be promoted midyear?

All students who participate in the OCCT including students with an IEP are to follow the same guidelines disseminated by the U.S. Department of Education. This requirement reflects high expectations and equality for students with disabilities in accordance with the Individuals with Disabilities Education Act (IDEA).

Are students on 504 able to meet good-cause exemption 5?

Students that are on a Section 504 accommodation plan are considered general education students and the 504 plan does not grant them any exceptions.

Will an IEP student that moves into the district but has no documentation of receiving more than 2 years of intensive remediation be retained?

Yes. The definition of special education is specialized instruction – which means that it should be more intensive that the instruction that is received within the general education environment. Students that are on an IEP should have been receiving intensive remediation through research based interventions prior to determining that the student should be referred for special education evaluation. There must be documentation of the intensive reading remediation in the IEP.

A child has an IEP for reading. They are receiving all accommodations through the classroom and are not being pulled for any other services. Do they qualify for good-cause exemption 5 if they meet all other criteria?

Any IEP student meeting the requirements of good-cause exemption 5 would qualify for good-cause exemption 5 regardless of how their services are provided.

If an IEP states that the child is "for monitor only", do they still qualify for good-cause exemption 5 even though they are not technically receiving services?

Yes. Students with disabilities that are on a "monitor only" IEP would still qualify for good-cause exemption 5 if all criteria are met. The key to the "monitor only " IEP is the balance of finding the most appropriate accommodations that can be implemented within the general education environment that allows the student to be successful. So, the student would have been receiving accommodations that would address the disability but allow them to remain in the general education class receiving rich instruction. A special education teacher monitors the progress. If the student's progress changes then the IEP team would re-meet and move the student of a "monitor only" to receiving direct services.

Good-Cause Exemption 6: Regular Education Student Who Has Been Retained Twice

*Students who have received intensive remediation in reading for two or more years but still have a deficiency in reading and have already been retained in kindergarten, first grade, second grade, or third grade (**or in a transitional grade**) for a total of two years.*

Do all Oklahoma schools need to provide intensive instruction or option of transitional classroom?

Regardless of when a student enters a school, he or she must be provided grade-level work for the subject areas in which the student has not demonstrated proficiency. Districts must provide all students retained twice in third grade, including transfer students, with intensive instruction and the option of being placed in a transitional classroom.

Does the Oklahoma Department of Education offer suggestions in developing a transitional classroom?

Yes. The following are possible examples of a transitional classroom setting:

- Third-grade students who have been retained once in third grade
- Students who have been retained twice in third grade
- Fourth-grade students who may be struggling with the fourth-grade reading curriculum and benchmarks.
- Students retained twice in third grade receiving intensive reading instruction on their reading level and fourth-grade curriculum in other subject areas.
- A fourth-grade class that includes students retained once or twice in third grade. The retained students may be pulled from the traditional classroom setting for intensive reading instruction, provided for the majority of the day (approximately three hours).

Will a transitional grade teacher teach this student fourth grade skills in the other content areas if the student is ready for the fourth grade content?

Yes. Students retained twice in third grade who receive intensive reading instruction on their level may receive fourth-grade curriculum in other subject areas.

Will the students have a different teacher for reading remediation than they will have for other content areas?

This is a district decision. The retained students may be pulled from a traditional classroom setting for their intensive reading instruction, which should be provided for the majority of the day (approximately three hours).

Will all students who are retained in third grade be required to be placed a transitional class?

No. The transitional class is an option. Most retained students will be in a traditional third-grade classroom, not a transitional classroom.

If a student is retained and put in a transitional class, but is <u>not</u> promoted to the regular fourth grade by the November deadline, how is the student's grade level transcribed - third grade or fourth grade?

Third grade.

In the case above, what OCCT exam will this student take?

Third grade.

Will the Department of Education provide guidance with selection of a comprehensive intervention reading program for students retained twice in third grade?

Yes. The following information will provide some guidance. The following link www.fcrr.org offers guidance for instruction for students retained twice in third grade. This is an excellent resource for selecting a reading program for these students that is research-based and has proven results in increasing student reading achievement for fragile learners.

Also, What Works Clearinghouse publishes intervention reports that evaluate research on beginning reading curricula and instructional strategies for students in grades K-3. The IPE curricula and strategies are intended to increase skills in alphabetic principle, reading fluency, comprehension, and general reading achievement. There are three links to the Doing What Works Clearinghouse material on the OSDE webpage: http://ok.gov/sde/curriculum-and-instruction. On this page, you will see Doing What Works Clearing House, Improving K-3 Reading Comprehension, and Response to Intervention in Primary Grade Reading.

Do districts HAVE to provide a Transition class, for students who do not meet the good-cause exemptions, or can we retain students in a standard 3rd grade classroom, and provide additional support and reading interventions?

Your first question relates to the offering of transition classes. In short, a district is not required to offer transition classes to students who are subject to retention and do not qualify for any of the six good-cause exemptions. In an effort to provide more flexibility to districts, the Department included language in the RSA rule promulgated by the State Board to allow districts to count transition grades as previous retentions. Including this language allows a district to offer a transition grade that combines subject matter from two grades. (Ex: Third grade reading taught with fourth grade math, science, and social studies.) The Department's intent was to allow districts to offer a transitional grade and count it as retention for purposes of the RSA. Although this is an option for districts, it is not required. A district may decide locally whether to utilize this option.

A district may certainly opt to retain students in the third grade and continue to provide additional support and reading interventions. This is required by law. ***See 70 O.S.§ 1210.508C(N)(2)****:*

> "Provide to students who have been retained as set forth in subsection H of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:
>
> - small group instruction,
> - reduced teacher-student ratios,

- more frequent progress monitoring,
- tutoring or mentoring,
- transition classes containing third-and fourth-grade students,
- extended school day, week, or year, and
- summer reading academies as provided for in Section 1210.508E of this title, if available;"

Chapter 6-Six Good-cause Exemptions Documentation, 70 O.S. § 1210.508C (M)

What is the process for documenting a student promoted for a good-cause exemption?

1. Documentation submitted from the teacher of the student to the school principal that indicates the student meets one of the good-cause exemptions and promotion of the student is appropriate. In order to minimize paperwork requirements, the documentation shall consist only of the alternative assessment results or student portfolio work and the individual education plan (IEP), as applicable.

2. The principal of the school shall review and discuss the documentation with the teacher. If the principal determines that the student meets one of the good-cause exemptions and should be promoted based on the documentation provided, the principal shall make a recommendation in writing to the school district superintendent.

3. After review, the school district superintendent shall accept or reject the recommendation of the principal in writing.

CHAPTER 6: ACADEMIC PROGRESS PLAN (APP)

*(**Formerly known as Program of Reading Instruction**), 70 O.S. § 1210.508C(L), OAC 210-15-27*

Is our district required to use the OSDE APP form that is located on the *RSA Website*?

No. The downloadable Academic Progress Plan Document and the K-3 Reading Model guidelines are provided as a convenience to the districts. If a district follows the requirements of the law and all portfolio criteria is met, then a district may use their own created form.

Is the Academic Progress Plan the same as the Program of Reading Instruction?

Yes and No. The APP has been revised to include enhancements. Some of the enhancements include the Response to Intervention or RtI Model. The RtI Model is targeting instruction to meet the student's academic need as soon as possible.

What happens if the parent refuses to sign the APP?

The school should document that the attempt was made and that parent refused to sign.

A parent signature on the APP is best practice in order to document their efforts to advise and involve the parent in the school's plan to provide the "program of reading instruction" required by statute. In addition, the APP can also be used by a district to document that the district has met the notification requirements in 1210.508C(I). So if a parent refuses to sign, the school shouldn't be penalized; the school needs to document the refusal so they can prove they at least made the attempt to advise the parent.

What if 100% of the students in a classroom are not identified as RSA students? They have not been retained once or twice, is the three tier model necessary?

No.

What is Intensive Reading Instruction?

For purposes of the Reading Sufficiency Act, a program of "intensive reading instruction" shall be based upon a three-tiered Response to Intervention ("RtI") model.

> **Tier I Intervention** - For students identified for Tier I intervention, a minimum of ninety (90) minutes of uninterrupted daily scientific-research-based reading instruction.
>
> **Tier II Intervention** - For students identified for Tier II intervention, at least an additional thirty to forty five minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.
>
> **Tier III Intervention** - For students identified for Tier III intervention, at least an additional sixty (60) to ninety (90) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.

What are the requirements for the formation of a committee to develop a Program of Reading Instruction/Academic Progress Plan (APP) for a student who has been identified as not reading at the appropriate grade level?

The law requires that the committee be composed of educators, a certified reading specialist (if possible), and a parent or guardian. It is up to the district to set policy/determine how this will operate at the district level.

Should a student's reading plan be a part of his/her permanent record and be sent to a new school?

Yes.

If a student leaves a district, should we keep a copy of their reading plan?

Yes.

What is to be documented in regard to reading instruction?

Student's documentation includes:

- Academic Progress Plan
- Dates of assessments
- Progress monitoring
- Minutes per day in reading instruction and remediation
- Teacher-student ratio
- Parent notifications
- Areas in which the student is experiencing deficiency

The law states that a program of reading instruction will continue until the student is determined to be reading on grade level by the results of an approved reading assessment. Do they need to stay on the plan until December?

Yes. Students will need ongoing support and assessments provided to them after they come off of a plan of improvement.

If a student doesn't meet benchmark until December, do you write a plan at that point?

Yes.

Do you get signatures again in December for children who are already on a plan and need to continue on the plan?

No. Once you have parents' or guardians' signatures, the school is to send parents notification of the student's progress on an ongoing basis, at least three times per year, i.e., beginning, middle, and end.

CHAPTER 7: REQUIRED DISTRICT RESPONSIBILITIES

70 O.S. § 1210.508C (N)

Under district responsibilities for retained students, must the school provide all of these listed or some of them?

The decision regarding what services are to be provided to each retained students should be made by the local district in coordination with the parent or guardian of the student.

The law states: "Retained students shall be provided other strategies prescribed by the school district which may include, but are not limited to:

> *Small group instruction; reduced teacher-student ratios; more frequent progress monitoring; tutoring or mentoring; transition classes containing third- and fourth-grade students; extended school day, week, or year; and summer reading academies, if available."*

RSA K-3 TIERS

Tier One	***90 minutes uninterrupted daily scientific-research-based reading instruction***
Tier Two	***90 minutes uninterrupted daily scientific-research-based reading instruction plus at least 30 to 45 minutes***
Tier Three	***90 minutes uninterrupted daily scientific-research-based reading instruction plus at least 45 to 60 minutes***

What are the requirements/recommendations that districts must implement to meet the needs of third-grade students identified with a reading deficiency who have not been previously retained, who have been previously retained, and have been retained twice or who have been promoted due to good-cause exemption?

*The **K-3 Reading Model Guidelines** describes the requirements and recommendations that districts will meet the needs of third grade students who have:*

- not been previously retained (Tier I)
- been previously retained (Tier II)
- been retained twice or who have been promoted due to a good-cause exemption (Tier III)

*Reading Model Guidelines for K-3 is the companion document for the Academic Progress Plan (APP) found on the **RSA Website**.*

Can immediate intensive reading be delivered in the regular classroom by the IEP teacher?

Yes.

By the general education teacher?

Yes. The classroom is to be organized in an effective way and the teacher may provide instruction at the appropriate level. If the student has an IEP requiring special interventions in reading, then the IEP teacher could provide additional instruction outside the 90 minute block that was coordinated with and consistent with the work of the regular classroom teacher.

With regard to Tier I, Tier II, and Tier III and the time requirements, the terms intervention time and instructional time have been used interchangeably. On our RSA plans we had to state that we provide 30 minutes of daily intervention for Tier II and 45 minutes of intervention for Tier III. In the most updated RSA FAQ it now states we must provide 30 and 45 minutes of additional instructional time. We provide varying amounts of intervention, based on what is developmentally appropriate, during this additional instructional time. Are we in compliance by doing so?

The interventions you are asking about were established in rule by the State Board of Education last year to reinforce the statutory intervention requirements. The rule defines this three-tiered Response to Intervention approach as "a program of reading instruction." (See Title 70, Section 1210.508C and requirements to provide a program of reading instruction to students who are not reading at grade level.)

The determination of whether you are meeting the requirements of the law and the rule is a factual determination based on the services you are providing to students. The rule establishes the minimum requirements for a program of reading instruction:

> **Tier I Intervention**-The initial 90 minutes of daily scientific research-based instruction is required for all students who have been identified as having a reading deficiency.
>
> **Tier II Intervention**-These are students who have been identified as having a reading deficiency but are not progressing according to the chosen progress monitoring tool and if applicable, a diagnostic. These students will need more time and the correct intervention.
>
> **Tier III Intervention**-These are students who have been identified as having a reading deficiency but are not progressing according to the chosen progress monitoring tool and diagnostic. These students will need even more time and the correct intervention.

The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one school year. What program(s) are available that will meet this standard?

The following website can provide guidance with identifying programs targeted to meet the needs of students having serious reading difficulties:

http://ies.ed.gov/ncee/wwc/topic.aspx?sid=8

There is also a link on the OSDE's Website. Go to the Reading Sufficiency Act Website. Select "RSA Resources" where you will find the following link: www.fcrr.org.

Mid-Year Promotion for Third-Grade Students

What are the guidelines/requirements for a midyear promotion?

In accordance with Rule 210:15-27-3, to be eligible for a midyear promotion prior to November 1, a student must demonstrate mastery of reading skills consistent with the month of promotion to fourth grade as presented in the scope and sequence of the school district's core reading program. Evidence of demonstrated mastery is as follows:

- Successful completion of portfolio elements that meet state criteria or
- Satisfactory performance on a locally selected standardized reading assessment
- To promote a student midyear using a student portfolio, there must be evidence of the student's mastery of third-grade Oklahoma State Standard Benchmarks for Language Arts and beginning mastery of the benchmarks for fourth grade. The student portfolio must meet the following requirements:
  - Be selected by the student's reading teacher;
  - Be an accurate picture of the student's ability and include only student work that has been independently produced in the classroom;
  - Include evidence of mastery of the benchmarks assessed by the third-grade OCCT Reading assessment;
  - Include evidence of beginning mastery of fourth-grade benchmarks that are assessed by the fourth-grade Reading OCCT. This includes multiple choice items and passages that are approximately 50 percent literary text and 50 percent expository text, and that are between 200-600 words with an average of 350 words. Such evidence could include chapter or unit tests from the district's adopted core reading curriculum that are aligned with the Oklahoma State Standards or teacher-prepared assessments. For each benchmark, there must be three examples of mastery as demonstrated by a grade of 70 percent or better; and
  - Be signed by the reading teacher and the principal as an accurate assessment of the required reading skills.

- To promote a student midyear using one of the State Board of Education-approved standardized assessments there must be evidence that the student scored at or above grade level in reading comprehension, as demonstrated by standard scores or percentiles, consistent with the month of promotion to fourth grade. Additional district requirements for any midyear promotion criteria must be specified in the district's Academic Progress Plan.

May a third-grade student, potentially eligible for a midyear promotion, be placed in a fourth-grade classroom and then be promoted after demonstrating proficiency on the portfolio or an alternative assessment?

No. Districts need to meet the individual needs of students. This can be achieved through implementing creative multi-age grouping or a transitional classroom setting.

If a student is promoted mid-year, then does the student repeat fourth grade repeating the same content as was presented the year before in the transitional class or move to fifth grade?

No. This student would have received reading intervention to meet their specific needs in a fourth grade setting to accelerate his/her progress to ensure they are on level with their peers. In the end, regardless of subject area, differentiation/enhancement for students mastering grade level subject area standards is the key. This depends entirely upon the student's mastery. In other words, if the student meets all of the third-grade criteria, they would be promoted to fourth grade. If they meet all of the fourth-grade criteria, they would be promoted to fifth grade.

Why must a student's mid-year promotion be made before November 1?

The intent of Rule 210:125-27-3 is to ensure that students are promoted as soon as possible (but no later than November 1) so they receive essential fourth-grade instruction. For example: If a student has attended a Summer Academy Reading Program and demonstrated mastery of all benchmarks but one, the student could show proficiency in the deficit benchmark and then be promoted to fourth grade before November 1.

If a student is promoted based on a mid-year promotion, do they take the fourth grade OCCT in Reading and Math?

Yes. If a student is mid-year promoted to fourth grade, they are officially fourth-grade students and will take the fourth grade OCCT Reading and Math test.

Will the student preparing for mid-year promotion be given fourth-grade instruction while in the transition class?

Yes. Students must be provided grade-level work for the subject areas that are not at risk. All students should be supported in making continuous academic progress. This means teaching and learning for mastery and moving forward through the curriculum and the Oklahoma Standards as appropriate for the individual.

CHAPTER 8: iREAD INITIATIVE

70 O.S. § 1210.508C(O)

What is the Read Initiative, iREAD?

Read Initiative began in 2011-2012 to establish the Reading Enhancement Acceleration Development.

What is the purpose of the Read Initiative, iREAD?

*The purpose of iREAD is to **prevent** the retention of third-grade students by offering intensive accelerated reading instruction to kindergarten through third-grade students who are exhibiting a reading deficiency.*

***Do districts have to offer a transitional setting as part of the Intensive Acceleration Class?**

No. The transitional setting is an option.

***Is the transitional class the same as the Intensive Acceleration Class?**

The transitional class may be offered with all grades. The Intensive Acceleration Class is for third grade retained students. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year.

***Is the transitional class offered only for students who will be mid-year promoted?**

No, districts may have transitional classes with all grades.

CHAPTER 9: PROGRESS REPORTING PROVIDED TO PARENT/GUARDIAN IN WRITING

70 O.S. § 1210.508C(P)

What is involved in the Progress Reporting to Parents?

In addition to the previous RSA Parent Notifications, each school district board of education shall annually report to the parent or guardian of each student in the district the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics.

The school district board of education shall report to the parent or guardian of each student the results on each statewide criterion-referenced test. The evaluation of the progress of each student shall be based upon classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting shall be provided to the parent or guardian in writing.

CHAPTER 10: SCHOOL DISTRICT REPORTING

70 O.S. § 1210.508C (Q)

What is included in School District Reporting?

Every School District should have a website and annually post information according to the list of requirements by September 1.

CHAPTER 11: RSA FUNDING

70 O.S. § 1210.508D

Will there be any funding provided to assist in all that is required to meet the requirements of the Reading Sufficiency Act as it is written?

RSA FUNDING 2013-14

$6.5 Million is allocated for the 2013-14 school year.
The funding will be divided equally for all K-3rd graders who are turned in on the RSA BOY Report.
Districts will decide how the funding is allocated in conjunction with the RSA Funding Checklist.
Districts are encouraged to spend 25% of their funding for professional development.

What is listed on the RSA Funding Checklist?

Beginning of FY 2013-14*, funding will be distributed directly to the districts. Districts are no longer required to submit reimbursement claim forms. Districts will continue to use project 367 for any OCAS or State Aid reporting.*

Summer Academy Reading Program will also use the program expenditure dimension code number 441 – ***Summer School for Elementary****. Please click* ***here*** *to access the RSA Funding Checklist on our Website.*

***May districts use Title 1 funds for Summer School?**

The district may continue offering a Title I Summer Reading School, and pay it with Title I A funds, as long as it is offered to all Title I students (not grade specific). In this case, the Title I Summer Reading School may not be considered the Summer Reading Academy Program mentioned as a reading strategy under the Reading Sufficiency Act (RSA), and the district must select another strategy to meet the RSA requirements (such as reading services during regular school hours, before/after school tutoring, Saturday schools, etc.). These strategies must be written in the Reading Sufficiency Plan (RSP).

***Can Title I funds be used to purchase instructional materials/programs to be used in 3rd/4th grade transitional classes?**

*If a district offers transitional classes as a strategy reflected in the RSP, then paying for any personnel, instructional materials, or programs chosen to comply with the provisions of the RSA will violate the "supplement not supplant" rule in Title I, and **may not** be paid with Title I A funds.*

***Can Title I funds be used to purchase instructional materials/programs to be used in the Intensive Acceleration Class?**

*SB 346 requires districts to establish a Reading Enhancement and Acceleration Development (READ) Initiative for all students Kindergarten through Third grade who do not read at the grade level. If the "Intensive Acceleration" class is offered as part of the READ Initiative, it **may not** be paid with Title I A funds (again, it will violate the supplement not supplant rule).*

***Can Title I funds be used to employ interventionists to meet with small groups?**

SB346 also defines as district responsibility to provide intensive interventions in reading, to remediate reading deficiencies of retained students, including:

- a minimum of ninety (90) minutes of daily, uninterrupted, scientifically research-based reading instruction.
- other strategies, such as: small group instruction; reduced student-teacher ratios; tutoring or mentoring; transition classes containing 3rd and 4th grade students; extended school day, week, or year; summer reading academies.
- at least one of the following instructional options: supplemental tutoring (before, after school); a parent-guided "Read at Home" assistance plan, as developed by OSDE, to encourage regular parent-guided home reading; or a mentor or tutor with specialized reading training.

*Therefore, if small group activities are recorded in the Reading Sufficiency Plan as one of the strategies to remediate reading deficiencies of retained students, Interventionists that meet with these small groups **will not be allowable** from Title I A funds. If the district chooses other strategies in the Reading Sufficiency Plan, then Interventionists for small groups will be considered supplemental, and they **will be allowable** from Title I A funds.*

***Can Title I funds be used to purchase instructional materials/programs to be used for 4th grade good-cause promoted students?**

*A school district may promote students who do not meet the academic requirements for promotion, based on what is known as "Good-cause exemptions". Any personnel, instructional materials or programs designated **exclusively** for the "Good-cause" promoted students **may not** be paid with Title I A funds. However, if the site is School wide, and it has a mixed class of other low achieving students and "good-cause" promoted students, then the class will be considered a Title I A class, and the proposed materials/programs **can be** paid with Title I A funds.*

CHAPTER 12: TEACHER PREPARATION

70 O.S. § 1210.508D

Are resources available to help teachers with the RSA Law and rules?

*Yes. Many resources may be found at the **Reading Sufficiency Act** webpage. Oklahoma has highly trained REAC3H Coaches who are focused on Pre-K through Third Grade Literacy and are available to serve Oklahoma School Districts. REAC3H Coaches across Oklahoma are available for districts to use for job embedded professional development. Also, Oklahoma's REAC3H Coaches provide Reaching All Readers workshops throughout the state.*

What does the law say about Teacher Preparation Funding?

If a teacher attends and completes a professional development institute in elementary reading approved by the Oklahoma Commission for Teacher Preparation during the summer or when school is not in session, the teacher may receive a stipend equal to the amount of the cost for a substitute teacher, based on the amount of funds allocated.

OKLAHOMA STATE DEPARTMENT OF EDUCATION
JANET BARRESI
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

CHAPTER 13: SUMMER ACADEMY READING PROGRAM (SARP)

70 O.S. § 1210.508E

How can teachers use assessments for the portfolio in SARP when the program used provides intensive reading but is not on grade level?

If the program is not on grade level, the assessments cannot be used to document mastery of third-grade benchmarks.

Will SARP be mandatory if a student does not benchmark?

No.

Is SARP available for students in grades other than third grade?

Summer Academy Reading Programs or other programs must be offered to students in the third grade scoring an Unsatisfactory on the OCCT Reading as specified in Section 1210.508C. If a district chooses to open the program to other grade levels, the district may do so at its own discretion. Subject to availability of RSA funding, a district may expand the program to other grade levels.

Have the Guidelines for qualifying for SARP changed?

*There are no current guidelines from the State Department of Education that set forth **1)** how a SARP should be conducted; or **2)** who may qualify/attend a SARP offered by a school district. The Department's interpretation of the law provides ultimate flexibility to districts in determining how to conduct a SARP. The only requirement relating to SARP's is set forth in the Board's rules. (See Below) These requirements do not relate to eligibility. According to the Oklahoma Administrative Code, 210:15-27-1, current State Department of Education rules state:*

(l) Summer academy reading programs for students shall be courses that:

1) provide at least four (4) weeks of tutoring a half (1/2) day each day for four days,

2) incorporate the content of a reading program administered by the Oklahoma Commission for Teacher Preparation or a scientifically based reading program administered and approved by the State Board of Education that meets the criteria set forth in the Reading Sufficiency Act,

3) are taught by teachers who have successfully completed a professional development institute or program in reading administered by the Oklahoma Commission for Teacher Preparation or a scientifically based reading professional development program administered by the State Board of Education as prescribed by the statutory provisions of the Reading Sufficiency Act.

4) include only eligible students not reading at grade level based on results from an assessment approved by the State Board of Education.

It is important to note that Summer Academy Reading Program is not required by law. State law requires the district to offer intensive intervention to third graders who have been retained. SARP is one type of intensive remediation that districts may choose to offer. Further, there are schools across the state that have opened SARP up to students in K, 1, and 2. This is a local decision.

A district may certainly opt to offer some other type of program to fulfil the "intensive remediation" requirement.

CHAPTER 14: STUDENTS PROMOTED BY GOOD-CAUSE EXEMPTIONS

Students who are promoted to the fourth grade on a good-cause exemption must be provided intensive reading instruction during an altered day. Is this a pullout program where students work with a reading specialist?

This is a district decision. It is important to ensure these students are getting 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 block and additional intervention services. They will need more support and instructional services then your general 4th grader.

How many minutes of intensive intervention is expected for a student in fourth grade promoted through a good-cause exemption?

Some students in intensive intervention may need up to 180 minutes of reading instruction per day.

CHAPTER 15: STUDENTS MOVING IN FROM ANOTHER STATE

What is the process for placing students that move into the district from an out of state school?

It is unclear whether this question refers specifically to third grade students or to students in other grades. Generally speaking, the district's placement policy would govern this decision separate from any application of the RSA law. If a third grade student moves in from out of state, RSA requirements will apply.

If a student moves into the district from another state, what is the procedure for them to be placed in fourth grade?

The RSA law places no obligation to apply RSA requirements to students enrolling for the first time in the fourth grade. Generally speaking, the district's placement policy would govern this decision separate from any application of the RSA law.

What grade should a child be in if a parent moves them out of state to avoid the OCCT for 3rd grade and moves them back just after the next year begins?

If the other state promoted to 4th grade and it is documented in the information that is received by the out of state school then the student would be placed in 4th grade.

CHAPTER 16: HOME SCHOOL STUDENTS

Does this apply to students who move into the district from a private school or were home schooled, and are going into the fourth grade?

Yes. The records of students who move into the district from a private school or were homeschooled and are going into the fourth grade will be reviewed to determine the proper placement.

Is it state law that students take a placement exam (at any grade level) if they are coming to a school from a home school setting?

No. If the other state promoted to 4th grade and it is documented in the information that is received by the out of state school then the student would be placed in 4th grade.

What is the district's responsibility concerning students who leave to be homeschooled at the end of third grade and coming back to public school for the 4th grade?

There is nothing in the RSA law (or any other section of law) that allows districts to intervene (or monitor) situations where students are withdrawn from public schools and later re-enter in a subsequent grade. Once the student re-enrolls in the 4th grade, the school will determine the appropriate placement (the grade the student should be placed) by the adopted policy. (Some districts use placement assessments, other use previous test performance, etc. . . .) What distinguishes this scenario is that the student actually withdraws from public schools.

What if a 3rd grade student leaves before the CRT testing and returns the next year (without being in another OK school). Do they get to go to the 4th grade? Do they have to take some sort of test?

The Reading Sufficiency Act is specific to the promotion of third grade students. Section H of the law states, "Beginning with students entering the first grade in the 2011-2012 school year, if the reading deficiency of a student, as identified based on assessments administered as provided for in subsection B of this section, is not remedied by the end of third grade, as demonstrated by scoring at the unsatisfactory level on the reading portion of the statewide third-grade criterion-referenced test, the student shall be retained in the third grade."

Section K states, in relevant part: "For those students who do not meet the academic requirements for promotion . . ." As such, it is clear from the language of the law that the limitation is upon the school district specifically with regard to promoting a student from third to fourth grade. If a student moves into Oklahoma, and enrolls in an Oklahoma public school in the fourth grade, the district's placement policy will determine how and in what grade the student is placed. Similarly, if a student withdraws from a district, and subsequently re-enrolls the next year, the same district's placement procedures would determine how/where the student is placed.

You may recall that most schools require students enrolling in the school to take placement assessments to determine appropriate grade placement. The student would be placed in accordance with the district's policies, but would not be subject to the requirements of the RSA. (It is important to note that Section H of the law states, "No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.")

CHAPTER 17: FAQS FOR RSA IN SPECIAL EDUCATION

This document serves as guidance from the Oklahoma State Department of Education (OSDE) relating to the applicability of the Reading Sufficiency Act (RSA) to students with disabilities. Consistent with the intent of the law, implementation of RSA should ensure that all students, including students with disabilities, receive additional support and services required to achieve success. One intended effect of the RSA law is that school districts will identify the needs of students earlier, and implement targeted support services for all students.

Retention requirements in the RSA are applicable to all students, regardless of disability status. The special education services received by a student with a disability are meant to ensure that every student receives a free and appropriate public education (FAPE) under federal law. [34 CFR 300.39(b)(3)(ii)]. FAPE requires that a student be afforded the means to fully and equally engage in the general education curriculum. Importantly, academic success should not be the sole factor in determining eligibility for special education 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 RSA 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 Relating to Special Education

Are students on a Section 504 Plan able to qualify for promotion under any good-cause exemption?

*Possibly. There is no good-cause exemption that applies exclusively or solely to students on a Section 504 plan. However, students on a 504 accommodation plan may qualify for any of the four good-cause exemptions that do not have Individualized Education Program (IEP) requirements. (**Section 504 plans are not equivalent to IEPs under the RSA law.**)*

Are students with disabilities provided alternative options to meet the requirements of RSA needed for promotion?

*Yes. The RSA law provides for six "good-cause exemptions" that are available to all students, including students with disabilities. These exemptions serve as alternatives and allow a student who is unable to score above the **Unsatisfactory** level to be promoted to the fourth grade.*

*Within those exemptions, alternative means are provided to ensure all students (**including students with disabilities**) are able to meet the requirements of RSA. There are two specific exemptions applicable only to students with disabilities (**although any of the six good-cause exemptions could apply**). All students are required to participate in programs based on state and federal law, according to the established criteria. All students with disabilities must participate in RSA.*

May students on an IEP be retained?

Yes. Application of the RSA 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.

May a student with an IEP who is reading below grade level and has never been retained be promoted using a student portfolio that contains work products reflecting below grade-level achievement?

No. With regard to the student portfolio exemption, the student must demonstrate mastery of the third-grade Oklahoma State Standards. (For purposes of the student portfolio, mastery of the third-grade standards has been set at 70%.)

*The expectations for students with disabilities who participate in the Oklahoma Core Curriculum Test (OCCT) are the same as non-disabled students who participate in it **(34 CFR § 200.1)**. Portfolios reflecting below grade-level mastery do not meet this requirement.*

What are the RSA assessment requirements for a child who is blind and receives reading instruction through Braille?

All students with disabilities should be given the screener that the district has chosen. Students with disabilities may have allowable accommodations as documented on the IEP. If the screener 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 who can assist the team in determining appropriate reading instruction. This individual might determine what "some other measure" may entail.

What are the RSA requirements for a child reading with Braille in regard to needed components of the assessment and how many times per year?

RSA requirements are the same for a student learning to read with Braille. These students need to be assessed with the district-selected screener three times per year (and possibly with "some other measure") and an Academic Progress Plan (APP) must be completed if necessary.

Are teachers able to give longer time on (RSA) formative screening assessments if the student's IEP documents the need for this accommodation on classroom assessments & assignments?

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

Are there alternative screening assessments that may be administered to students on an IEP?

Yes. Each respective vendor that produces the 13 approved assessments has determined and identified allowable accommodations for the screening assessments.

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

Under RSA requirements, all students with disabilities should be given the screener that the district has chosen. All students with disabilities may be provided allowable accommodations as long as those are documented on their IEP. If the screener 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.

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

If a student is on an IEP, should he or she also have an Academic Progress Plan (APP)? 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 RSA 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 an APP to meet the requirements of RSA and to remedy the reading deficiency. ***(See OAC 210:15-27-2)*** *Services could be provided through the use of both IDEA and RSA funds, 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 RSA.*

Can the APP be used as Response to Intervention (RtI) 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 APP may serve as documented evidence. The special education multidisciplinary evaluation and eligibility group members may use information from the APP.

Are teachers who have Visually Impaired students required to write an APP?

*Yes, if the student is not reading on grade level based on one of the approved RSA assessments. (**Certain assessments are provided in Braille.**) This is a requirement for all students.*

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.

Can students on an IEP have accommodations on the Oklahoma Core Curriculum Test (OCCT)? 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. For further questions, contact the OSDE Office of Accountability and Assessments.

Does the IEP trump the RtI program of reading instruction/intervention?

No. The RSA 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 RSA. For example, the 90 minutes of uninterrupted reading 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 uninterrupted 90 minutes. ***Please see the examples on the next page.***

Example: *If a 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 required (30-45 min.), 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 student is in Tier 2 for RSA – they need 90 minutes of Daily scientific-research-based reading instruction PLUS at least 30 to 45 minutes (RSA website) and the IEP services can work in conjunction with these minutes. Otherwise, the student would be receiving 90 minutes plus 30 to 45 minutes plus IEP minutes of intensive reading instruction.*

Example: *After the 90-minute block in class (which does have some special education reading time), can the special education teacher pull that child, individually, for an EXTRA intensive instruction, or does the intensive instruction have to be a different teacher than the special education teacher? Yes, if the special education teacher is teaching the reading intervention that is meeting the specific reading deficit and APP goals. It does not matter who the teacher providing the interventions – what matter is that the deficits have been identified and intervention implemented and progress monitoring occurring.*

Are all IEP students expected to participate in the general education reading block?

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 the students are served in self-contained IEP classes. In those instances, the 90-minute block may be delivered in the special education classroom by a special education teacher.

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-minute block, but may also receive additional instruction from the IEP teacher.

Can RtI tiered 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 Oklahoma State Department of Education (OSDE) 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 math.

This Tier 3 instruction should take place outside of the 90 minutes. OSDE highly encourages schools and districts to involve as high a percentage as possible of their special education students in the 90-minute reading instructional block. 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.

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 RSA 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. RSA addresses the retention of students, specifically requiring retention for students who score unsatisfactory on the third-grade reading assessment.

Should the IEP be changed to reflect the RtI/reading intervention time?

No. The RSA 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 goals and objectives listed on the IEP may (or should) be the same goals listed on the APP 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.

Is the RtI model used only for special education students?

No. Under IDEA, districts may choose to use the RtI method for determining whether a student is eligible for special education services under Specific Learning Disability ***(34 C.F.R. § 300.207)****. RtI 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.*

Are students who already are on an IEP for reading difficulties in need of being placed in RtI as well?

Yes. Best practices indicate that RtI 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.

Students who are promoted to the fourth grade on a good-cause exemption 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 block and additional intervention services.

A speech/language therapist is required for students retained twice in the third grade. Is the therapist to work with these students on a weekly basis?

The use of a speech language pathologist would only be necessary if determined to be educationally appropriate by the student's IEP team. If a speech language pathologist is deemed necessary/educationally appropriate, the amount of therapy provided should be determined by the IEP team.

Good-Cause Exemption #2: OAAP Students

The provisions of RSA apply to students who are assessed by virtue of the Oklahoma Alternative Assessment Program (OAAP). However, the law provides a good-cause exemption for students who are on an IEP that indicates they should be assessed with alternate achievement standards through the OAAP. Therefore, if a student on an IEP who is assessed by an OAAP scores unsatisfactory on the reading portion of the third-grade assessment, that student may be promoted to the fourth grade.

Do other provisions of the RSA (unrelated to retention) apply to OAAP students?

Yes. For example, the RSA contains a parental notification requirement for students who are identified as not reading on grade level. These requirements would apply to OAAP students and any other student promoted to the fourth grade on the basis of one of the six good-cause exemptions.

Are all IEP students eligible for this good-cause exemption?

No. Only students with disabilities who are eligible to participate in the OAAP may qualify under this exemption. Eligibility for participation in the OAAP is determined by the IEP team through the completion of the Criteria Checklist (OSDE Form 12).

Do the APP requirements apply to OAAP students who qualify for this good-cause exemption?

*Yes. RSA regulations state that "any student promoted on the basis of a good-cause exemption listed in **70 O.S. 1210.508C(K)** should continue to receive intensive reading instruction and intensive instructional services and supports through the continued implementation of an Academic Progress Plan (APP) to remedy the reading deficiency."*

Therefore, if an OAAP student scored unsatisfactory on the third-grade assessment and is promoted to the fourth grade under this good-cause exemption, an APP must still be written to ensure the student continues to receive instructional services in reading.

Good-Cause Exemption #5: Students on an IEP

The provisions of the RSA apply to students who are on an IEP. However, the law provides a specific exemption for students with disabilities who have an IEP if the student meets the following criteria:

- *The student must have been previously retained in kindergarten, first grade, second grade, or third grade; and*

The student's IEP must:

- *Identify reading as an area of educational need for the student or identify some type of special education service in the area of reading; and*
- *Reflect that the student has received intensive remediation for more than two (2) years. Intensive remediation may include any type of program offering intensive reading instruction that is identified as appropriate by the IEP team.*

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).*

Does a student qualify for this exemption if the student is receiving all accommodations in the classroom? *(The student is not pulled out of the classroom for other services)*

Yes, assuming all other criteria of the exemption is met. The application of this exemption is not based on the location or manner in which services are provided.

If an IEP states that the child is "for monitor only," does he or she still qualify for good-cause exemption #5 even though the student is not technically receiving services?

Yes, assuming all other criteria for the exemption is met. Students with disabilities who are on a "monitor only" IEP would still qualify for this good-cause exemption.

Must the student have the IEP in place for two years?

No. The rule only requires that the IEP be in place prior to the third-grade OCCT test administration. However, 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.

CHAPTER 18: FAQS FOR ENGLISH LANGUAGE LEARNERS (ELL)

If parents sign a waiver refusing ELL services, even though the child 100% qualifies for the services, how does this work with the ELL exemption requiring 2 years of English Language instruction?

If a parent signs a waiver refusing English Language Learner (ELL) services, the student would not meet the criteria for the ELL good-cause exemption. (Exemption #2). To apply for the LEP good-cause exemption, the student must:

- be identified as Limited-English Proficient (LEP)/English Language Learner (ELL) on a screening tool approved by the Oklahoma State Department of Education Office of Bilingual/Migrant Education and have a Language Instruction Educational Plan (LIEP) in place prior to the administration of the third grade criterion referenced test; and
- the student must have had less than two (2) years of instruction in an English Language Learner (ELL) program.

While a parental waiver of services does not alleviate the district's obligation to provide English services to the ELL student, it does typically result in the student placement in an English-only speaking course. This would not satisfy the requirement that the student receive instruction in an ELL program.

***If a district does not offer an ELL program, but a student is identified through LIEP, would they have less than two years of instruction in an ELL program, qualifying for exemption 1?**

Federal law requires students identified through a LIEP to be provided programs to help overcome language barriers in order to ensure they can participate meaningfully in the school's educational programs. Therefore, once identified, students must be provided with assistance in overcoming language barriers. Identifying students and not providing and ELL program would be in violation of federal law. Examples of programs can be found at:

http://www.ncela.gwu.edu/files/uploads/5/Language_Instruction_Educational_Programs.pdf.

Can 2 years of being in an English speaking classroom qualify a student for the exemption?

No. An English-only speaking course does not meet the requirements of an ELL program.

*(**Note:** To address confusion relating to ELL program requirements, the State Board of Education's adopted amendment to the RSA rule clarifies that the ELL program must meet the definition of a "language instruction education program" set forth in 20 U.S.C. § 7011)*

In regards to ELL students, what is considered a year of instruction? Is it a full calendar year? *For example: What if they move to the state or country in Feb. is this considered a year of instruction? Do we consider FAY and NFAY in determining if it is a year of instruction?*

At least three of the good-cause exemptions contemplate a requisite "time period" of services that must be provided to a student. The Department does not (and has not) interpreted these time requirements to equate to a full calendar year of services. Generally speaking, the "time" requirements set forth in the law should be interpreted to coincide with the school's calendar. ("Year" time periods would equate to the "school year" calendar.)

That being said, the determination of what constitutes requisite time periods set forth in the RSA law for purposes of determining whether any of the good-cause exemptions apply to a specific student is a factual determination that must be made by the district on a case-by-case basis.

On any question related to specific time periods established by the Reading Sufficiency Act, the school district will have to analyze each student on a case-by-case and be able to document that the requisite time period has been met. It is impossible to come up with a specific formula, or a specific date that will qualify each student for the respective exemption. The district must be able to document that each student being promoted on the basis of a good-cause exemption meets all requisite criteria.

-Example: *For exemption #5: The district must be able to show that the student has received more than two years of intensive remediation. (i.e., they must be able to document the time periods in which the student received such remediation and it must equal more than two years.) The district can do this in any number of ways, using time periods from K, 1st, 2nd, or 3rd.)*

-Example: *For exemption #1: An ELL student moves into the district half-way through the second grade. The district is unable to obtain documents from the previous district indicating whether the student previously received ELL instruction or received services in an ELL Program. The student moved into the district a year and a half before administration of the third-grade Reading examination. As such, based on the information the district can collect, the student has received less than two years of instruction in an ELL Program. The student should be placed on an LIEP and placed in the districts ELL Program. The student would likely qualify for the good-cause exemption.*

This approach maximizes districts' flexibility. Districts have flexibility to document and show that each student qualifies for the requisite exemption. They can do this in any number of ways, depending on what is best for their district. (SDE is not prescribing what this will look like).

Specific to your question above, the NFAY/FAY determination plays no part in determining whether any of the RSA Good-cause Exemptions apply. A student may be classified as NFAY, but still meet a good-cause exemption. Alternatively, a student may be classified as FAY and not meet a good-cause exemption.

For the ELL exemption, is the two years of enrollment in an ELL program continuous or cumulative? *For example: We have current third graders who attended our school in Kindergarten and First Grade but went back to their native country for Second Grade and part of Third Grade and are now enrolled again in our school for the remainder of Third grade.*

There is nothing in the law that requires 2 years of continuous enrollment. If the district can document enrollment totaling 2 years, the criteria for the exemption is met.

If a student is an ELL student on a plan and is also on an IEP can that student qualify for another Good-cause Exemption?

Yes. ELL students may meet any of the Six Good-cause Exemptions depending on the ELL student.

They could possibly have any one of these qualifications: OAAP students, IEP students with one year of retention, regular education student with two years of retention, use a Teacher created portfolio, or take one of the alternative assessments.