

PROPOSED POLICY REVISIONS: SPECIFIC LEARNING DISABILITIES

This paper is intended to provide stakeholders a review of the research and findings of the Specific Learning Disability Task Force which culminated in proposed policy changes for the definition, evaluation and identification of students with Specific Learning Disabilities (SLD).

NORTH
CAROLINA
DEPARTMENT
OF PUBLIC
INSTRUCTION
EXCEPTIONAL
CHILDREN
DIVISION

April 2015

Chairpersons

Lynne Loeser, M.Ed.

Consultant for SLD/ ADHD
Exceptional Children Division
NC Department of Public Instruction

Lynn Makor, MA, CAGS

Consultant for School Psychology
Exceptional Children Division
NC Department of Public Instruction/Carolina
Institute for Developmental Disabilities

Task Force Members

Giancarlo Anselmo, Ed.D.

School Psychologist, NCSP
Cleveland County Public Schools

Lynn Bailey, M.A. Ed.

MTSS Consultant
Curriculum and Instruction Division
North Carolina Department of Public Instruction

Jennifer Bibbs, M.A./CAS

School Psychologist II
Wilson County Schools

Heather Boston, M.Ed., Ed.S.

Responsiveness to Instruction Coordinator
Carteret County Public Schools

Daniel J. Boudah, Ph.D.

Associate Professor
Department of Special Education, Research & Foundations
East Carolina University

Heather Boysel

Teacher
Alamance Burlington School System

Connie Brown, Ph.D.

Exceptional Children Director (Retired)
Henderson County Public Schools

Marianne Coale

Director of Elementary
Community School of Davidson
Davidson, NC

Angie Cloninger, M.Ed.

MTSS Consultant
Curriculum and Instruction Division
North Carolina Department of Public Instruction

[Type text]

James Deni, Ph.D.

Professor of Psychology
School Psychology Trainer
Appalachian State University

Bill Elvey

Dispute Resolution Consultant
Exceptional Children Division
NC Department of Public Instruction

Perry Flynn, CCC/SLP

Speech-Language Pathology Consultant
Exceptional Children Division
NC Department of Public Instruction
Board Member and Chair, ASHA SLP Advisory Council
Professor, Department of Communication Sciences and Disorders
University of North Carolina- Greensboro

Jacqueline Hahn, M.Ed.

MTSS Specialist
Charlotte-Mecklenburg Schools

Amy Jablonski

MTSS Statewide Coordinator & State Implementation Specialist
Curriculum and Instruction Division
NC Department Of Public Instruction

Melissa Kolb

MTSS Consultant
Curriculum and Instruction Division
North Carolina Department of Public Instruction

Susan Laney, M.Ed.

Strategic Planning Consultant, Regions 5 & 6
Exceptional Children Division
NC Department of Public Instruction

Ronda Layman, M.Ed.

Consultant for Significant and Multiple Disabilities
Exceptional Children Division
NC Department of Public Instruction

Rob McOuat, Ed.D.

Director, Programs for Exceptional Children
Davidson County Schools

Fannie Mason

Executive Director of Exceptional Children
Scotland County Schools

[Type text]

Amy Miller, Ed.S.

MTSS Consultant
Curriculum and Instruction Division
North Carolina Department of Public Instruction

Courtney Moates, M.A. Ed.

Instructional Services & Special Education and Related Services Department
MTSS/RtI Intensive Instruction Specialist
New Hanover County Schools

Anne Nixon, MA, LPA

School Psychologist
Perquimans County Schools

Susan Osborne, Ph.D.

Graduate Program in Special Education Department of Curriculum, Instruction and Counselor Education
NC State University

Spencer Register

Exceptional Children Assistant Director
Chapel Hill/Carrboro City Schools

Barbara Scriven

Regional Consultant
Exceptional Children Division
NC Department of Public Instruction

Michael B. Thomas, S.S.P., NCSP

School Psychologist II
Alamance-Burlington School System

Jessica Wery, Ph.D.

Assistant Professor, Elon University
President, NC Council for Exceptional Children

Abstract

This paper is intended to provide stakeholders a review of the research and findings of the Specific Learning Disability Task Force which culminated in proposed policy changes for the definition, evaluation and identification of students with Specific Learning Disabilities (SLD).

The reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) permits states to use a process based on a child's response to scientific, research-based interventions to identify students with SLD (IDEA 300.307). After extensive study, the SLD Task Force has recommended to the North Carolina Department of Public Instruction Exceptional Children Division that the continued use of a discrepancy between a student's intellectual abilities or development and academic achievement for the evaluation and identification of students with Specific Learning Disabilities (SLD) is not consistent with current research and can no longer be supported. Therefore, changes to the North Carolina *Policies Governing Services for Children with Disabilities* are recommended to establish a process of defining, evaluating and identifying students with Specific Learning Disabilities based on the most recent research in the field. Following the guidance set by IDEA 2004, North Carolina will shift from viewing SLD as unexpected underachievement relative to a student's intellectual ability to the premise that a student's response (or lack of) to high quality core instruction and robust interventions is the best evidence for the existence of SLD. It is proposed this policy become effective July 1, 2020. By intentionally pairing the proposed policy changes with the installation of a multi-tiered system of support (MTSS), the assurance of evidence-based instruction in both general education and special education should ultimately result in a system that results in improved educational outcomes for all students. This document serves to provide background information and an in-depth explanation regarding the proposed policies and best practices related to an SLD identification process emanating from a multi-tiered system of support (MTSS) framework.

Background

The development of the proposed policy regarding the definition, evaluation and identification of students with SLD using a Responsiveness to Instruction and Intervention (RtI) based approach within the context of an MTSS framework, occurred over a ten month period and involved numerous North Carolina stakeholders, including LEA MTSS coordinators, Exceptional Children directors and teachers, Charter School representatives, school psychologists, Institutes of Higher Education representatives and NC RtI Consortium members, as well as NC DPI Exceptional Children Division consultants (Appendix A). The information gathering process began with six focus groups in March and April 2014 to identify issues and barriers in the use of an RtI-based approach for SLD identification to effectively guide the development of the proposed policy amendments. Input was collected from local education agency (LEA) practitioners, Exceptional Children directors and lead school psychologists in both traditional LEAs and charter schools.

Using research, practitioner knowledge and structured decision-making processes, the SLD Task Force met from March to December 2014, drafting policy recommendations. The Task Force identified five goals to guide their work:

- Foster consistency in the identification of students with SLD
- Enhance accurate decision making
- Establish clear criteria, yet not create another "wait to fail" system
- Develop policy that meets federal requirements and

- Develop policy that is consistent with current research in the field of Learning Disabilities.

Throughout the process, feedback was collected from the Exceptional Children Directors' Advisory Council, Exceptional Children Advisory Council, Exceptional Children Stakeholder Collaborative, and NC DPI Exceptional Children Division leadership (Appendix B).

Historical Perspective-North Carolina

A multi-tiered system of support (MTSS) is defined as a framework which promotes school improvement through engaging, research-based academic and behavioral practices. Responsiveness to instruction and intervention (RtI), is defined as the practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make changes in instruction or goals, and applying child response data to important educational decisions (RtI Network, 2014).

Response to Intervention (RtI) was added to the Individuals with Disabilities Education Act reauthorization (IDEA 2004) as a method for identifying students with specific learning disabilities, in response to national criticisms regarding over identification and the use of intelligence tests in the identification of students with SLD. RtI, as an approach to a comprehensive evaluation for the evaluation and identification of students with SLD, provides a consistent methodology for evaluating the effectiveness and success of a multi-tiered system of support, as well as measuring a student's response to the instruction and intervention received. Both share the common element of data-based, systematic problem-solving to inform instruction and intervention. In an RtI-based approach to a comprehensive evaluation, a multi-tiered system of support is critical for ensuring that a lack of appropriate instruction is not the determinant factor for a student's low achievement and insufficient response to instruction and intervention.

RtI has a long history in the NC DPI Exceptional Children Division, beginning with the formation of an RtI study group in 2000 and resulting in five RtI pilot sites in 2004 to install and evaluate RtI using a problem-solving model. In 2006, implementation was expanded and statewide training began. Schools were allowed, with superintendent approval, to discontinue the use a discrepancy method for identifying students with Specific Learning Disabilities and instead use an RtI-based approach to identification and evaluation. To date, an estimated 135 schools in North Carolina use an RtI-based approach to the identification of students with SLD. Two districts, Alamance-Burlington and Cleveland, implement this approach K-5 and New Hanover implements K-8. In 2010, the Exceptional Children Division began a partnership with other divisions within the Department of Public Instruction to support the implementation of RtI across the state, with a focus on RtI as a problem-solving model to improve outcomes for all students, and away from a pathway to special education. In 2011, NC DPI received a grant from the Oak Foundation to build and develop strong models of MTSS at the secondary level. The Exceptional Children Division has partnered with Curriculum and Instruction and Federal Programs to implement this grant. To date, fifteen secondary schools in five LEAs are actively exploring and installing a multi-tiered system of support. In 2013, a statewide MTSS coordinator was hired within the Curriculum and Instruction Division. In 2014, four MTSS regional consultants were added to support the transition to a multi-tiered system of support using Implementation Science (Fixsen, Karen, & Metz, 2013) as the structure for installation. A Leadership and Policy team within NC DPI, representing

Division leadership from key divisions, was formed to establish the vision for MTSS and to address potential challenges and barriers identified by district, regional and state implementation teams. The NC DPI intentionally paired the transition to an RtI-based approach for the evaluation and identification of students with Specific Learning Disabilities, and aligned the timeline of July 1, 2020, with the full implementation of a MTSS statewide.

Culminating the work of the SLD Task Force and the proposed policy changes for students with SLD, the proposed policy was put forth for a period of public comment from February 4th through March 13th, 2015, as required by IDEA. Written notice of the period of Public Comment was provided in multiple venues, in coordination with the NC DPI Communications Division. Three face-to-face public comment meetings were held in locations across the state. Written public comments to the proposed policy changes were submitted, reviewed and responded to by NC DPI Exceptional Children staff and subsequent revisions to policy were made.

Historical Perspective-National

Although the IQ-achievement discrepancy model has been the cornerstone of SLD determination nationally for over thirty years, there has been, and continues to be, significant criticisms surrounding its efficacy and efficiency in classifying students with SLD.

First, an overreliance on discrepancy means that children must fail or fall below a predicted level of performance before they are eligible for special education services. Because achievement failure sufficient to produce a discrepancy from IQ cannot be reliably measured until a child reaches approximately nine years of age, the use of IQ-discrepancy constitutes a “wait-to-fail” model (Lyon et al., 2001). This “wait to fail” model results in students losing valuable time to receive the instruction and intervention they need and can lead to lower success rates for students once they are placed in special education. Within an MTSS framework, systems are in place to assure engaging research-based academic and behavioral practices are in place for all students. Students who do not respond to core instruction¹ alone are provided timely and responsive opportunities for additional time and support.

Another critical problem with the IQ-achievement discrepancy approach is that research does not support excluding students from services based on their failure to meet IQ-achievement discrepancy criteria. Although early studies suggested that a significant discrepancy between IQ and achievement demarcated unexpected underachievement, this hypothesis has not held up. IQ has not been shown to be a good predictor of which students were likely to acquire age-appropriate reading skills. In fact, in multiple studies, discrepant and non-discrepant low achievers did not differ in their response to instruction, nor did the discrepancy approach inform instructional decisions (Gresham, Reschly, & Shinn,

¹ Core instruction- the curriculum, instruction, environment and student supports provided to all students. Core instruction includes academic, behavioral, and social-emotional domains. Core instruction focuses on the implementation of the district’s core curriculum and is aligned with the North Carolina Standard Course of Study (NCSCOS). Differentiated core instruction is designed based on the needs of the students in a particular school (e.g., readiness, language, economic factors, performance, etc.) ensuring that all students reach or exceed state proficiency levels. (Adapted from Florida MTSS)

2010). These studies demonstrated that students with low IQs and commensurate achievement could acquire age-appropriate reading skills when provided robust interventions (Kovaleski, VanDerHeyden, & Shapiro, 2013). Problem-solving and data-based decision making, two of the critical components of MTSS, assure struggling students receive timely, targeted instruction and interventions that are responsive to their individual needs.

Other problems were also associated with the use of IQ tests, such as concerns about the validity of IQ measures in populations of students that live in poverty and/or are culturally and linguistically diverse, often leading to a disproportionate representation of students. “These students may be erroneously viewed as having intrinsic intellectual limitations when their difficulties on such tests usually reflect lack of experience or education opportunity” (Senate Report No. 108-185, p. 26, 2003).

Finally, there are major psychometric problems attributable to the small measurement error of IQ and achievement tests, the fact that math and reading scores are normally distributed in the population, and other factors that make most testing models based on a single assessment unreliable for identifying LD (Fletcher J. , 2015).

As a result of continued debate of these issues, in August 2001 the US Department of Education Office of Special Education Programs (OSEP) brought together the research community in a Learning Disability (LD) Summit to synthesize the state of knowledge on defining and diagnosing LD. This summit was followed by a smaller group of scholars, primarily the experts who had authored major papers for the Summit, who formulated a set of recommendations for changes in law and practice. Several recommendations were brought forth, most notably criticism of the IQ/Achievement discrepancy approach as being neither necessary nor sufficient for identifying individuals with SLD (US Office of Special Education Programs, 2001). This recommendation was based on the following: 1) Comparative research failed to validate it as a distinguishing feature of SLD status, 2) School identification research demonstrated that schools were quite inconsistent in applying it to the classification process for students with and without the discrepancy and, most important, 3) It failed to predict which students would benefit most from intervention (Gresham, Reschly, & Shinn, 2010).

Following the Summit’s recommendations, significant changes to the evaluation requirements for SLD were included in the 2004 Individuals with Disabilities Education Act (IDEA) and 2006 federal regulations (34 CFR § 300) for implementing IDEA 2004. One significant change was that states could no longer *require* the use of a severe discrepancy between intellectual ability and achievement as a criterion for SLD determinations. Additionally, states must *permit* the use of a process based on the child’s response to scientific research-based procedures (34 CFR § 307). The formal incorporation of Rtl models in the 2004 reauthorization of IDEA signaled a major change in the approaches that IEP teams may use to evaluate and identify students as eligible for special education in the specific learning disability category.

NC DPI Exceptional Children Proposal

The NC Department of Public Instruction Exceptional Children Division is proposing changes to the North Carolina *Policies Governing Services for Children with Disabilities*, effective statewide by July 1, 2020, to prohibit: 1) the use of a discrepancy between intellectual ability and achievement (i.e. the use of a discrepancy, obtained by calculating a difference of 15 points or more between academic achievement

and measured intellectual ability), 2) the alternative to discrepancy analysis, and 3) the use of a pattern of strengths and weakness for SLD eligibility decisions. It is proposed that Individual Education Program (IEP) teams will be required to use a child’s responsiveness to instruction and scientific research-based intervention (RtI) as a component of a comprehensive evaluation when determining whether a child has a Specific Learning Disability as defined in NC 1500-2.4(c)(11), (Public Schools of North Carolina Exceptional Children Division, 2014).

To ensure improved decision making for the determination of SLD eligibility, the use of an RtI-based approach must be implemented within a systemic framework. A multi-tiered system of support that promotes positive academic and behavioral outcomes for *all* students, with an emphasis on prevention, is critical. Thus, the intentional pairing of the installation and full implementation of MTSS with the changes to *NC Policies Governing Services for Children with Disabilities*.

NC DPI defines a multi-tiered system of support (MTSS) as:

“A multi-tiered framework which promotes school improvement through engaging, research-based academic and behavioral practices. NC MTSS employs a systems approach using data-driven problem-solving to maximize growth for all (NC Department of Public Instruction, 2014).”

The following components of a multi-tiered system of support must be intentionally implemented with fidelity in a rigorous manner when using RtI as the basis for eligibility decisions for children with Specific Learning Disabilities (SLD):

- A system of high-quality evidence-based core instruction and scientific research-based instruction²;
- Multiple tiers of instruction, that vary in intensity, matched to student need;
- A systematic process of problem-solving/data-based decision making to inform decisions regarding student academic, behavioral, and functional needs; and
- A comprehensive, balanced assessment system that includes common formative assessments, interim/benchmark assessments, outcome assessments, universal screening, progress monitoring, and diagnostic assessments.

The utilization of the above essential components ensures underachievement in a child suspected of having a specific learning disability is not a result of lack of appropriate instruction. Although the NC DPI believes these essential components are necessary for accurate decision making, the absence of these components cannot be used as a reason for delaying or denying the provision of a full and individual evaluation if a child is suspected of having a disability (Office of Special Education Programs, 2011).

Specific Learning Disability Definition

The federal definition of SLD has remained basically unchanged since the definition proposed by Samuel Kirk in 1962 and the first Special Education law in 1975 (PL 94-142), despite extensive and substantive

² Scientific Research Based Instruction- Curriculum and educational interventions that have been proven to be effective for most students based on scientific study (RtI Network, 2014)

changes in IDEA 2004 relative to the process of determining eligibility for students with Specific Learning Disabilities.

The definition is not used to make eligibility decisions; rather, the criteria and evaluation requirements described in policy operationalize the definition. With this in mind, the SLD Task Force reviewed definitions found in other state regulations as well as professional organizations devoted to Specific Learning Disabilities. As a result, a proposed definition of Specific Learning Disabilities was constructed and further revised in response to public comment.

The concept of “unexpected underachievement” has long been a marker for students with SLD. The LD construct has been conceptualized as the idea that inadequate achievement is “unexpected,” representing students who do not listen, speak, read, write or develop math skills commensurate with their potential, even though there has been adequate opportunity to learn. Historically, unexpected underachievement has been attributed to neurological factors that indicate that students with SLD will require specialized instruction to achieve at expected levels, based upon their IQ (Lyon, 2014).

Within an RtI-based model, rather than viewing “unexpected underachievement” in the context of a student’s intellectual abilities, unexpected underachievement is demonstrated in the context of the provision of sustained high quality instruction and scientifically research-based intervention delivered with fidelity. “If an achievement deficit is present and the student demonstrates intractability in response to quality instruction, we can be sure that low achievement (LA) is unexpected,” (Lee, Harris, & Graham, 2013, p. 47). This conceptualization of SLD is reflected in the proposed definition with the inclusion of the terminology, “The disability substantially limits academic achievement, so that the child does not learn at an adequate rate when provided sustained, high quality instruction and scientific research-based intervention.”

Within the proposed definition of SLD, the term “psychological ” has been removed from “basic psychological processes” to reflect the emphasis on answering questions relative to what is needed to accelerate student progress rather than documenting a psychological processing disorder to determine eligibility. The Analysis and Comments section of the Federal Register p. 46651, states that the US Department of Education’s position is that “processing deficits should be eliminated from criteria for classification,” (Part II 34 CFR Parts 300 and 301 Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities Final Rule, 2006). Therefore, the elimination of the term “psychological” is consistent with North Carolina’s position that identification of Specific Learning Disabilities are made based on the establishment of low achievement and a student’s insufficient response to high quality instruction and scientifically research-based intervention.

Lastly, the diagnostic labels listed in the general definition include those historically used to describe conditions similar to the educational definition of SLD. Many of these terms (e.g. minimal brain dysfunction, perceptual disabilities, brain injury, developmental aphasia) are no longer used in reference to Learning Disabilities and have negative connotations. These terms have been eliminated from the proposed definition and examples of alternate terms, dyslexia and dyscalculia, are included.

Comprehensive Evaluation

When students demonstrate continued challenges with the instruction, supports and services offered within general education, school teams may determine the need to examine whether or not the student is a student with a disability. Any student considered for special education should receive a comprehensive evaluation. Such an evaluation does not necessarily equate with psychometric testing (Fletcher J. M., 2006).

Proposed policy will require that comprehensive evaluations for students suspected of having a SLD must include both evidence of low achievement and insufficient response, with documentation of the following:

- (1) Inadequate achievement based on evidence from multiple sources of data indicating the child does not achieve adequately for the age or grade level standards in which the child is enrolled in one or more of the eight areas when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards.
- (2) The child demonstrates either a lack of response or is responding at a rate that is insufficient to reduce their risk of failure after an appropriate period of time when provided with high quality core instruction and scientific, research-based interventions.
- (3) The student's learning difficulties are not primarily the result of visual, hearing, or motor disabilities; intellectual disability; emotional disturbance; cultural factors; environmental or economic influences; loss of instructional time; or Limited English proficiency.
- (4) The determination cannot be the result of a lack of appropriate instruction, specifically in the essential components of reading and math.
- (5) The disability adversely affects the child's educational performance.
- (6) The student requires special education in order to make or maintain sufficient progress.

A child's responsiveness to instruction and scientific research-based intervention is not, when considered alone, a comprehensive evaluation. A comprehensive evaluation is a data-gathering process, not a mandated approach to assessment that represents a battery of the same tests for every child. Teams must draw upon information from multiple sources to conduct a comprehensive evaluation, and may not rely on any single measure, assessment or source of data for determining whether a child is a child with a disability and for determining an appropriate educational program for a child (34 CFR §300.304). Within an effective RtI-based approach, much of the data for the comprehensive evaluation is gleaned from the information gathered through a systematic problem-solving process that reviews the extent and effectiveness of the implementation of high quality, evidence-based instruction and scientifically research-based intervention. Measures used in an RtI-based evaluation are usually direct measures of critical skills that are necessary for students to be successful and that can inform instructional decisions (Tilly, 2006). In-depth assessment is needed only in those domains in which screening indicates possible educationally related deficits. Any additional evaluations selected should be based on the necessity and relevance for determining eligibility and for identifying and designing the specially designed instruction needed to ensure access to and progress in the NC Standard Course of Study (NC SCOS), so the child can meet age and grade level standards. When students are suspected of

having more substantial intellectual delays, screening through the examination of group achievement test results, samples of academic work, and/or teacher ratings may be sufficient to rule out intellectual disability. If information suggests an intellectual disability, then, and only then, are cognitive ability measures relevant to educational decision making administered (Shinn & Walker, 2010).

Pattern of Strengths and Weaknesses

The Specific Learning Disabilities (SLD) Task Force completed a comprehensive review of the current literature on the use of a pattern of strengths and weaknesses (PSW) as a classification model for the identification of Specific Learning Disabilities (34 CFR § 309).

In February 2010, The Learning Disabilities Association (LDA) published a White Paper in which they state, “A strengths and weaknesses model makes good empirical, clinical, and legal sense because it ensures children identified with SLD demonstrate one or more processing deficits that interfere with academic achievement, the core characteristic of SLD. Not only does this processing strengths and deficits approach make sense for SLD identification purposes, but processing assessment could also lead to more effective individualized interventions for children who do not respond adequately to intensive interventions in an RTI approach,” (Learning Disabilities Association of America, 2010). In response, a variety of respected researchers and school practice leaders in the field of education, special education and SLD provided a formal response to the LDA white paper (The Consortium for Evidence-Based Early Intervention Practices, 2010) in which they claim, “The LDA White Paper argues that PSW improves treatment outcomes because this knowledge helps teachers match specific interventions to specific patterns of student test results. More than 30 years of research has failed to support this argument. Moreover, there are no data that teachers successfully use any type of cognitive assessment data to develop interventions or evidence that they should attempt to do so. In contrast, there are proven interventions that can be provided that work regardless of students’ patterns of cognitive strengths and weaknesses.”

Although it is well-established that specific learning disabilities are associated with specific impairments in cognitive processes and that there is variability in the cognitive strengths and weaknesses displayed by individuals with LD (Fletcher, Lyon, Fuchs, & Barnes, 2007, p. 48), there is lack of evidence to support the necessity of these types of assessments for determining eligibility or for informing instructional decisions. This is reflected throughout many of the Federal Register’s responses to the comments regarding PSW and the role of cognitive processing in evaluation/identification of SLD. Specifically, as stated in the Analysis and Comments (Federal Register, 2006 p. 46651), “Although processing deficits have been linked to some Specific Learning Disabilities, direct links with other processes have not been established. Currently available methods for measuring many processing difficulties are inadequate. Therefore, systematically measuring processing difficulties and their link to treatment is not yet feasible.” As noted by the US Department of Education (Federal Register, 2006 p. 46651), “Assessments of cognitive processes simply add to the testing burden and do not contribute to interventions.”

In addition, recent research on PSW models has concluded that, “...general application did not improve the efficiency of the decision model, may not be cost effective because of low base rates, and may result in many children receiving instruction that is not optimally matched to their specific needs,” (Stuebing, Fletcher, L., & Francis, 2012).

Furthermore, Shinn and Walker (2010) state, “There is not a single randomized clinical trial using Institute for Education Sciences (IES) evidence-based standards that has related processing strengths to effective intervention outcomes. There are no experimental research studies showing a causal relationship between processing and academic performance. At best, any relations between processing and outcomes are correlational (Shinn & Walker, 2010).”

An additional challenge exists in that three different methods (cross battery, discrepancy/consistency and concordance/discordance) currently exist for determining a pattern of strengths and weaknesses. These three methods are not aligned and have varying results when identifying students with SLD. Therefore, a student identified as SLD within one particular model may not be identified SLD if a different model is used (Miciak, Fletcher, Stuebing, Vaughn, & Tolar, 2014), thus negating the goal of the SLD Task Force to increase the accuracy and consistency of the identification of SLDs in need of special education in North Carolina.

Through an extensive review of the current research, the SLD Task Force arrived at the conclusion that an assessment of selected cognitive processes may be included in a comprehensive evaluation, as determined by the IEP team to inform instruction and intervention, but the establishment of a PSW should not be a component of the proposed SLD eligibility determination.

The SLD Task Force recognizes the importance and value of diagnostic assessments to inform instructional planning and as a component of a comprehensive evaluation. However, assessments of cognitive processing should be considered with caution, as there is currently limited research that has related cognitive processing strengths and weaknesses to effective intervention outcomes.

In the absence of a requirement to utilize cognitive measures for determining the presence of a SLD, the requirement to consider not only a student’s level of learning (achievement level), but also the student’s response to instruction (rate of learning) in order to determine the presence of SLD cannot be underscored enough. This can become more clearly understood within the context of the twice exceptional student. *North Carolina Policies Governing Services for Children with Disabilities* 1501-1.1 states that, “Each LEA must ensure that FAPE³ is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.” In acknowledgement of the fact that SLD can coexist with other conditions/characteristics such as giftedness, it is necessary to point out the importance of not only assessing the academic achievement levels of a student, but also to examine the student’s responsiveness to the instruction and intervention being delivered, and other data which may indicate inconsistent performance and the presence of gifted potential. Analysis of the body of evidence will assure that twice exceptional students, who are both gifted and have a learning disability, are appropriately identified. Determination of discrepancies across cognitive domains through a PSW approach to identification does not provide this assurance.

Concerns of Over Identification

Critics of the elimination of the IQ/achievement discrepancy model have expressed concern about the over identification of students with SLD, specifically students who are considered “slow learners.”

³ Free Appropriate Public Education

“Slow learners” have previously been characterized as students with below average intelligence levels whose achievement is commensurate with their intellectual ability. Within a MTSS, student learning potential is not seen as being limited by an IQ score. Rather, a student’s potential for learning is determined by measuring his/her response to high quality instruction and scientific research-based intervention.

If MTSS is implemented with fidelity and students are provided with effective instruction and increasingly intensive instruction that is matched to their needs, then a child previously considered to be a “slow learner” may be determined to be a child with a specific learning disability. A strong MTSS does not wait until a student is “failing” to get help by demonstrating a discrepancy between their ability and their achievement. Kovalski, VanDerHeyden and Shapiro (2013) stated, “For many, identifying these students as SLD changes how the construct of SLD is understood, creating the need for a paradigm shift in thinking.”

Appropriate Instruction as Inclusionary

The criterion within the eligibility requirements for SLD assuring the lack of appropriate instruction is not a determinant factor for a child’s underachievement (34 CFR 300.306) must be given considerable attention, as this consideration of data is imperative to address the limitations of classification systems based solely on low achievement (LA) and the use of exclusionary factors. In fact, IDEA 2004 requires that prior to or during the referral, LEAs must provide the following:

- (1) Data that demonstrate prior to, or as part of the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents (34 C.F.R. 300-304-300.306).

These legal requirements mandate that appropriate instruction be provided to all students and, most importantly, that monitoring the progress of general education instruction be implemented as standard practice within a MTSS.

The provision in IDEA 2004 requiring that instructional response be assessed in any individual for whom SLD is a consideration is essential not only for ensuring that children who have not been provided adequate instruction are not identified as SLD, but also for preserving the scientific validity of the construct. Making RtI an inclusion criterion represents a significant advancement in diagnostic decision making for LD (Fletcher J. , 2015).

Conclusion

Consistent with the findings of the SLD Task Force, the NC Department of Public Instruction (NC DPI) Exceptional Children Division is proposing that NC *Policies Governing Services for Children with Disabilities* be revised, effective July 1, 2020, to prohibit the use of a severe discrepancy between intellectual abilities and achievement or the documentation of the existence of a pattern of strengths and weaknesses as methods for the evaluation and identification of SLD.

NC DPI is providing a clear vision of best practices related to SLD identification within an MTSS framework to support LEAs in developing systems to ensure that the identification process facilitates accurate instructional decision-making. The time is now to improve our evaluation and identification processes for students with SLD, the largest group of students with disabilities, by following the lead of general education as they move towards full implementation of MTSS. NC DPI will be providing implementation documents and tools, professional development, coaching and technical support over the next five years to support LEAs move to full implementation of MTSS. Through this intentional implementation with MTSS, we will ensure that LEAs across NC will transition to this best practices approach to SLD evaluation and identification in a systematic and effective manner.

In an RtI-based approach to a comprehensive evaluation, a major goal is to identify the specially designed instruction that will reduce the gap and provide greater educational benefit. A decreased emphasis on child characteristics and increased emphasis on instructional practices will lead to more accurate decisions for the identification of SLD, improved delivery of specially designed instruction and ultimately improved outcomes for all students. As stated by Dr. Rebecca Felton at the NC State Improvement Project Spring Networking meeting, "As special educators, it is our responsibility and our challenge to ensure that we as individuals, and as a group, do indeed have the "broad and deep" knowledge necessary for participation in both MTSS as well as the LD identification process and treatment of students with Reading Disabilities (March 2015)."

Works Cited

- Assistance to States for the Education of Children with Disabilities Program and Preschool Grants for Children with Disabilities; Final Rule, 34 C.F.R., §§; 300-301
- Denton, C. (2006, Winter). Responsiveness to Intervention as an Indication of Learning Disability. *Perspectives*, 32(1), 4-7.
- Fixsen, D., Karen, B., & Metz, A. V. (2013). Statewide implementation of evidence -based programs. *Exceptional Children (Special Issue)*, 79(2), 213-230.
- Fletcher, J. (2015). "Identifying Learning Disabilities in the Context of Response to Intervention: A Hybrid Model". Retrieved 2015, from RtI Action Network: <http://www.rtinetwork.org/learn/ld/identifyingld>
- Fletcher, J. M. (2006, Winter). The Need for Response to Instruction Models of Learning Disabilities. *The International Dyslexia Association Perspectives*, 32(1), 12-15.
- Fletcher, J., Lyon, G. R., Fuchs, L. S., & Barnes, M. (2007). *Learning Disabilities From Identification to Intervention*. New York, New York: Guilford Press.
- Gresham, F., Reschly, D., & Shinn, M. (2010). *RtI as a Driving Force in Educational Improvement: Research, Legal and Practice Perspectives*. Retrieved from Mark Shinn Data-Based Consulting: <http://www.markshinn.org/resources-downloads.html>
- Kovaleski, J. F., VanDerHeyden, A., & Shapiro, E. S. (2013). *The RtI Approach to Evaluating Learning Disabilities*. New York, NY: Guilford Press.
- Learning Disabilities Association of America. (2010, February). *Advocacy LDA Position Papers*. Retrieved from Learning Disabilities Association of America: <http://ldaamerica.org/advocacy/lda-position-papers/>
- Lee, S. H., Harris, K. R., & Graham, S. (2013). *The Handbook of Learning Disabilities, Second Edition*. New York, NY: Guilford Press.
- Lyon, G. R. (2014). *Rethinking Learning Disabilities*. Retrieved from Oregon Response to Intervention: <http://www.oregonrti.org/wp-content/uploads/2014/05/Session-4-RTI-for-Elig-LD-Rethinking-LD-Lyon.pdf>
- Miciak, J., Fletcher, J., Stuebing, K., Vaughn, S., & Tolar, T. (2014). Patterns of Cognitive Strengths and Weaknesses: Identification Rates, Agreement, and Validity for Learning Disabilities Identification. *School Psychology Quarterly*, 29(1), pp. p. 21-37.

NC Department of Public Instruction. (2014, November). *Communication and Visibility Briefs*. Retrieved from Multi-Tiered System of Support NC Department of Public Instruction:
<http://mtss.ncdpi.wikispaces.net/Briefs>

Office of Special Education Programs. (2011, January 21). *Public Schools of North Carolina Exceptional Children*. Retrieved from North Carolina Special Education Reference:
<http://ec.ncpublicschools.gov/>

(2006). *Part II 34 CFR Parts 300 and 301 Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities Final Rule*. Department of Education.

Public Schools of North Carolina Exceptional Children Division. (2014). *Policies Governing Services for Children with Disabilities Amended July 2014*. Public Schools of North Carolina.

RtI Network. (2014). *Glossary*. Retrieved from RtI Network:
<http://www.rtinetwork.org/glossary?task=list&glossid=1&letter=R>

Senate Report No. 108-185, p. 26. (2003, November 3). Retrieved from Library of Congress:
http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp108InZRb&refer=&r_n=sr185.108&db_id=108&item=&sel=TOC_675183&

Shinn, M., & Walker, H. (2010). *Interventions for Achievement and Behavior Problems in a Three-Tier Model Including RtI*. Bethesda, Maryland: NASP.

Stuebing, K., Fletcher, J., L., B.-M., & Francis, D. J. (2012). Evaluation of the Technical Adequacy of Three Methods for Identifying Specific Learning Disabilities Based on Cognitive Discrepancies. *School Psychology Review*, pp. Volume 41, Issue 2, p. 3-22.

The Consortium for Evidence-Based Early Intervention Practices. (2010). *A Response to the Learning Disabilities Association of America (LDA) White Paper on Specific Learning Disabilities (SLD) Identification*. The Consortium for Evidence-Based Early Intervention Practices. Retrieved from
http://www.rtinetwork.org/images/content/articles/learn_about_RTI/LDAResponsefinal.pdf

Tilly, W. D. (2006). Diagnosing the Learning Enabled: The Promise of Response to Intervention. *Perspectives The International Dyslexia Association*, 32(1), 20-24.

US Office of Special Education Programs. (2001, August). *Learning Disabilities Summit*. Retrieved from
<http://ldsummit.air.org/>

Appendix A SLD Task Force Representation



Appendix B SLD Task Force Work Flow

