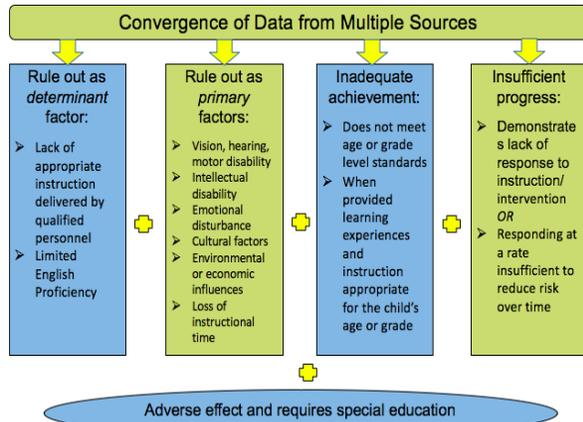


SLD POLICY CHANGE FACT SHEET #2

On February 5, 2016, the NC State Board of Education approved the [NC Policies Governing Services for Children with Disabilities Addendum](#) which becomes fully effective July 1, 2020, regarding the definition, evaluation and identification of students with Specific Learning Disabilities (SLD). This fact sheet addresses Criterion 1 of the requirements related to the evaluation and identification of an SLD.



This graphic provides a basic description of the criteria for determination of a Specific Learning Disability.

Criterion 1: Rule Out of Lack of Appropriate Instruction

IDEA and *NC Policies Governing Services for Children with Disabilities* state:

“A child must not be determined to have a specific learning disability if the determinant factor for that determination is any of the following:

- Limited English Proficiency;
- Lack of appropriate instruction and scientific research-based intervention in reading, including the essential components of reading instruction as defined in Section 1208(3) of the ESEA (i.e. phonemic awareness, phonics, vocabulary, fluency and comprehension); and/or
- Lack of appropriate instruction and scientific research-based intervention in math.”

The assurance that appropriate instruction is delivered is a required “special rule for eligibility determination,” for all areas of disability under IDEA 300.306(b)(1)(i-iii) and is not unique to the use of RtI as a component of a comprehensive evaluation. This criterion has remained unchanged in the policy which becomes fully effective July 1, 2020.

The assurance of appropriate instruction is intentionally placed first within the graphic. In most instances, the assurance of the provision of appropriate instruction and intervention has been considered by problem-solving teams well before an evaluation and is brought forward as existing data.

“One of the primary vulnerabilities of the historical model of referring students for eligibility evaluations is that lack of adequate instruction was not ruled out as a cause of low achievement.”

Kovaleski, VanDerHeyden and Shapiro, 2013

SLD POLICY CHANGE FACT SHEET #2

The explicit requirement is that the school/district must have a comprehensive assessment system that allows for effective problem solving at all tiers and across student groups to assure that the majority of students are responding to the instruction and intervention provided. Examples of data that can be used to establish the delivery of appropriate instruction and intervention include the following:

- class and school wide data (e.g. universal screening, benchmark assessments) that indicate core instruction results in the majority of students reaching grade level standards
- checklists/systematic observational data measuring integrity of instructional delivery
- evidence of teacher training and coaching in using evidence-based practices
- progress monitoring data indicating students receiving intervention are responding at sufficient rates to return to core instruction alone.

To ensure that inadequate achievement and insufficient progress are not a function of instruction/curriculum that is not effective for *all* learners, school teams are asked to consider a student's performance compared to culturally and linguistically similar peers whenever possible. This is an important consideration to ensure the student's learning profile is truly different and indicative of a within child characteristic such as a disability and not merely a function of instruction/curriculum that is not effective for *all* learners.

As LEAs prepare for full implementation of the SLD policy, effective July 1, 2020, close attention to the assurance of appropriate instruction for all students is an important step to establish readiness.

"Is there common language/common understanding in your LEA/school about the need to demonstrate effective core instruction before referring a student for special education?" Batsche, G., CASE Hybrid Conference 2015

For additional information:

Information regarding MTSS, including MTSS regional contacts <http://mtss.ncdpi.wikispaces.net/>

Lynne Loeser, SLD/ ADHD Statewide Consultant lynne.loeser@dpi.nc.gov

Lynn Makor, School Psychology Consultant lynn.makor@cidd.unc.edu