Special Education Guidelines and Standards

The Background:

The Individuals with Disabilities Education Act, or IDEA, as reauthorized in 2004, provides that when determining whether a child has a specific learning disability, a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning, but may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures. Therefore, states, when developing eligibility criteria and evaluation procedures, are free to prohibit the use of a discrepancy method as criteria for determining whether a child has a specific learning disability.

Subsequent to the 2004 reauthorization of IDEA, Tennessee amended its guidelines and standards for determining eligibility criteria and evaluation procedures to allow local education agencies to use either a discrepancy method or a method based on responsiveness to intervention (RTI) when determining whether a child has a specific learning disability.

Pursuant to *Tenn. Rules & Regs., Chapter 0520-01-09-.11, Rules for Special Education Programs and Services*, a task force within the disability category of specific learning disability was convened on January 9, 2013, for the purpose of determining whether the guidelines and standards should be amended to eliminate the use of a discrepancy method and require the use of a responsiveness to intervention (RTI) method when determining whether a child has a specific learning disability. The task force, after consideration of relevant information including the success of RTI as a method of evaluation in other states, and recognizing that the IDEA requires that an evaluation include a variety of assessment tools and strategies and cannot rely on any single measure or assessment as the sole criterion for determining eligibility, recommended elimination of the discrepancy method and adoption of a method based on responsiveness to intervention as the criterion for determining whether a child has a specific learning disability in the areas of basic reading skills, reading fluency, reading comprehension, mathematics calculation, mathematics problem solving and written expression in Tennessee.

On January 14, 2013, the Advisory Council on the Education of Students with Disabilities affirmed the action of the task force and recommended the amendment. On February 1, 2013, the State Board of Education approved the proposed guidelines and standards on first reading. Subsequent to February 1, department staff revised the effective date for the proposed standards and guidelines and edited the proposed guidelines and standards for purposes of clarity with regard to the responsiveness to

intervention (RTI) method. Therefore, department staff, board staff and counsel recommend reconsideration on first reading. Specifically, the recommendation is made to continue the current guidelines and standards through June 30, 2014 and to effectuate the proposed guidelines and standards on July 1, 2014.

On March 19, 2013, State Board of Education staff held a rule making hearing for the purpose of receiving comments on the proposed guidelines and standards amendment, including the effective date of July 1, 2014, from interested parties and stakeholders. Department and board staff considered the comments. However, the comments did not result in additional recommendations for changes to the proposed guidelines and standards.

The amended guidelines and standards for specific learning disabilities will be effective July 1, 2014.

The Recommendation:

The Department of Education recommends acceptance of this item on first reading. The SBE staff concurs with this recommendation.

Task Force Membership

Name	Title and Agency
Kathleen Airhart	Deputy Commissioner, TDOE
Kashonda Babb	Consultant, Disability Law & Advocacy Center of Tennessee
Joey Hassell	Assistant Commissioner for Special Populations, TDOE
Carol Hendlmyer	Director of Special Education, Williamson County Schools
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Jennifer Jordan	Director of Special Education, Lauderdale County Schools
Veronica McDonald	Educational Consultant, TDOE
Nan McKerley	Executive Director of Special Education, TDOE
Carlyn Mueller	Educational Consultant, TDOE
Lori Nixon	Director of Assessment Design for Special Populations, TDOE
Donna Parker	State Personnel Development Grant Consultant, TDOE
Rebecca Sharber	Director of Schools, Franklin County
Tammy Shelton	Executive Director, Curriculum Content and Resources, TDOE
Shannon Taylor	Principal, Lexington City Schools
Amanda Hill Vance	Director of Special Education, Monroe County Schools
Bill Wilson	Asst. Gen. Counsel for Special Education, TDOE

Proposed Guideline Revision

The guidelines and standards for Specific Learning Disabilities are amended by adding the following, effective July 1, 2014:

EFFECTIVE JULY 1, 2014:

Specific Learning Disability

1. Definition: The term *Specific Learning Disability* means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, and that adversely affects a child's educational performance. Such term includes conditions such as perceptual disabilities (e.g., visual processing), brain injury that is not caused by an external physical force, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include a learning problem that is primarily the result of Visual Impairment; Hearing Impairment; Orthopedic Impairment; Intellectual Disability; Emotional Disturbance; Limited English Proficiency; or, Environmental or Cultural Disadvantage.

2. Evaluation: The characteristics as identified in the Specific Learning Disabilities definition are present to include:

A. Evaluation for Specific Learning Disabilities shall meet the following standards:

1. To ensure that underachievement in a student suspected of having a Specific Learning Disability is not due to a lack of appropriate instruction (i.e., empirically research-based instruction that is rigorous, systematic, and peer-reviewed) in the student's State approved grade level standards, the following must be obtained:

    a. Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction (i.e., empirically research-based instruction that is rigorous and systematic throughout all Tiers of instruction/intervention) in regular education settings, delivered by qualified and appropriately trained personnel; and

    b. Data-based documentation of repeated assessments of achievement, reflecting formative assessment of student progress during intervention, which was provided to the student's parents at a minimum of once every four and one-half (4.5) weeks.

2. The LEA must ensure that the child is observed in the student's learning environment (including the regular classroom setting) to document the

student's academic performance and behavior in the areas of difficulty. A pattern of strengths and weaknesses in performance shall be documented by two systematic observations in the area of suspected disability (one **must** be conducted by the certifying specialist and one may be conducted by the special education teacher):

a. Systematic observation of routine classroom instruction, and

b. Systematic observation during intensive, scientific research-based or evidence-based intervention.

In the case of a student who is in a placement outside of the local education agency, a team member must observe the student in an environment appropriate for a student of that age.

3. The student does not achieve adequately for the student's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade level standards:

   a. Basic Reading Skills

   b. Reading Fluency Skills

   c. Reading Comprehension

   d. Written Expression

   e. Mathematics Calculation

   f. Mathematics Problem Solving

An evaluation of Oral Expression and Listening Comprehension shall be completed pursuant to the Speech or Language Impairment eligibility standards. If a student has been evaluated by a Speech Language Pathologist and does not qualify as Language Impaired, then the IEP team may consider a Specific Learning Disability in either Oral Expression or Listening Comprehension if either continues to be a suspected area of disability; however, the rigorous intervention and progress monitoring standards must be met.

In order to document inadequate achievement, an individual, standardized, and norm-referenced measure of academic achievement must be administered in the area(s) of suspected disability (i.e., Basic Reading Skills, Reading Fluency, Reading Comprehension, Written Expression, Mathematics Calculation, and Mathematics Problem Solving).

4. The student does not make sufficient progress to meet age or State-approved grade-level standards in one or more areas (i.e., Basic Reading Skills, Reading

Fluency, Reading Comprehension, Written Expression, Math Calculation, Mathematics Problem Solving) when using a process based on the student's responsiveness to scientific, research-based intervention in each area of suspected delay. A lack of sufficient progress should be established by examining the student's Rate of Improvement (ROI) including a gap analysis and should be based on the following criteria:

- The rate of progress or improvement is less than that of his/her same-age peers,
- The rate of progress is greater that his/her same age peers but will not result in reaching the average range of achievement within a reasonable period of time, or
- The rate of progress is greater than his/her same age peers but the intensity of resources needed to obtain the rate of progress cannot be maintained in general education.

5. The team must determine that underachievement is not **primarily** the result of Visual, Motor, or Hearing Disability, Intellectual Disability, Emotional Disturbance, Cultural Factors, Environmental or Economic Factors, Limited English Proficiency, or Excessive Absenteeism.

B. A student whose characteristics meet the definition of a student having a Specific Learning Disability may be identified as a student eligible for special education services if:

1) All of the aforementioned eligibility criteria are met, and
2) There is evidence, including observation and/or assessment, indicating how the Specific Learning Disabilities adversely impact the student's performance in or access to the general education curriculum.

C. Evaluation participants must include:

1) The parent or guardian;
2) The student's general education classroom teacher;
3) A licensed special education teacher;
4) A licensed School Psychologist; and
5) Other professional personnel as indicated (i.e., Speech Language Pathologist or Occupational Therapist).