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William Cobey, Chair
Members of the NC State Board of Education
NC State Board of Education
301 N. Wilmington Street
6302 Mail Service Center
Raleigh, NC 27601-2825

Re: Comments of the Learning Disabilities Association of North Carolina
On NC DPI's proposed changes to the
NC Policies for Specific Learning Disabilities ("NC Policies")

Dear Chairman Cobey and Members of the State Board of Education,

I am the President-Elect of the Learning Disabilities Association of North Carolina's (LDA of NC). I am also an attorney and a parent of two adult children who have a learning disability, dyslexia. Both of my children attended the Chapel Hill Carrboro City Schools and are now in college.

I am writing to request that the North Carolina State Board of Education not take any action on the changes to the NC Policies proposed by the North Carolina Department of Public Instruction ("NC DPI").

The primary reason I am making this request, is because I believe the proposed changes are premature. Essentially, NC DPI is putting the cart before the horse.

Why are these changes being rushed through?

First, as I and other members of the learning disabilities community in North Carolina have been following the plans of NC DPI to amend the NC Policies, we have been independently researching this issue, and we have attended the NC DPI Stakeholders' Meetings on this topic, I have one urgent question:

Why is this change being rushed through?

The changes, if adopted, will not be effective until July 1, 2020 – four and half years from now. North Carolina can roll-out Response-to-Instruction ("RtI/MTSS") without making changes to the SLD definition, evaluation process, and eligibility criteria.

I urge you to slow things down. The current law and regulations already permit the implementation of RtI/MTSS. I suggest you direct NC DPI to implement RtI/MTSS, determine the outcomes for all students under RtI/MTSS, and then return to you in three (3) years with this data. Even without a change to the SLD regulations, if NC DPI is correct in its prediction that RtI/MTSS will lower the number of students identified as SLD, then in three years you will see a reduction in this number, and you will see a rise in the scores of all students.

We ask you to ask NC DPI for the data. “Show me the numbers.” “Show me the outcomes for all students.” “What are all students in public schools achieving under RtI/MTSS?”

There are so many things wrong with these changes; we don't even know where to begin the discussion. However, I would like you to read the NC DPI report, “Proposed Policy Changes: Specific Learning Disabilities, April 2015,” (“Report”) with a lot of skepticism. The report cites numerous articles and experts who support the changes proposed by NC DPI, however we find the authors of the Report engaged in confirmation bias in their research. Other experts and articles on this topic do not have the same conclusions.

I also find the Report engages in misdirection when it asserts that severe discrepancy is supported as the sole method of evaluation for SLD. This could not be farther from the truth. LDA of NC and almost all other experts support severe discrepancy as one method of many methods that can be used.

There is significant research by well-respected experts in this field who have published articles in peer-reviewed journals that support our position that RtI is not a diagnostic tool for purposes of making a SLD determination and that a cognitive assessment is integral to a SLD evaluation. I have listed a few here with the link so you may easily access them for review. Of particular note is Reynolds and Shaywitz who conclude:

“Response to Intervention (RTI) models of diagnosis and intervention are being implemented rapidly throughout the schools. The purposes of invoking an RTI model for disabilities in the schools clearly are laudable, yet close examination reveals an unappreciated paucity of empirical support for RTI and an overly optimistic view of its practical, problematic issues. Models are being put into practice without adequate research and logistical support and neglect the potential negative long-term impact on students with disabilities. Many implementation problems exist: (a) the vagaries of critical details of the model in practice; (b) the lack of consideration of bright struggling readers; (c) the relativeness, contextual, situation dependent nature of who is identified; (d) the worrisome shortcomings of the RTI process as a means of diagnosis or determination of a disability; and (e) the apparent lack of student-based data to guide effective choice of approaches and components of intervention. Practiced as a model of prevention, the authors agree with the concept of RTI. As the authors witness its application to disability determination sans the benefit of a reliable and valid empirical basis, the potential benefits to some children with disabilities remain an unproven hypothesis while the potential detriment to some children with disabilities remains a very real possibility.”

Cecil R. Reynolds and Sally E. Shaywitz, Response to Intervention: Ready or Not? Or, From Wait-to-Fail to Watch-Them-Fail, Sch Psychol Q. 2009 Jun 1; 24(2): 130. Available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2823081/> See also, Torin D. Togut and Jennifer E. Nix, The Helter Skelter World of IDEA Eligibility for Specific Learning Disability: The Clash of Response-to-Intervention and Child Find Requirements, 32 J. Nat'l Ass'n Admin. L. Judiciary Iss. 2 (2012) Available at: <http://digitalcommons.pepperdine.edu/naalj/vol32/iss2/5> See also, Caitlin S. Flinn, NCSP and Andrew E. McCrea, NCSP, Student Growth: Graphing, Calculating, and Interpreting Rate of Improvement data, June 2013 Available at http://rateofimprovement.com/roi/wp-content/uploads/2013/06/roi_june_2013.pdf

LDA of NC also supports The Council on Educational Services for Exceptional Children's paper on the proposed changes issued in January 2016. We ask you to give careful consideration of their recommendations. Moreover, I find NC DPI's response to the concerns in this paper to be vague and in some places nonresponsive.

LDA of NC believed that these proposed changes were not going to be acted on by the State Board of Education for several more months, and so are not prepared at this moment to submit a full response to NC DPI's proposals. However, we can have a full response by the May 2016 meeting of the State Board of Education. Additionally, since NC DPI has stated that one reason it is proposing these changes is because of the confusion caused by the wording in the current regulations, then LDA of NC will also prepare and submit our own proposed changes to the SLD regulations to address this confusion.

Thank you for your consideration of our concerns and request to delay action on these proposed changes.

Sincerely yours,

JoAnna J. Barnes
President- Elect,
Learning Disabilities Association of North Carolina