

## Response to Public Comment

Proposed Policy Changes to the Definition, Evaluation and Identification of Specific Learning Disabilities

### NC 1500-2.4(b)(11)      **Child with a disability: Specific learning disability**

Public Comment	Response
Disability/disorder	
<p>using the word “disability” instead of the word “disorder”; suggest that NC define “disorder” and “disability” the same way that the US Dept of Education and IDEA law define “disorder” and “disability”;</p> <p>This change is not allowed. Please see page 46,551 of the Federal Register, Part II, Department of Education, 34 CFR Parts 300 and 301, which states “We believe it would be inconsistent with the Act to change “disorder” to “disability””.</p>	<p>Disability will replace disorder. This corresponds to the fourteen disabling conditions under which a student may identified as a child with a disability.</p>
Dyslexia/dyscalculia	
<p>Second element of feedback we’d like to offer: we did not see academic behaviors addressed in the policy</p>	<p>Definition revised- the academic behaviors (i.e. listening, speaking, reading, etc...) are included within the definition</p>
<p>remove the highlighted portion of the definition. Associated conditions may include, but are not limited to dyslexia and dyscalculia.</p>	<p>No change for inclusion of dyslexia and dyscalculia- this is not intended to be an exhaustive list</p>
<p>applaud for the verbiage for defining "Specific Learning Disability" including "following sustained, high quality instruction and scientific research based intervention" AND "Associated conditions may include, but are not limited to dyslexia and dyscalculia".</p>	<p>Thank you for your comment.</p>
<p>It will be vitally important to keep the term ‘dyslexia’ in the NC definition of Specific Learning Disabilities to be sure to be in compliance with Federal Special Education law.</p>	<p>Thank you for your comment.</p>
<p>continuing to include statements of dyslexia and dyscalculia; there are many conditions that are associated with SLD....many conditions can contribute to SLD, not just dyslexia or dyscalculia.</p>	<p>Sentence was changed from “associated conditions,” which is inaccurate, to “alternate terms”</p>

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<p>I would also like dysgraphia to be included</p>	<p>No change- not intended to be an exhaustive list</p>
<p>Using inclusions of dyslexia and dysgraphia are a concern; We do not test for those things in schools ;We say reading and math disabilities</p>	<p>No change; It is correct that within IDEA we make determinations of eligibility within the 14 areas of disability as identified by IDEA, one of which is Specific Learning Disability. Dyslexia is included in the IDEA definition as an included condition. Although we do not diagnose children with dyslexia, we do serve learners with dyslexia in our special education programs. We fulfill Child Find duties and serve learners with specific learning disabilities, including dyslexia.</p>
<p>It is incorrect to describe dyslexia as an “associated condition”.</p> <p>SLD is a category. Children have a disorder(s) that fall inside the category of SLD.</p> <p>IDEA law lists some of the most common disorders that fall inside of the SLD</p> <p>category, namely: perceptual disabilities, brain injury, minimal brain dysfunction,</p> <p>dyslexia, and developmental aphasia. Dyslexia IS a disorder that falls inside of</p> <p>the SLD definition.</p> <p>By saying dyslexia is an “associated condition” is incorrect. Dyslexia is not</p> <p>“associated”, it is one of the many disorders listed within the SLD category.</p> <p>Also, dyscalculia is considered a SLD and not an “associated condition”.</p>	<p>We agree. Change “associated condition” to “alternate terms”</p>
<p>Within the new SLD definition, why was the decision made to include dyslexia and dyscalculia specifically, while other conditions could also be included? Should this list be more exhaustive, or eliminated?</p>	<p>No change- not intended to be an exhaustive list</p> <p>The inclusion of dyslexia aligns with federal definition. Due to continued confusion related to dyslexia as a recognized subtype of learning disability affecting an estimated 70-80% of children with reading difficulties, it is</p>

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	<p>important to maintain this term. Dyscalculia, although a term that is not as commonly used, is one other example of an alternate term for a learning disability.</p>
<p>How do the new NC definitions and policy changes align with the DSM-5 language? Specifically as it relates to the changes in labeling and wording of Specific Learning Disabilities. This is in reference to the policy mention of “dyslexia” and “dyscalculia.” When parents come to the schools to request testing for these we redirect them to more common terms aligned with our capacity and licensure which is to assess for a “reading disorder” or “math disorder.” This redirection in language now also aligns with the DSM-5 “specifiers.”</p>	<p>No Change- The DSM-V is for the purpose of making clinical diagnoses. Within the educational setting, we are determining eligibility for one of the fourteen disabling conditions of IDEA. It should be noted that the DSM-V does identify dyslexia and dyscalculia as alternative terms for impairments in reading and mathematics, respectively. Dysgraphia is not included as an alternate term for an impairment in written expression.</p>
<p><b>Academic Underachievement</b></p>	
<p>Moreover, we are concerned that by adding to the definition of SLD “academic underachievement” some schools may equate “academic underachievement” with “disability,” and we will return to the days when too many students <u>without</u> disabilities were identified as disabled because of low academic achievement.</p> <p><u>The existing NC definition of SLD conforms with the SLD definition in Federal Law, the Individuals with Disabilities Education Act (IDEA). We respectfully request that the existing NC definition of SLD be retained.</u></p>	<p>Academic underachievement has been changed to “substantially limits academic achievement.” The goal of an RTI-based process embedded within a multi-tiered system of support is the assurance that students receive high-quality core instruction and research-based interventions delivered with fidelity are appropriately ruled out as determinant factors for the student’s inadequate achievement.</p>
<p>Concerns about objectively determining academic underachievement so that it remains consistent across the state and also across school within the same LEA.</p>	<p>The definition defines the construct of SLD, but does not define the eligibility criteria</p>
<p>Using the criteria of “academic underachievement” does not accurately define the disorder.</p>	<p>Academic underachievement has been changed to “substantially limits academic achievement.” The goal of an RTI-based process embedded within a multi-tiered system of support is the assurance that students receive high-quality core instruction and research-based interventions delivered</p>

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	with fidelity are appropriately ruled out as determinant factors for the student's inadequate achievement.
<p>applaud for the verbiage for defining "Specific Learning Disability" including "following sustained, high quality instruction and scientific research based intervention" AND "Associated conditions may include, but are not limited to dyslexia and dyscalculia".</p>	<p>Thank you for your comment.</p>
<p>The new proposed definition of Specific Learning Disability (NC1500-2.4) is written so students with specific learning disabilities, including Dyslexia, have to fail (i.e. academic underachievement) before getting identified. Preventing a student from identification, hinders their ability to receive appropriate individualized support and researched based instruction. We believe the NC school system takes too long to identify learning disabilities and not all students who have specific learning disabilities fail. They need early identification and intervention for their success. Our daughter had to fail for an entire year before she was granted an IEP for her Dyslexia. The regulations should be written in a way to provide children with specific learning disabilities access to individualized instruction with an appropriate definition of Specific Learning Disability. They shouldn't have to fail in order for them to access help. By that point, they are too far behind to catch up.</p>	<p>It was not the intention to infer or suggest that a student must fail to be a student with a specific learning disability. The concept of "unexpected underachievement" has long been a marker for Specific Learning Disabilities" and the intent was to put the "unexpected" in the context of the provision of high quality instruction and intervention. Since there has been extensive comment on this terminology and interpretation that this indicated a requirement of failure, the language has been changed to</p> <p><i>"Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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.</i></p>
<p>Basic Psychological Processes</p>	
<p>does not include the words "language-based", leaving out information from decades of research about the primary symptom, the phonological core deficit, The IDEA, 2004 language, "a disorder in one or more of the basic psychological processes involved in understanding or in using language,</p>	<p>Definition was changed to add in terminology identifying SLD as a language-based disorder</p> <p><i>New proposed definition:</i></p>

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<p>spoken or written...” addresses this issue and adds information leading to accurate description and diagnosis of this most common disorder.</p>	<p><u>Specific learning disability.</u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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. Alternate terms may include, but are not limited, to dyslexia and dyscalculia.</i></p>
<p>The new definition states “disability in one or more of the basic learning processes”.</p> <p>It is completely not acceptable to leave out a critical part of what it means to have a</p> <p>SLD. An SLD means <i>a disorder in one or more of the basic psychological</i></p> <p><i>processes involved in understanding or in using language, spoken or written,</i></p> <p><i>that may manifest itself in the imperfect ability to listen, think, speak, read,</i></p> <p><i>write, spell, or to do mathematical calculations, including conditions such as</i></p> <p><i>perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and</i></p> <p><i>developmental aphasia.</i></p> <p>SLD is not just any ol’ problem in basic learning, it’s a problem with understanding or</p> <p>in using language. This “language piece” is a critical part of the SLD definition and it</p>	<p>Definition was changed to add in terminology identifying SLD as a language-based disorder</p> <p><i>New proposed definition:</i></p> <p><u>Specific learning disability.</u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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. Alternate terms may include, but are not limited, to dyslexia and dyscalculia.</i></p>

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<p>needs to be restored.</p>	
<p>I really don't any practical purpose for NC to change the definition of SLD from a deficit in a basic psychological process to one in basic learning processes.</p> <p>The federal definition (currently adopted in NC state policies) has remained in effect since 1975. The operational definition of it being characterized by a substantial discrepancy between ability and achievement did not come into effect until three years later, and it was that (non) operationalized definition that continued to generate a huge amount of debate over the next twenty six years, when Congress modified the mandate in 2004 to make it optional as long as the states allowed for it.</p> <p>No one on either of the major national task forces, in OSERS, or in Congress thought it necessary to change the 1975 definition while seeking to change what OSERS put forth in 1978; Although a few states (e.g., Maine) still require documentation of a processing deficit as a sine qua non for identification, neither the federal government nor North Carolina have ever imposed such a burden. (OSEP said back in the 1990s that it could be inferred, NC once required a statement regarding processing problems based on the observational data on its eligibiity form but has not done so for years) So changing the definition doesn't change how we do business. It does, however, generate new confusion to replace the old confusion, i.e., what is meant by "basic learning process," how does it differ from a basic psychological process, and how do we assess for it? Or can we just infer it like we used to? And if it's equally meaningless, why bother making a change?</p> <p>OSERS gave the states permission to establish their own criteria. But I don't see that they gave the state permission to change the definition; Under Part C, OSERS defined evaluations as being what we do to identify a kid, and assessments are what we do to identify present levels of performance (or under Part B, Present Levels of Academic Achievement and</p>	<p>Maintain removal of “psychological”; eliminate “learning”</p> <p>IEP teams retain the right to determine what evaluations are needed for a full and individual evaluation; the proposed policy is intended to move teams away from unnecessary testing that does not inform eligibility decisions or inform decisions about what is needed to enable learning for a student. Assessments of cognitive processing or “psychological processes” may be appropriately identified by the IEP team as part of the evaluation when they help the team identify risk, confirm hypotheses as to why the student is not responding and/or identify instructional interventions.</p> <p>IDEA provides minimum requirements each state must meet. States are allowed to establish their own criteria, and therefore this would include the definition. Precedent has been set by other states.</p>

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<p>Functional Performance.)</p> <p>There has been a lot of research since 2004, and some of the advocates for CHC/XBA assessments are saying that within the context of assessment, cognitive assessments can yield meaningful data that can inform the instructional process for children's benefit. Leaving the word "psychological" in place would I would suggest give permission to IEP teams to provide additional cognitive assessments when they deemed it appropriate to identify present levels of performance. The proposed change in definition seems to be closing a door to promising future practices. (And even if the promises remain unfulfilled, there is no obligation for a team to go through that door if chooses not to do so.)</p>	
<p>NC 1500-2.4- (definition of SLD)- We appreciate the change from “basic psychological processes” to “basic learning processes,” but it may be helpful to define and list the basic learning processes.</p>	<p>Basic learning processes was changed to “basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations”</p>
<p><u>Retain the existing definition of Specific Learning Disability in the NC Policies (+5 others same comment)</u></p> <p>NCDPI’s new definition is a radical departure from the definition of SLD in the federal law, IDEA, and its implementing regulations. The existing NC definition of SLD conforms with the federal definition.</p> <p><u>However, the new definition of SLD proposed by the NCDPI is a radical departure from the federal definition. It re-writes the federal definition and fails to follow federal law:</u></p> <p>Why are the change from “basic psychological processes” to “basic learning processes,” and the</p>	<p>Definition was amended:</p> <p><u><i>Specific learning disability.</i></u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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.</i></p>

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<p>addition of the requirement of “academic underachievement” of serious concern to students with SLD and their advocates? Because it defines SLD as simply a student who is failing to achieve age or grade-level standards. This new definition describes a SLD as simply a failure to “learn.”</p> <p>This new definition fails to recognize that a SLD is a cognitive processing disorder that impacts “basic psychological processes.” Furthermore, creating the additional requirement of “academic underachievement” adds an impermissible additional requirement as a condition for identification as SLD. State law may proceed from the federal law, but it may not exceed it.</p> <p>Moreover, we are concerned that by adding to the definition of SLD “academic underachievement” some schools may equate “academic underachievement” with “disability,” and we will return to the days when too many students <u>without</u> disabilities were identified as disabled because of low academic achievement.</p> <p><u>The existing NC definition of SLD conforms with the SLD definition in Federal Law, the Individuals with Disabilities Education Act (IDEA). We respectfully request that the existing NC definition of SLD be retained.</u></p>	
<p>The existing definition of SLD conforms with the SLD definition in Federal Law, the Individuals with Disabilities Education Act (IDEA); a definition that accurately describes SLD as "a disorder in 1 or more of <u>the basic psychological processes</u> involved in understanding or in using language spoken or written, which disorder may manifest itself in the imperfect ability to listen think, speak, read, write, spell or do mathematical calculations..." [NC 1500-</p>	<p>Definition was amended:</p> <p><u><i>Specific learning disability.</i></u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read,</i></p>



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<p>2.4]</p> <p>The proposed definition of SLD changes the description of a SLD as a disorder in “basic psychological processes” to a disorder in “basic learning processes.” It also adds the requirement of “academic underachievement.”</p> <p>The proposed definition defines SLD as simply a student who is failing to achieve age or grade-level standards. This new definition describes a SLD as a failure to “learn.” This new definition fails to recognize that a SLD is a cognitive processing disorder that impacts “basic psychological processes.”</p>	<p><i>write, spell, or to do mathematical calculations. 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.</i></p>
<p>The proposed definition states that SLD is a disability in a basic learning process that <u>results</u> in unexpected underachievement (Section NC 1500-2.4); but the reverse is not necessarily true! Simply observing one possible symptom of the disability does not prove that a disability exists. Just because there is the “symptom” of unexpected underachievement, one cannot assume that this must automatically be caused by an underlying disability with a basic learning process. There may be other reasons why this occurs.</p>	<p>Definition was amended:</p> <p><u><i>Specific learning disability.</i></u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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.</i></p>
<p>General</p>	
<p>Because the proposed definition includes the language “a disability in one or more of the basic learning processes” and “associated conditions may include, but are not limited to dyslexia and dyscalculia,” why would there not have a comprehensive psychological evaluation by an expert in learning processes be part of your evaluation requirements? While we agree that a psychological evaluation alone should not be used to determine eligibility, it should be still used to</p>	<p>The intent of an evaluation is to determine if the child is a child with a disability and to determine the educational needs of the child. It is the responsibility of the IEP team to determine what additional evaluations are needed, including a review of existing data, to make these determinations.</p>

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<p>determine strengths and weaknesses in learning and to help drive effective instruction by a special education teacher.</p>	
<p>This definition of a child with a disability needs to state more inclusive language like the current regulations; Proposed says... (i) General. Means a disability in one or more of the basic learning processes that result in academic underachievement following sustained, high quality instruction and scientific research-based intervention..."</p> <p>The current definition is more inclusive and should not have to fail to get help;</p> <p>"(i) General. Means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations...."</p>	<p>Definition was amended:</p> <p><u><i>Specific learning disability.</i></u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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.</i></p> <p>The term “academic underachievement” was removed and replaced with “a disorder that substantially limits academic achievement.”</p>
<p>new policy is conflating the definition of (SLD) with the idea of “eligibility of special education services”. The definition of SLD should simply be a definition of SLD.</p> <p>If a child is found to have a SLD, it does not necessarily mean that the child automatically qualifies for an IEP; by including eligibility language in the proposed definition, the proposed definition is not only confusing, but not consistent with how SLD is defined in IDEA law; use the definition of SLD that is used in IDEA law; Please don’t conflate the ideas “SLD” and “disability” with a child meeting the legal definition of “disability” as defined by IDEA (requires special education). The idea of changing “recommended aligning the definition of <i>specific learning disability</i> with the requirements for determining eligibility in § 300.309” was raised on</p>	<p>Definition was amended:</p> <p><u><i>Specific learning disability.</i></u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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.</i></p>

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<p>page 46,551 of the Federal Register, Part II, Department of Education, 34 CFR Parts 300 and 301 and the result was that NO CHANGES were made. Please see the full text in the next section.*****</p>	
<p><u>Proposed NC 1500-2.4</u></p> <p>(i) General. Means a disability in one or more of the basic learning processes that result in academic underachievement following sustained, high quality instruction and scientific research-based intervention..."</p> <p>By not relying on any cognitive testing to determine any ability/achievement discrepancies and delineating "academic underachievement" as opposed to an "impaired ability" the proposed changes create a "wait to fail" system in which a child may genuinely struggle, but not fall far enough behind to receive help until he or she is so far behind that it becomes very difficult to catch up. If these new changes are passed, a child with a learning disability who struggles to stay on grade level will never be able to meet his or her academic potential and will likely eventually begin to fail as the work becomes more difficult and his or her ability to overcompensate for their learning disability is no longer sufficient.</p>	<p>Definition was amended:</p> <p><u>Specific learning disability.</u></p> <p><i>General. Means a disability in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. 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.</i></p>

## NC 1500-2 Definitions

Progress monitoring	
<p>Should include either explicit mention of the measures that have been found to have sufficient psychometric properties to be effectively utilized as progress monitoring tools or they should explicitly list the properties that any such measures maintain. Specifically, curriculum based measures (CBM) are often thought of as a standard when determining the utility of assessments for progress monitoring purposes; so as to ensure that LEA's are choosing sufficiently robust and adequate measures to</p>	<p>Progress monitoring refers to a scientific research-based practice used to assess students' academic or behavioral performance and evaluate the effectiveness of instruction and/or specific interventions. Progress-monitoring can be implemented with individual students, groups of students or an entire class. Central to the practice is data-based documentation of repeated assessments that produce quantitative results that are</p>

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<p>use for the purposes of progress monitoring.</p>	<p>charted over time to document rates of improvement. When progress-monitoring data is used to determine individual student response to instruction and intervention, the measures should be brief, reliable, valid, sensitive, linked to area of intervention/instruction, and measure the same construct/skill over time (using alternate forms of equivalent difficulty) in order to make sound decisions regarding a student's rate of progress. Embedded assessments within evidence-based intervention programs can also be an important source of progress monitoring data for students that are performing well below grade level. Students that are performing very far below expected levels may be progress-monitored the most frequently with these types of measures but should also receive periodic progress-monitoring using a general outcome measure (CBM) in order to ensure that skills are transferring to content that is closer to grade level expectations.</p>
<p>utilize the terms "Curriculum-Based Measurement" and "Curriculum-Based Assessment" (as these are terms identified by the National Center on Student Progress Monitoring) rather than "Progress Monitoring"?; As public education in North Carolina, as well as nationally, move forward with measuring student progress with standardized curriculums (whether Common Core or some other standard curriculum) for all students, it would seem prudent not to leave any ambiguity as to what teachers and service providers should be collecting and measuring data pertaining to.</p> <p>Based on my own experience, there seems to currently be a lot of confusion amongst both teachers and administrators as to what constitutes academic progress as opposed to progress in functional ability.</p>	<p>The revised definition of progress monitoring includes the essential components of measures to be used for the purposes of assessing a student's response over time. Although it is currently recognized that Curriculum Based Measurement is the "gold standard" for monitoring a student's response over time, as research into other measures emerges the agency would not limit use to only one type of tool for this purpose.</p>
<p>NC 1500-2.11 Evaluation, Progress monitoring – Would like to see that the progress monitoring is charted to show measures of improvement/regression with the specific interventions.</p>	<p>This revision is included in the revised definition.</p>

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<p>charted to show measures of improvement/regression</p>	<p>This revision is included in the revised definition.</p>
<p>NC 1500-2.11- (definition of Progress Monitoring)- Operationalize “brief” assessments</p>	<p>It is not believed that the term “brief” needs to be operationalized as this is generally understood.</p>
<p><b>MTSS</b></p>	
<p>N 1500-2.xx- (definition of MTSS)- State how many tiers will be in the MTSS model, the target/ purpose of each tier, and how the tiers work together to improve core. If we did not already know what MTSS was, the proposed definition would not sufficiently explain what MTSS looks like and how it works.</p>	<p>This will be included within implementation documents.</p>
<p><b>NC 1500-2.xx RtI</b></p>	
<p>monitoring progress frequently to make changes in instruction or goals – A timeframe would be good here because the schools will make changes for months and waste time without providing and IEP. This is when the dyslexic and SLD child falls through the cracks.</p>	<p>No change</p> <p>The length of time that a student receives intervention is dependent on a number of factors (e.g. the area in which the student is receiving intervention, the age of the student, the size of the skill gap) and is best made by the problem solving team. Information to provide guidance to problem solving teams will be included within implementation documents.</p>
<p>NC 1500- 2xx- (definition of Responsiveness to Instruction)- Define high quality instruction and interventions (e.g., what is high quality?). These definitions could differ from district to district.</p>	<p><u>No change</u></p>
<p><b>Social and Developmental History</b></p>	
<p>NC 1500-2.11- (definition of Social Developmental History)- Add in a statement that disciplinary rates, such as suspensions, should be included. It is noted later in the policy that these types of issues should be ruled out as possible causes for the lack of progress. Noting it in this section would make the document more congruent.</p>	<p>Changed to include disciplinary removals.</p> <p>New revised definition:</p> <p><i>A social history documents normal and abnormal developmental and/or medical events and includes a review of information gathered during the screening process</i></p>

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	<p><i>and/or systematic problem-solving process including disciplinary removals, mobility and attendance/tardy rates. For preschool children, a social history must include an assessment of family composition, support systems, stressors, and environment as they correlate with the child's need or special services. The history also must include the family's or caregiver's perspective about the child and the need for special services. The history may be obtained by a licensed social worker, special educator, <u>school</u> psychologist, counselor, nurse, teacher or other appropriate persons.</i></p>
<p><b>Systematic Problem Solving</b></p>	
<p>The required steps identified in Proposed NC 1500-2.xx (Systematic problem-solving process) should be revised to read as follows:</p> <ul style="list-style-type: none"> <li>● <i>Problem identification and information gathering;*</i></li> <li>● <i>Analysis of information collected;</i></li> <li>● <i>Solution development; and</i></li> <li>● <i>Evaluation of impact.</i></li> </ul> <p><i>*Information gathering includes reviewing, interviewing, observing, and testing across the domains of curriculum, instruction and environment.</i></p> <p>We propose these revisions to clarify the purpose and sequence of steps required for a meaningful, systematic problem-solving process. As written, the process is vague and subject to misinterpretation.</p>	<p>Definition has been revised to reflect these suggestions. "Learner" was also added to the last sentence to reflect the need to problem solve using diagnostic information for the individual learner within the context of the curriculum, instruction and environment.</p> <p><i>A systematic problem-solving process is a structured, methodical approach to determine and address student needs to promote growth. Required steps include:</i></p> <ul style="list-style-type: none"> <li>● <i>Problem identification and information gathering;</i></li> <li>● <i>Problem analysis (analyze information gathered)</i></li> <li>● <i>Solution development; and</i></li> <li>● <i>Evaluation of impact.</i></li> </ul> <p><i>The process for gathering information includes reviewing, interviewing, observing, and testing across the domains of instruction, curriculum, environment and learner.</i></p>

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Definitions needed	
<p>“Scientific research-based intervention” is not a precise term, as interventions may be scientific and research-based, but not "evidence-based” for the particular learning need, such as dyslexia. For instance, traditional reading programs that are not based in phonemic awareness or multi-sensory instruction may be scientific research-based for standard ed students, but not effective at all for dyslexia remediation.</p>	<p>This will be defined within SLD and MTSS implementation documents.</p>
<p>Will the verbiage of the document include “evidence based interventions” or only that of “scientifically research-based interventions?” What is the rationale for this?</p>	<p>IDEA requirement is for scientific research-based interventions.</p>
<p>add definition of “Comprehensive balanced assessment system” to address perception that only RtI data is used and to define diagnostic assessments, an essential component of an evaluation for SLD</p>	<p><u>Comprehensive balanced assessment system-</u>            A comprehensive balanced assessment system is a critical component of a multi-tiered system of support and as a component of an evaluation when using a child’s responsiveness to instruction and intervention. It is a comprehensive and efficient assessment system that is balanced, uses multiple sources and is culturally appropriate. At full implementation, this system should measure critical areas within literacy (reading and writing), math and behavior/social-emotional functioning in a manner that eliminates redundancy and achieves a degree of uniformity across a school district. The data gathered within this assessment system is designed to allow effective problem solving at all tiers and across all student groups (i.e., subgroups), in order to design responsive instruction for all students. These components are also important data sources within a comprehensive evaluation to determine if a child has a Specific Learning Disability and the nature and extent of the special education and related services the child needs.</p> <p>A comprehensive balanced assessment</p>

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	<p>system includes the following components:</p> <ul style="list-style-type: none"> <li>(a) Common formative assessments</li> <li>(b) Interim/Benchmark assessments</li> <li>(c) Outcome assessments</li> <li>(d) Universal screening</li> <li>(e) Progress monitoring</li> <li>(f) Diagnostic assessments</li> </ul>
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### NC 1503-2.5      **Evaluation procedures**

<p>Similarly, limiting the evaluation methods to RTI would make it impossible for a parent to obtain an independent educational evaluation. This is a procedural safeguard provided through IDEA and cannot be denied to parents in North Carolina because some folks decided that IQ tests are worthless.</p>	<p>As with all other disability categories, the SLD policy amendments require a full and individual evaluation in order to determine eligibility. There is no compromise made with regard to a parent’s right to obtain an independent educational evaluation. 300.502(c)(1) requires that an independent evaluation must be considered by the publicagency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child.</p>
<p>NC-IDA encourages DPI to review the IDA document <a href="#"><i>Knowledge and Practice Standards</i></a> with special attention to Section D, <i>Interpretation and Administration of Assessment for Planning Instruction</i>. These skills typically are held by psychologists. The DPI proposed policy does indicate the need for a comprehensive evaluation, but there seems to be a great deal of weight put on the child’s responsiveness to instruction. Without an appropriate diagnosis, there is concern that an effective and timely intervention strategy will be delayed or not given at all. The diagnosis helps to inform an appropriate intervention plan.</p>	<p>Additional information was added to the required screening and evaluation section. NC1503-2.5(11) 4 now reads “A comprehensive, balanced assessment system that includes: common formative assessments, interim/benchmark assessments, outcome assessments, and universal screening, progress monitoring <i>and diagnostic assessments</i>.”</p> <p>NC 1503 (11) (i) (H) added “<i>and formal and informal diagnostic assessments</i>”</p> <p>A new definition was added for comprehensive, balanced assessment system</p>
<p><u>Retain the existing Evaluation Criteria for SLD</u></p>	<p>No change.</p> <p>IEP teams begin with a review of existing</p>



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The existing NC Policies require the evaluation for a SLD include ten (10) required screenings and evaluations including a “Psychological evaluation, to include an intellectual evaluation, as appropriate when using RtI.” [NC 1503-2.5 (11) (i)] (Intellectual evaluations are also called cognitive evaluations or assessments.)

The proposed changes to the NC Policies eliminate the required psychological/intellectual evaluation.

And, furthermore, the proposed changes to the NC Policies eliminate the discrepancy method as a way to identify students with SLD. The discrepancy method (that requires a 15 point discrepancy between IQ and achievement) has been criticized for restricting the students who are identified or who can be identified as SLD. However, by requiring a psychological/intellectual evaluation as part of the screening and evaluation, a student’s cognitive strengths and weaknesses are identified through interpretation of the IQ subtest scores. With this information psychologists and educators can ascertain how a student will learn. So, even if a student is not eligible under the discrepancy method, knowledge gained via a comprehensive psychological/intellectual evaluation will help all students to learn, even SLD students who do not have a discrepancy.

This proposed change by NCDPI to the evaluation process is also a radical departure from the federal regulations, and thus the proposed evaluation process fails to follow federal law.

#### Federal law now requires:

In conducting the evaluation, the public agency must—....

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. [34 CFR 300.304 (b)]

The federal law recognizes the importance of a cognitive assessment in order to develop an appropriate educational program for a student. Without this assessment, it is impossible to develop an educational program for a

data and determine what additional evaluations are needed to determine eligibility and to inform instructional decisions as part of the comprehensive evaluation. The NC DPI concurs with 34 CFR 300 and 301 p. 46651 in that “The Department does not believe that an assessment of psychological or cognitive processing should be required in determining that a child has an SLD.”

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<p>student with a SLD that is meaningful and effective. For example, a cognitive assessment may reveal that a student is struggling because of a weakness in visual processing which will then cause the student great difficulty in spelling, reading, mathematical calculations, copying words for a list or from the board. Without this detailed knowledge, the teacher will not know how to address that student’s weaknesses.</p> <p>Indeed, a number of experts in the field of learning disabilities support the crucial need for a cognitive assessment for not just identification but for developing an educational program. Pennington, B. F. (2008). <u>Diagnosing Learning Disorders</u>, 2nd Ed. New York: Guilford Press. Ortiz, Samuel (2014) “The Primacy of IQ Subtest Analysis to Understand Reading Performance for Culturally Diverse Groups,” Vol. 20, No. 1, pp. 45 – 54, <u>Learning Disabilities</u>.</p> <p style="text-align: center;"><u>The existing NC evaluation criteria for a SLD conform with Federal Law, the Individuals with Disabilities Education Act (IDEA). We respectfully request that the existing NC evaluation criteria for SLD be retained.</u></p>	
<p>1- <u>Comprehensive Profile of student strengths and challenges</u>- Without having a comprehensive evaluation, I have concerns about whether we are fully capturing the student’s assets and needs.</p> <p>- We need to be able to identify and support coexisting conditions (e.g., ADHD, executive skills deficits, anxiety, depression, health needs, etc.). We know that the likelihood of a coexisting condition is high in the LD population.</p> <p>- We need to be able to individualize instruction to address diverse learning profiles (more than one academic area affected, weak processing areas such as working memory, processing speed, rapid naming, phonological</p>	<p>No Change</p> <p>IDEA and NC Policies Governing Services for Children with Disabilities requires a comprehensive evaluation.</p> <p>NC Policies Governing Services for Children with Disabilities 1503.2.5 (c) (4) requires that “the child is assessed in all areas related to the suspected disability, including <i>if appropriate</i>, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.”</p> <p>A standard battery of assessments does not</p>

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<p>awareness, orthographic awareness, visual perceptual deficits, language deficits, etc.). Having standardized evaluation information in these areas is valuable.</p> <p>- The value of a cognitive or IQ test goes way beyond the single composite score. A structured assessment gives the opportunity to observe processing across a variety of areas (reasoning, language, non-verbal, working memory, processing speed, problem-solving approach, attention functioning, executive skills, etc.). The single IQ score is not the most critical information from an IQ test, but the information from the various domains is valuable in developing a support plan.</p> <p>- We need to be able to differentiate learning disability from other factors that may cause academic underachievement (e.g., slow learner profile) as these areas warrant individualized intervention to address the student’s needs.</p> <p>- We need to be able to identify student strengths. It has been my experience over the years that many very bright students are not readily identified for programs such as AIG or academic competitions because their learning disability masks their strengths on the commonly used indicators considered.</p>	<p>address the individual needs of the child, nor does it consider existing data that was gathered during systematic problem solving that may be available to answer questions about the specially designed instruction needed for the student to progress</p> <p>A standard battery of assessments does not address the individual needs of the child, nor does it consider existing data that was gathered during systematic problem solving that may be available to answer questions about the specially designed instruction needed for the student to progress</p> <p>The IEP team needs to consider all evaluation criteria, including the exclusionary factors when making determinations of eligibility (“slow learner” is not an exclusionary factor). A comprehensive evaluation should consider all factors which may result in a child’s academic underachievement.</p> <p>The NC DPI ECD agrees with this statement. A well designed comprehensive evaluation should consider multiple sources of data, including indicators of giftedness.</p>
<p>A Psychological evaluation in addition to RtI would provide: A more complete picture of the student and the academic, functional and/or behavioral challenges that child may face.</p> <p>Alternative explanations for the student’s struggles (e.g., ADHD, IDMI, AU, motivation, etc.) - How do we explore or rule these out without an evaluation?</p> <p>An assessment of cultural/linguistic effect on a student’s progress. A comprehensive psycho-educational assessment can provide a good analysis of these factors.</p> <p>Assessment of required exclusionary factors (intellectual</p>	<p>No change</p> <p>NC DPI ECD agrees that multiple sources of data are necessary to make eligibility decisions. An RtI-based approach to evaluation is based on a system of increasingly intensive interventions informed by data, including progress monitoring and individual and diagnostic assessments. The use of systematic data-driven problem solving process ensures that, by the time of an eligibility decision, data have been collected from multiple sources. If it is suspected another</p>

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<p>disability in particular)</p> <p>Important information about how the student learns best (or may not learn best) in order to inform instruction (i.e., IEP goals and teaching strategies) and also to help determine appropriate classroom accommodations and/or modifications as well as testing accommodations if needed.</p>	<p>disabling condition exists, then the IEP team determines what assessments would be necessary. Often times, existing data can serve as screening to rule out some conditions. Assessments are determined based on the questions the team needs to address.</p>
<p>In proposed NC 1503-2.5, the last sentence of the first paragraph of (11) Specific Learning Disability refers to <u>scientifically-based research instruction</u>. The first line of the next paragraph refers to <u>scientifically research-based intervention</u>. Item 1 on the next page in the same section refers to <u>scientific research-based intervention</u>. It is not clear to us if one or more of these terms was accidentally mistyped, or if they are two or perhaps three distinct terms. Either way, we feel the term(s) should be specifically defined in the policies given DPI's proposal that MTSS be the sole method for determining eligibility. Proposed NC 1503-2.5 (11) Specific Learning Disability.</p>	<p>Scientific research-based intervention now used consistently through this document</p>
<p>It is not clear to us how item 3 in Determination of Eligibility in the proposed Evaluation procedures section relates to (ii)(D) in the same section. It seems repetitive to make the adverse effect determination twice.</p>	<p>No Change</p> <p>This section is solely intended to summarize the required criteria of eligibility. More detailed information is provided in the following sections in policy. The language was revised to be consistent in both sections where adverse effect is written.</p>
<p>In the same section, it seems that "A comprehensive evaluation includes the following required screenings and evaluations" should instead read "Required screenings and evaluations," as the language in the other disability categories reads.</p>	<p>No Change</p> <p>The inclusion of "a comprehensive evaluation" was intentional to emphasize the need for a comprehensive evaluation and that this is not an "RtI-only" approach. This is unique to SLD.</p>
<p><u>Required Screenings and Evaluations</u></p>	
<p>(i)(5) What will the "observation of core instruction data" look like in terms of documentation requirements as noted on page 5?</p>	<p>A description will be included in implementation documents.</p>
<p>First, it is a mistake to omit the requirement for a</p>	<p>Educational assessment data (e.g.universal screening, interim benchmark</p>

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<p>cognitive and educational evaluation. The information obtained from these evaluations is invaluable in understanding how students learn and in identifying the reasons behind the learning difficulties. Identifying potential underlying problems with memory, verbal skills, visual skills, and processing speed is an essential piece of the systematic problem-solving process (Section NC 1500-2.xx) and critical for problem identification and analysis. It is proposed that the requirement continue for a vision/hearing screening, a speech/language screening, and a social-developmental history (Section NC 1503-2.5). Why is it that these areas are deemed worthy of evaluation but assessing a student's basic learning processes is not?</p>	<p>assessments, data from progress monitoring, informal and/or formal diagnostic assessments) will continue to be a required component of the evaluation process for students suspected of SLD. Policy was changed based on public comment to clarify that formal and informal diagnostic assessments are required as an essential component of an evaluation. These requirements can be met through the review of existing data that was gathered during systematic problem solving or during the formal evaluation process. Standardized assessments of academics or cognitive processing <i>may</i> be used as a component of the evaluation if it aids the team in designing effective instruction and intervention, but are not required to determine eligibility. Caution should be used in linking areas of instruction to particular cognitive processes if sound research does not exist. The goal should be to ensure that assessment is used to guide instructional decisions in an efficient manner and not to burden students or staff with unnecessary testing.</p>
<p>In closing, as a School Psychologist with extensive knowledge and experience with cognitive/educational evaluations, the various SLD eligibility models and criteria, and with daily observations of inadequate RTI/MTSS processes, I feel very strongly that adopting the proposed SLD changes as written will lead to serious negative consequences. Cognitive and educational evaluations should still be required as part of the eligibility criteria to be used for informational purposes, regardless of the overall IQ score. Alternative approaches to SLD eligibility must be offered. You cannot require an RTI-only based approach, when inadequate RTI/MTSS processes and lack of appropriate progress monitoring tools make documentation for that approach unattainable.</p>	<p>A student's response to instruction and intervention alone is not sufficient evidence for identification of an SLD. RtI is only one component of a comprehensive evaluation and no single indicator of SLD is sufficient. The division recognizes that valid and reliable progress monitoring tools are not yet available in the areas of listening comprehension and oral expression. This is addressed within the language of the proposed policy. When making SLD eligibility decisions, the LEA must make every effort to locate and use progress monitoring assessments that meet the criteria as defined in policy. Ultimately, the IEP team determines whether the data collected are sufficient for making an eligibility decision or</p>

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	<p>whether additional data is needed. The IEP team must document the basis for its decision. It is the responsibility of the IEP team to ensure data used by the IEP team are collected in a manner consistent with policy.</p>
<p>NC 1503-2.5 (11) 1. " A system of high quality instruction and scientific research based intervention" be specifically defined and consistently used in the classroom by the general education teachers who are properly trained in this type of intervention</p>	<p>This will be addressed within implementation documents</p>
<p>Proposed NC 1503-2.5 <i>Evaluation Procedures</i></p> <p>"Determination of Eligibility Determination of a specific learning disability includes all of the following conditions: 1. academic underachievement; 2. insufficient rate of progress; and 3. adverse effect on educational performance that requires specially designed instruction."</p> <p>They go on to describe these numbers items but a student must have them all to qualify. This is important and also unacceptable.</p>	<p>Academic underachievement has been changed to "inadequate academic achievement". These requirements are aligned with IDEA. Decisions of eligibility require all criteria.</p>
<p><u>Exclusionary Factors</u></p>	
<p>highly mobile children (e.g. migrant or military). Listing mobility as a possible exclusionary factor will mean that many of these children will have SLDs that are excused away. It is also likely that the mobility will be interpreted as leading to a lack of "high quality" instruction even if the child has very good teachers all along the way.</p>	<p>Mobility rates alone do not sufficiently establish lack of appropriate instruction; however, high mobility rates and the context through which they occur, warrants consideration by the IEP team.</p>
<p>Why are OHI/ADHD and AU not included on the list of exclusionary factors?</p>	<p>These factors are not intended to provide an exhaustive list of other disability categories, but rather follow the federal requirements in order to ensure that the learning disability is not primarily resulting from one or more of the factors listed.</p>
<p>state a learning disability must not be the primary result of those disabilities listed. As a Teacher of the Deaf my comments focused on those who are Deaf, Hard of Hearing, Hearing Impaired, or have a hearing loss. Students identified as Deaf, Hard of Hearing,</p>	<p>No change</p> <p>This is taken directly from IDEA. Sensory disabilities (such as a hearing impairment) may co-occur with a Specific Learning Disability. The student's</p>

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<p>Hearing Impaired or having a hearing loss may also have a learning disability; This proposed policy does not make sense because as we all know someone may have more than one disability such as being deaf and visually impaired.</p>	<p>inadequate achievement and insufficient progress cannot be primarily the result of a sensory deficit within the educational classification of SLD.</p>
<p>Also, if the Specific Learning Disability "cannot be the primary result of ... Cultural factors ... Limited English Proficiency", then why do the proposed changes insert the following language - "Student performance may be compared against culturally and linguistically similar peers"?; What specific metrics would be used to determine 'culturally similar peers' - Title 1 schools? Race/ethnicity? Zipcodes?</p>	<p>School teams are asked to consider a student's performance/progress compared to similar peers whenever possible in order to ensure that their 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 appropriate for all learners. More information monitoring students' progress compared to various peer groups will be included in the implementation guidance.</p>
<p>What will attendance thresholds look like as a rule-in/rule-out of "lack of instruction?" How will attendance or truancy from intervention blocks/sessions be included in this consideration for eligibility for SLD?</p>	<p>This will be included in implementation documents.</p>
<p>Multiple Sources of Data</p>	
<p>(11)(i)(H) Multiple sources of educational assessment data- would not be appropriate and would not be in compliance with legal precedents which guarantee equal opportunity; could be taken to mean that poor (low SES) students in historically low performing schools can be compared with other poor (low SES) students in other low performing schools, thus guaranteeing that the cycle of low achievement and poor academic outcomes continue; These Wilson sites in NY and others studies around our country show we can close the gap for at-risk students - it certainly can be done!</p>	<p>Language has been revised.</p> <p>School teams are asked to consider a student's performance/progress compared to similar peers whenever possible in order to ensure that their 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 appropriate for all learners. More information monitoring students' progress compared to various peer groups will be included in the implementation guidance.</p>
<p>(11)(i)(H) and (ii)(B) <i>When available, sources of data must include state and districtwide assessments. Student performance must be compared against multiple groups, which must include comparison to state and/or national level comparison groups. Student performance may be compared against culturally and linguistically similar peers, classroom, school, and/or comparison groups.</i> It</p>	<p>Within (11)(ii)(B) it now reads:</p> <p><i>These measures should include two or more of the following: universal screening, interim/benchmark assessments, data from progress monitoring and/or standardized measures</i></p>

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<p>is not appropriate to compare a child to their “<i>peer subgroup, classroom, school, district</i>”.</p> <p>What does it even mean to compare a student’s performance “<i>against culturally and linguistically similar peers</i>”? Do you mean that African American boys, can be compared to other African American boys?</p> <p>Please see page 46,652 of the Federal Register, Part II, Department of Education, 34 CFR Parts 300 and 301, which states:</p> <p>“The first element in identifying a child with SLD should be a child’s mastery of grade-level content appropriate for the child’s age or in relation to State-approved grade-level standards, not abilities; The performance of classmates and peers is not an appropriate standard if most children in a class or school are not meeting State approved standards.</p>	<p><i>of achievement related to the area of concern. When available, sources of data must include state and districtwide assessments. <u>Student performance must include comparison to state and/or national norms and district norms when available. Student performance may be compared against other comparison groups (such as culturally and linguistically similar peers, classroom and/or school).</u> These data must be relevant to the area(s) of concern (e.g., reading, math, writing, listening, and oral language).</i></p> <p>School teams are asked to consider a student’s performance/progress compared to similar peers whenever possible in order to ensure that their 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 appropriate for all learners. More information monitoring students’ progress compared to various peer groups will be included in the implementation guidance.</p>
<p>What does it mean to ‘have evidence of academic underachievement and multiple data sources’?</p>	<p>This will be included in implementation documents.</p>
<p>Multiple data sources for listening comprehension and oral expression, universal screeners are a concern. Will the state provide universal screeners?</p>	<p>Changed: Standardized measures related to the area of concern may be used. At least two data sources to prove inadequate academic achievement which should include two or more of the following: universal screening, interim/benchmark assessments, data from progress-monitoring and/or standardized measures of achievement related to the area of concern.</p>



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	<p><i>New language:</i></p> <p><i>(E)Review of existing data, to include documentation of the systematic problem solving process (<u>which would include formal and/or informal diagnostic assessments</u>) and observation data of core instruction;</i></p> <p><i>(H)Multiple sources of educational assessment data, which must include, but are not limited to: universal screening, interim/benchmark assessments, data from progress monitoring <u>and formal and/or informal diagnostic assessments</u>. Student performance must be compared against multiple groups, which include the peer subgroup, classroom, school, district, state and/or national level comparison groups. When available, sources of data must include state and districtwide assessments. Data must be relevant to the area of concern(s) (e.g., critical components of reading, math, writing, listening comprehension, oral expression, etc.).</i></p> <p>Within (11)(ii)(B) it now reads:</p> <p><i>These measures should include two or more of the following: universal screening, interim/benchmark assessments, data from progress monitoring <u>and/or standardized measures of achievement</u> related to the area of concern. When available, sources of data must include state and districtwide assessments. <u>Student performance must include comparison to state and/or national norms and district norms when available. Student performance may be compared against other comparison groups (such as culturally and linguistically similar peers, classroom</u></i></p>
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	<p><i>and/or school). These data must be relevant to the area(s) of concern (e.g., reading, math, writing, listening, and oral language).</i></p>
<p>How will evidences of multiple sources of data include all areas of SLD such as written expression, listening comprehension, and oral expression? How will multiple sources of data be used for these areas that are less likely to have as much substantial data as the areas of reading and math.</p>	<p>This will be included in implementation guidance.</p>
<p>I was very pleased to see that DPI is recommending that we compare students to their peer subgroup. The language cited above is contradictory. Are we saying that students must be compared against their peer subgroup, or may be compared against their peer subgroup. My recommendation is that we must compare against peer subgroups. LEAs will need a way to disaggregate the data using benchmark assessments and progress monitoring tools (i.e., DIBELS). We do not currently have a way to do this using mclass DIBELS.</p>	<p>We agree and this will be included in implementation documents, but peer subgroup data is not always available at this time. School teams are asked to consider a student’s performance/progress compared to similar peers whenever possible in order to ensure that their 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 appropriate for all learners. More information regarding the monitoring students’ progress compared to various peer groups will be included in the implementation guidance.</p>
<p><b>Academic Underachievement/ Determination of Eligibility</b></p>	
<p>children whose learning disabilities are in listening comprehension, oral expression or written expression. These children are less likely to be flagged for intervention or evaluation because there is no “universal screening,” fewer standard assessments that will provide data for comparisons with peers, and the disability may have educational impacts that will not be captured by “valid and reliable measures of other academic skills,” or lead to “academic underachievement” as described in these proposals.</p>	<p>This is a very good point and a concern under any model of determining eligibility. Students with specific learning disabilities in the areas of Oral Expression, Listening Comprehension and Written Expression are often overlooked and underidentified due to the lesser direct focus on these areas within instructional settings. In addition, the commenter is correct in asserting that these are also areas we do not formally screen in most settings. In order to assist schools in making accurate decisions regarding intervention and eligibility, NC DPI will be</p>

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	<p>providing guidance on this within both MTSS guidance and PD as well as the SLD Eligibility guidance.</p> <p>In order to monitor progress accurately across these areas, NC DPI will also provide guidance regarding how these areas of difficulty may impact performance across multiple academic areas. At this time, valid and reliable measures of progress-monitoring do not exist in the areas of Oral Expression and Listening Comprehension. This informed the decision to allow progress-monitoring data to be obtained through other areas in order to demonstrate the impact that language deficits have across academic areas. This is alongside the first section of eligibility that indicates the inadequate academic achievement is demonstrated within direct assessments of Oral Expression and Listening Comprehension.</p>
<p>Academic underachievement may not capture the support the needs of the diligent and/or well-resourced student who is meeting broad grade level expectations, but is doing so through the combined efforts of the student, teacher, parent, community based educational supports. In these situations, there is often an extraordinary amount of extra time, effort, expertise and financial resources (for tutoring and additional supports outside of school) enable the student to meet the broad grade level expectations, but the student still has a learning disability and has intervention needs.</p>	<p>NO CHANGE</p> <p>300.309(a)(1) "...when provided with learning experiences and instruction appropriate for the child's age or state-approved grade level standards"</p> <p>All sources of data must be considered as part of the comprehensive evaluation. This information would be covered under "review of existing data", "summary of conferences with parents" and "social/developmental history." When all relevant data is carefully considered by the IEP team, and the extent of the resources required to support the needs of the student are above and beyond what can be reasonably provided through general education supports alone, the team must consider this information in order to</p>

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	make informed decisions regarding eligibility
<p>Minority children, those from low-income families, and/or those who attend low-performing schools, as well as English Language Learners (ELL). The fact that student performance will be compared against “culturally and linguistically similar peers”, “peer subgroup, classroom, school, district, state or national comparison groups. Children in the groups mentioned, tend to have lower test scores on average on state and district assessments. If a poor, minority child who attends a low-performing school is compared to “similar peers,” he might have to be even further below age or grade level expectations in order to have his learning disability identified than a white, not poor kid who attends a decent school, or even to be selected to receive the required interventions. These proposals would only add to the disadvantages faced by these children. They are less likely to receive high-quality core instruction, research-based interventions and, consequently, the specially designed instruction that they may need.</p>	<p>Guidance regarding monitoring progress compared to similar peers will be included in implementation guidance documents. In short however, school teams are asked to consider a student’s performance/progress compared to similar peers whenever possible in order to ensure that their 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 appropriate for all learners.</p>
<p>We are currently in a challenging time with regard to the most basic issue of establishing and clearly defining “grade level expectations” (e.g., Common Core Curriculum versus State developed expectations). Once that is achieved, the challenge becomes to ensure consistent implementation across NC (Murphy to Manteo).</p>	<p>No change</p> <p>Students in North Carolina Public Schools follow the NC Standard Course of Study as authorized by the NC State Board of Education.</p>
<p>A student can experience academic underachievement for a variety of reasons and not all of those are because of specific learning disability. I do not see this model clearly differentiating (e.g., SLD versus slow learner, another area of need). While each of these students may need intervention, not all have a specific learning disability.</p>	<p>No change</p> <p>We would define the term “slow learner” to mean that a student’s rate of progress is less than necessary to meet state-approved, grade level standards. All students in North Carolina are expected to meet grade -level standards. A student’s slower rate of progress might occur for many reasons, only one of which might relate to intellectual</p>

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	<p>development. “Slow learners” are not excluded or included in the exclusionary factors for SLD.</p>
<p>We know that for a very bright student to be minimally meeting grade level expectations is really a great loss of potential for the individual student and beyond. All too often bright students with SLD are advised to avoid honors level and AP classes so that they can readily meet the course level expectations. Grade level expectations are not always the most accurate measure of success for individuals.</p>	<p>IDEA requires as the first criteria for eligibility: The child does not achieve adequately for the child’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 child’s age or State-approved grade-level standards 300.309 (a)(1)</p>
<p>In proposed section NC 1503-2.5 (11) (ii) (B), it is not clear what "age or grade level standards in which the child is enrolled" means. If the child is taking the Extended Content Standards curriculum and achieving at the expected level for that curriculum, it is not clear if this phrase will cause such child to be excluded from meeting the academic underachievement threshold. If so, then it seems that that all children on the Extended Content and/or OCS curricula who are meeting those "standards" are categorically banned from SLD eligibility. Further, if "age or grade level standards" does not refer to the curriculum, it is still not clear if it simply means "grade level" or is intended to mean something else.</p>	<p>No Change</p>
<p>In contrast, the proposed changes would allow children with intellectual ability that is well below average (“slow learners” with IQs in the 70’s) to be identified as SLD due to academic underachievement. Even with research-based interventions and specially designed instruction, these children cannot be expected to perform above their ability level. There is no basis to suddenly declare that there is no legitimacy to the bell curve, or to assume that every child comes into the world with the same capacity to learn.</p>	<p>We would define the term “slow learner” to mean that a student’s rate of progress is less than necessary to meet state-approved, grade level standards. All students in North Carolina are expected to meet grade -level standards. A student’s slower rate of progress might occur for many reasons, only one of which might relate to intellectual development. “Slow learners” are not excluded or included in the exclusionary factors for SLD.</p>

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<p>Knowing the significant variation between educational systems and even within systems across NC, I have a very difficult time with the concept of a local norm for a frame of reference. You may have a student with a very real learning disability, but one who lives within a lower achieving area overall and this student's disability and intervention needs may be missed because he or she is still achieving at levels consistent with the local norms.</p>	<p>No change</p> <p>Local norms are not included in policy. Some districts have developed local norms and these would be permissible to use as another frame of reference for performance in addition to state and/or national norms.</p>
<p>In proposed section NC 1503-2.5 (11) (ii) (B), we feel strongly that a time limit should be added to this definition if the discrepancy determination is eliminated. This definition provides no clarity about how long a student must show inadequate response to instruction and intervention before an IEP team can and should decide that "underachievement" is present. The omission of a time limit for lack of response to instruction and intervention violates the spirit and intent of the Child Find mandate under IDEA.</p>	<p>Guidelines of response to instruction and intervention vary based on characteristics of the student, including but not limited to age/grade level of student, area being addressed, and magnitude of the gap in performance</p> <p>Information regarding length of time in intervention will be provided in an implementation guide but is not appropriate for policy. .</p> <p>Whenever a disability under IDEA is suspected, an IEP team meeting should be convened in order to determine the need for a comprehensive evaluation. RtI can not be used to delay or deny an evaluation.</p>
<p>written so students with SLD, including dyslexia, have to fail (i.e. academic underachievement) before getting identified. Preventing a student from identification, hinders their ability to receive appropriate individualized support and researched based instruction. The system needs to be set-up to support students before they fail.</p>	<p>Although, the term underachievement is used within IDEA, the language in NC Policies was changed for (11) (ii)(B) to read:</p> <p><i><u>Inadequate academic achievement:</u> inadequate academic achievement is 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 following areas when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards.</i></p>

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<p>(ii)(B) Operationalize academic underachievement (e.g., what is an inadequate response? What meets the requirements of “significantly below expectancies?”)</p>	<p>Although, the term underachievement is used within IDEA, the language in NC Policies was changed for (11) (ii)(B) to read:</p> <p><i><u>Inadequate academic achievement:</u> inadequate academic achievement is 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 following areas when provided with learning experiences and instruction appropriate for the child’s age or State-approved grade-level standards.</i></p> <p>Inadequate response was removed from this section.</p>
<p>“Academic underachievement” in RTI is an undefined term, sometimes based on fluctuating cut scores of broad-based standard curriculum assessments that have nothing to do with diagnostic criteria, and nothing to do with the individual child’s needs.</p>	<p>Although, the term underachievement is used within IDEA, the language in NC Policies was changed for (11) (ii)(B) to read:</p> <p><i><u>Inadequate academic achievement:</u> inadequate academic achievement is 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 following areas when provided with learning experiences and instruction appropriate for the child’s age or State-approved grade-level standards.</i></p>
<p>The proposed definitions for academic underachievement and insufficient rate of progress are NOT specific enough for IEP teams to adopt as policy. If the intention is that individual LEAs will now create their own local guidelines, this is going to put the state in a legal quandary. LEAs need guidance from the state. Are we going to define "significantly below age or grade</p>	<p>No change. Additional information will be included in the Implementation guide.</p>

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<p>expectancies for the age or grade level standards" as at or below the 10th percentile, for example? Performance at 2 standard deviations below the mean? Benchmark gap index that is equal to or less than 50% of proficiency levels? This must be defined.</p>	
<p>The proposed policies are designed to focus solely on identifying the existence of unexpected underachievement and ensuring that high quality instruction has taken place. The policies completely ignore the question of WHY the unexpected achievement has occurred in the first place and require no data whatsoever in regards to determining the presence of a disability in a basic learning process. It is irresponsible to misidentify a child as having a Specific Learning Disability when all you will have proven is that they have unexpected underachievement. The two are not synonymous. Therefore, if these policies are approved as written, the name of the EC category should be changed to match what it really is: Unexpected Underachievement.</p>	<p>Inadequate achievement is only one component of eligibility determination for SLD. To meet the criteria of a Specific Learning Disability, there must be: (1) <i>evidence from multiple sources of data indicating the child <u>does not achieve adequately</u> for the age or grade level standards in which the child is enrolled in one or more of the following areas when provided learning experiences and instruction appropriate for the child's age or State-approved grade-level standards;</i> (2) <i>The child does not make <u>sufficient progress</u> to meet age or State-approved grade-level standards when provided high quality core instruction and scientific research-based interventions matched to student need in one or more of the areas;</i> (3) <i>the student's inadequate achievement and insufficient progress are not due to any of the exclusionary factors, including lack of appropriate instruction; and there is an adverse effect on the student's academic and functional performance.</i></p>
<p>Secondly, it is simply not realistic or feasible to be able to provide the documentation that will be required in order to comply with the new definition. The policies state that in order to determine eligibility for the SLD category you will need to provide evidence of multiple sources of data to indicate the child's academic achievement and functional performance is significantly below expectancies for the age or grade level standards (Section NC 1503-2.5) However, since an individualized, standardized educational evaluation is now being omitted; multiple sources of educational assessment data simply do not exist for students across all grade levels (K-12) and across all eight educational areas. Benchmark assessments and progress monitors may be available for a lower elementary student with concerns in reading</p>	<p>The policy has been amended to allow for use of standardized academic assessment when progress monitoring and universal screening assessments are not available. The requirement to compare against multiple groups has also been amended.</p>



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<p>fluency. What about a 5<sup>th</sup> grader with concerns in basic reading? An 8<sup>th</sup> grader with concerns in writing? A 10<sup>th</sup> grader with concerns in reading comprehension? A 4<sup>th</sup> grader with concerns in listening comprehension? There are no sources of data that can be compared against multiple groups (to include district, state and/or national level comparison groups) for these areas, although this is listed as a requirement in the new policies. It will be impossible criteria to fulfill.</p>	
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Insufficient rate of progress	
<p>As I review the posted policy versus the policy that the SLD task force submitted I see some glaring things missing. I think the committee was pretty intentional that we wanted LEA's and schools to implement scientific, research-based intervention(s) with fidelity. <i>The SLD Committee Recommended policy reads, Evidence that the intervention was implemented with fidelity.</i> That's the problem with the current policy which requires two scientifically-based interventions but does not address fidelity. Please remember that we are potentially asking IEP teams to make eligibility decisions on data and intervention(s) that may not have been implemented with fidelity. Thus, I think we must require documentation of fidelity and stress when available using progress-monitoring tools that are valid and reliable. In a NC study I competed in 2012 we found that both EC Directors and school psychologists believed that implementing interventions with integrity was important but very few districts actually measured if the intervention was implemented with integrity. Those that did reported teacher self-report checklists used most often followed by directed observation. In a study we just completed in February, 2015 of school psychologists we found only about one-third reporting progress-monitoring being done at Tier 1 and 2 and some reporting never. Results indicated that if progress-monitoring were done at all it was likely more often done at Tier 3.</p>	<p>In response to public comment, the section on Insufficient rate of progress was changed to reflect the inclusion of evidence of implementation fidelity as an essential piece in determining a student's response to intervention and instruction. In addition, further clarification was added regarding the required documentation for an insufficient rate of progress.</p>
<p>I would ask that we also preserve the integrity of the SLD task forces thinking on operationalizing the documentation of <i>insufficient rate of progress</i> with a separate paragraph. The current policy waters down</p>	<p>In response to public comment, the section on Insufficient rate of progress was changed to reflect the inclusion of evidence of</p>

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<p>intent for IEP teams to specially look at the student rate of improvement (ROI) when making data-based decisions. The current policy (ii) (c) Insufficient rate of progress indicates, <i>does not make sufficient progress to meet age or State-approved grade-level standards</i>. The problem is sufficient progress is going to be interpreted differently by every single IEP team. And I think we must require IEP teams to look at ROI and not just make decisions on closing the achievement gap in a reasonable period of time. I think we should look at the child ROI compared to his/her same age peer. A reasonable period of time allows any IEP team to determine if the achievement gap can be closed in a reasonable period of time without any documentation.</p> <p>I know I am preaching to the chore when I say it is human nature for people not to do anything not required in policy which is documented over decades. Thus, if we do not address in policy some of these core issues and require them on a SLD Compliance Checklist, chances are they will never be done. I think with 1 &amp; 2 under insufficient rate of progress is determined by progress-----we will open the flood gates if we do not follow some of the SLD task force recommendations for documentation.</p>	<p>implementation fidelity as an essential piece in determining a student’s response to intervention and instruction. In addition, further clarification was added regarding the required documentation for an insufficient rate of progress.</p>
<p>I have seen great variation in the tools used for progress monitoring and data analysis as well as for establishing a concrete reference for “significantly below expectancies for age and grade level standards” and for determining “insufficient rate of progress” or in determining the time frame expected for “closing the achievement gap.” It would be beneficial to have further specification and to be able to operationalize terms used.</p>	<p>In response to public comment, the definition of “progress-monitoring” was refined in order to ensure appropriate tool usage. Also in response to public comment, the section of policy regarding “insufficient rate of progress” was also modified to ensure more consistent understanding of the required documentation to demonstrate this criteria.</p>
<p>Great proposals here; “sufficient progress to meet age or State approved grade level standards” do not involve high stakes, highly stressed and anxiety provoking state testing that promote test anxiety; result in artificially lowered test scores; should be for assessment purposes and then to make needed and beneficial alterations in the intervention process; not for threats of grade level retention</p>	<p>Thank you for your comment.</p>
<p>it is reasonable to suggest that LEA's will misread this to mean students who are performing above their same-</p>	<p>The language in this section was modified to make this criteria more clear. It now reads,</p>

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<p>age peers and not responding at a rate above same-age peers. Such a misunderstanding may have significant unintended and negative consequences to LEA's who are trying to implement state policy. Perhaps it would be better to simplify this section and state something more along the lines of: ...The student is demonstrating either a lack of response to instruction or is responding at a rate that is insufficient to meet specific performance goals as determined through the problems solving process.</p>	<p>“the child is demonstrating <i>either a lack of response to instruction and intervention or is responding at a rate that is insufficient to reduce their risk of failure after an appropriate period of time.</i></p>
<p>The committee should consider removing the following from it's proposed policy "...which will not result in closing the achievement gap in a reasonable period of time...". This statement potentially sets a dangerous precedent for LEA's. Specifically, LEA's could easily determine that despite a students appropriate response to instruction the student could be found to demonstrate "insufficient progress" and possibly be considered for SLD eligibility because it was taking longer than a "reasonable period of time" to close the achievement gap. At a minimum "reasonable period of time" is an ill-defined term.</p>	<p>The language in this section was modified to make this criteria more clear.</p>
<p>Would like more clarification in the policy on how we determine the effectiveness of an intervention. Would like language to address research-based interventions; is the intervention appropriate for a specific population? If we do interventions and a child is not responsive, then we're doing the same thing that we did with 15 point discrepancy.</p>	<p>The language in this section was modified to make this criteria more clear; “Child is demonstrating either a lack of response to instruction and intervention or is responding at a rate that is insufficient to reduce their risk of failure after an appropriate period of time”</p>
<p>Operationalize insufficient rate of progress (e.g., what is a reasonable period of time to close the achievement gap?)</p>	<p>The language in this section was modified to make this criteria more clear.</p>
<p>As teachers and school professionals learn about MTSS, one question remains. What is “appropriate progress toward instruction?” This term is difficult to operationally define and invites personal bias into scientific evaluation.</p>	<p>The language in this section was modified to make this criteria more clear.</p>
<p>Insufficient Rate of Progress - When provided with high- quality core instruction that a majority of students are responding to. A majority of students could be 11 out of 20, which does not correspond to the</p>	<p>We could not find reference to “the majority of students” in the current policy.</p>

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<p>MTSS model of 80% at core with Tier I.</p>	
<p>The proposed definitions for academic underachievement and insufficient rate of progress are NOT specific enough for IEP teams to adopt as policy. If the intention is that individual LEAs will now create their own local guidelines, this is going to put the state in a legal quandary. LEAs need guidance from the state. Are we going to define "significantly below age or grade expectancies for the age or grade level standards" as at or below the 10th percentile, for example? Performance at 2 standard deviations below the mean? Benchmark gap index that is equal to or less than 50% of proficiency levels? This must be defined.</p> <p>The same concern applies to "closing the achievement gap in a reasonable period of time" (insufficient rate of progress). We need some guidelines. Are we going to compare the student's attained ROI to the ROI that would be needed for the student to attain proficiency? Or move above 50% proficiency level?</p>	<p>The SLD taskforce had a great deal of discussion and also conducted significant amounts of research about this topic. The consensus was that including a strict performance benchmark, such as this commenter has suggested, would unintentionally set up the same situation as the previous simple discrepancy. Specifically, setting such strict criteria in policy forces the hand of IEP teams to wait until a student has failed to such a degree that they have a very large gap in order to be considered for eligibility. However, we also recognize that this can be an area of confusion and subjectivity. Specific examples and decision-making matrices to assist teams will be provided in the implementation guidance.</p>
<p>I was very pleased to see the statement under NC 1503-2.5 (11) (ii) (C), "<i>* Valid and reliable measures of progress-monitoring may not be available for the areas of Listening Comprehension and Oral Expression. In these cases, teams may use valid and reliable measures of other academic skills that are impacted by the Listening Comprehension and/or Oral Expression deficits (i.e., reading, math, written language measures of progress monitoring) to assess a student's rate of progress and the impact of the scientific research-based intervention on these academic areas. Additional measures that directly assess progress in Listening Comprehension and/or Oral Expression should also be collected to supplement these data.</i>"</p>	<p>Thank you for your comment.</p>
<p>In proposed section NC 1503-2.5 (11)(ii) (C), the term "insufficient rate of progress" needs a time qualifier. In item 1, for example, there is no guidance for the time period of a "reasonable period of time." We anticipate significant discrepancies across and within districts for this time period,</p>	<p>This language in this section was modified to make this criteria more clear. However, the period of time to prove insufficient rate of progress was not included in policy due to the variation in recommendations based on student level, content area, intervention and magnitude of the gap between a student's</p>

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<p>which will lead to disputes between parents and schools, and likely among school staff members, that will not be easily or quickly resolved. See also item 9 herein.</p>	<p>current level and expected level. Implementation guidance will provide information regarding this area.</p>
<p>Adverse effect</p>	
<p>In proposed section NC 1503-2.5 (11) (ii) (B), we feel strongly that "academic achievement and functional performance" should be changed to "academic achievement or functional performance." Deficits in <u>either</u> of those domains qualifies as an adverse effect on educational performance, pursuant to IDEA.</p>	<p>To provide greater consistency with the other areas of disability, this has been changed to "adverse effect on educational performance"</p>
<p>the standard should be "academic achievement or functional performance." Deficits in either of those domains qualifies as an adverse effect on educational performance, pursuant to IDEA.</p>	<p>The federal regulations do not define academic achievement or functional performance. However, the state education standards address both academic and functional standards. As a result, an adverse effect could be in either one area or both as long as it qualifies under one or more of the eight areas of specific learning disability.</p>
<p>"Adverse effect on educational performance" is a subjective phrase, that too often is not well-understood. When a dyslexic child struggles with oral language, decoding/encoding and reading and writing automaticity, in a standardized Common Core test-centric system, their dyslexia has an adverse effect whether others see it or not. Dyslexia is often referred to as an "invisible disability," because teachers untrained in dyslexia misread what they see, mislabel, misunderstand and mistreat the child as a result of lack of training in dyslexia, the most common learning disability.</p> <p>"...students with dyslexia often have strong higher-level oral language skills and are able to get the main idea of a passage despite difficulty with the words. Further, reading comprehension tasks usually require the student to read only a short passage to which they may refer when finding the answers to questions. For these reasons, students with dyslexia may earn an</p>	<p>Adverse effect is consistent with the federal regulations. It is the responsibility of the IEP team to determine whether there is an adverse effect based on a comprehensive evaluation and input from teachers and the parent.</p>

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<p>average score on reading comprehension tests but still have much difficulty reading and understanding long reading assignments in their grade-level textbooks." (<a href="http://eida.org/testing-and-evaluation/">http://eida.org/testing-and-evaluation/</a> )</p>	
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### **NC 1503-3.2 Additional Group Members**

<p>The only other observation I would provide is number of school psychologist seem concerned that “school psychologist” are specifically mentioned in the policy. I personally do not share those concerns but at least feel obligated to report those concerns.</p>	<p>No change</p> <p>Within NC 1503-3.2(b), all three example role group members were removed from this statement (<i>school psychologist, speech-language pathologist, or remedial reading teacher</i>). Specific role group members are not identified for any other disability category, and this has not resulted in exclusion of them from the IEP team</p>
<p>As noted on p. 8, NC 1503-3.2 <i>Additional Group Members</i>, the regular education teacher is a vital part of the process as proposed. During workshops and conferences NCIDA is often made aware by teachers of their self-reported lack of knowledge about dyslexia, and their desire for more information.</p>	<p>No Change</p> <p>The NC DPI course, Reading Foundations, a five day professional development developed through a federal grant, and available to all public school teachers covers dyslexia and instructional strategies to address dyslexia and persistent difficulties learning to read</p>
<p>However IDA does recommend that “a professional thoroughly familiar with the characteristics of dyslexia at different ages and stages in the continuum of literacy skills interpret and integrate the information gathered into a comprehensive written report that includes a diagnosis”.</p>	<p>No Change</p> <p>Determinations of eligibility are made within the 14 areas of disability as identified by IDEA, one of which is Specific Learning Disability. Dyslexia is included in the IDEA definition as an included condition. Public education agencies employ or contract with staff who are qualified to fulfill Child Find requirements in identifying Specific Learning Disabilities and also provide appropriate services to children with SLDs, including dyslexia.</p>
<p>Section 1503-3.2 b school personnel who should conduct evaluations such as "school psychologists, speech/language pathologists, or remedial reading</p>	<p>Specific role group members are not identified for conducting evaluations within any other disability category, and this has not</p>

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<p>teachers." The proposed revision/wording omits this specification opening up interpretation for para-professionals to evaluate. This goes against highly qualified school personnel providing this specific type of evaluation that we have gone to school and taken diagnostic classes to learn.</p>	<p>resulted in any compromise to the level of training required in order to administer specific types of assessments, as determined necessary by the IEP team. 300.321 requires that the IEP team includes an individual who can interpret instructional implications of evaluation results.</p> <p>CHANGE TO THIS SECTION OF THE POLICY now reads:</p> <p>At least one person qualified to conduct <i>and interpret</i> individual diagnostic examinations of children</p>
<p>Keep “such as a school psychologist, speech-language pathologist, or remedial reading teacher” from the old policy to be clear about who can interpret diagnostic assessments.</p>	<p>Specific role group members are not identified for conducting evaluations within any other disability category, and this has not resulted in any compromise to the level of training required in order to administer specific types of assessments, as determined necessary by the IEP team. 300.321 requires that the IEP team includes an individual who can interpret instructional implications of evaluation results.</p> <p>CHANGE TO THIS SECTION OF THE POLICY now reads:</p> <p>At least one person qualified to conduct <i>and interpret</i> individual diagnostic examinations of children</p>

### 1503-3.3 Determining the Existence of SLD

<p>(b)(3) strongly recommend that the committee consider explicitly listing the characteristics of gold standard progress monitoring tools such as CBM in this section.</p>	<p>The progress monitoring definition has been revised to include the essential components of measures to be used for the purposes of assessing a student’s response over time. As research into other measures emerges, the department would not limit to only one type of tool for this purpose.</p>
<p>(b)(3)- What is a “reasonable interval” between assessments of achievement?</p>	<p>This will be included in implementation documents</p>

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<p>In proposed section NC 1503-3.3 (c), the reference to NC 1503-2.6(a)(1) is unclear. That section does not appear to be proposed for amendment, and it does not refer to the 90-day timeline. Further, we cannot emphasize enough how strongly we oppose any tampering with the 90-day timeline, which constitutes one-third of the school year, whether by "parental consent" or otherwise. The 90-day timeline is the primary safeguard protecting students from languishing in RtI/MTSS when they are denied appropriate referrals for evaluations for specialized instruction pursuant to IDEA, in violation of Child Find.</p>	<p>The 90-day timeline remains a requirement. Policy references will be reviewed prior to final publication. Draft edits reconfigured numbering structure.</p>
<p>In proposed section NC 1503-3.3 (c) (1), the term "appropriate period of time" needs to be defined,</p>	<p>This will be included in implementation documents.</p>

### 1503-3.4 Observation

<p>In proposed section NC 1503-3.4 (b) (1) and (2), it is not clear if every child in NC will be systematically observed on a regular basis and in a manner that will meet at least one of these requirements. If not, then the requirements violate IDEA's procedures for referral for initial evaluations and reevaluations. <i>See</i> NC 1503-2.1 through NC 1503-2.4.</p>	<p>NO CHANGE –</p> <p>It is not the intention of the policy to require that every child in NC public schools be systematically observed. Some children may be systematically observed prior to a referral for consideration of an evaluation being made. This observational data would be part of the existing data reviewed by the IEP team.</p> <p>There will be specific guidance surrounding this requirement within the implementation documents.</p>
<p>In proposed section NC 1503-3.4 (a) (2), "Assist in the documentation" should be changed to "Document."</p>	<p>NO CHANGE - One data source is not sufficient in order to document that adequate instruction has been provided</p>
<p>It needs to be noted that Deaf students who identify American Sign Language as their first language should be considered ELL learners even if they have been receiving instruction in English since birth or an early age.</p>	<p>NO CHANGE - will be explored further with those who have expertise in this area for potential inclusion in implementation documents</p>



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<p>As a researcher I am not sure how observations can be included in determination because it is subjective based on a person's perception. It is not scientific research based or objective for the student.</p>	<p>The observation requirement follows the regulations and is a contributing data source for the IEP team when reviewing all data regarding a student's overall functioning. The observation requirement is not used as a basis in determining eligibility, but serves to provide information to the IEP team relative to the instruction and intervention being provided, and the student's responsiveness to core instruction and SRB intervention.</p>
<p>1503-3.4 (b)(2) – Observation -if a child is going to be observed in the regular classroom after a child is referred for an evaluation and parental consent is obtained, a parent who is a researcher would expect the person providing the observation has specific training to identify the SLD; The proposed policy with observations states they need to be observed before a referral of evaluation and the person doing observation must have specific content knowledge of the curriculum and/or behavioral area that is target for the intervention; person should also be trained in the certain disability, so they know exactly what to look for and see the struggles during learning. You can't tell behaviorally a child has dyslexia and that is what observations are based on mostly. The dyslexia shows up during testing, documented classroom work, and any learning instruction that they need to complete.</p>	<p>Due to the requirement of an IEP team member (member of the group described in NC 1503-2.7(a)(1)) as the responsible party in conducting the systematic observation after the referral for an evaluation has been made, it is generally understood that this qualified professional (300.306(a)(1)) would have knowledge of the area(s) of disability suspected. To require one trained in a specific type of disabling condition to be the required party to conduct the observation would be to predetermine that the child, in fact, has such a disability prior to completion of the evaluation.</p>
<p>NC 1503- 3.4 (b) (1) &amp; (2)- It is not clear when the two observations required <u>before</u> a referral for evaluation should be conducted. Does this mean that observations will need to be done on every student receiving interventions in case a referral is made or does this mean these observations should be conducted in between the request for a referral and the signing of the DEC 2?</p>	<p>Observations prior to a referral being made can occur at any point, and should be conducted as part of systematic problem solving for the purposes of formulating hypotheses and informing instructional, curricular, or environmental decisions.</p> <p>CHANGE WORDING DUE TO OMISSION in proposed policy: NC 1503-3.4(b)(3) – <i>Information from at least one systematic observation that was conducted by a member of the group described in NC 1503-2.7(a)(1), of the child's academic performance and behavior in the area of difficulty during routine classroom instruction after the child has been referred for an evaluation and</i></p>

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	<p><i>parental consent, consistent with NC 1503-1(a), is obtained.</i></p>
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### 1503-3.5      **Specific Documentation for the Eligibility Determination**

<p>Proposed NC 1503-3.5 violates the requirements of NC 1503-2.7 (c) (1) (i) and (ii) that all eligibility determinations "[d]raw upon information from a variety of sources, including <u>aptitude</u> and achievement tests . . ." and "[e]nsure that information obtained from all of these sources is documented and carefully considered." The evaluations in proposed NC 1503-2.5 (11)(i)(H) do not require aptitude tests; therefore, the certification referenced in proposed NC 1503-2.5(a)(2) and required by NC 1503-2.7 (c) (1) (i) and (ii) cannot be made.</p>	<p>According to the dictionary, the definition of aptitude test is "a test to determine whether somebody is likely to be able to develop skills required for a specific kind of work". While not specifically named in the evaluations proposed, the multiple sources of data required and the IEP team's ability to determine an appropriate evaluation plan, allows for the opportunity for the evaluation of a student's skills- both academic and functional.</p>
<p>Why does section (7) state "If the child has participated in a process to assess the child's response to scientific, research-based intervention..." The usage of the word "if" seems to imply there is an option not to involve the child in an RtI process and may seem contradictory to previously stated information in policy.</p> <p>Also in this section what is the explicit definition of part (a)(7)(i) "student-centered data.</p> <p>And Section (a)(7)(ii)(B) please provide a definition or example of "Strategies" for increasing the child's rate of learning. Should this language be more consistent with "interventions"?</p>	<p>No change</p> <p>This language is in current policy and is not contained in the proposed policy change</p>

### **Delay to Evaluate**

<p>...children will be missed. They would be effectively in process for an immeasurable amount of time; because they are not identified as an EC child, they would not be eligible for accommodations and</p>	<p>We do not believe that the MTSS process will unnecessarily delay or deny eligibility for special education and related services. IDEA 300.309 requires that the</p>
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<p>modifications. They would not technically qualify for a 504 plan unless the parents went for outside testing.</p>	<p>public agency promptly requests parental consent to evaluate a child suspected of having an SLD who has not made adequate progress when provided with appropriate instruction, and whenever a child is referred for an evaluation. Parents must also be notified of the policies regarding collection of child performance data and the general education services that will be provided: strategies to increase their child’s rate of learning; as well as their right to request an evaluation at any time.</p>
<p>NC 1500-2xx Responsiveness to Instruction or Intervention</p> <p>applaud the new verbiage of "structured methodical approach to determine and address student needs to promote growth", I just ask this process not be a protracted process that delays necessary identification and true IEP intervention</p>	<p>Generally, If a referral to special education is received, the process of evaluation will not take as long to complete because of the amount of data already collected on the child’s achievement, including observation data and progress monitoring data. Section 300.309 of IDEA Regulations also requires that the eligibility group consider data on the child’s progress when provided with appropriate instruction by qualified professionals as part of the evaluation.</p>
<p>address questions about the use of RTI to delay eligibility for Special Education in the Subject Line: “A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny and Evaluation for Eligibility under the Individuals With Disabilities Education Act (IDEA).” This Memorandum should be carefully studied to be sure that NC policies relative to RTI/MTSS are in line with Federal regulations.</p>	<p>A comprehensive assessment system is a critical component of MTSS. The data gathered during the assessment is designed to allow effective problem solving at all tiers and across all student groups (i.e., subgroups), in order to design responsive instruction. These components are also important data sources within a comprehensive evaluation to determine if a child has a Specific Learning Disability. If a child is determined to have a SLD appropriate available data may be used to determine the nature and extent of the special education and related services needed.</p>
<p>Students do not receive timely psychological evaluations, interventions are provided for years without receiving services; many special education students are not reevaluated and fall behind their age appropriate peers.</p>	
<p>solely rely on the RtI process for qualification. While I see the hypothetical value of RtI to the student and school, it is a slow process that can severely and detrimentally delay the individualized support.</p>	
<p>written so students with dyslexia or SLD have to fail (i.e. Academic Underachievement) before getting identified. The preventing of student identification hinders their ability to receive appropriate individualized support and research based instruction. I want to make sure the system is set-up to support students <i>before</i> they fail. Schools take a long time to identify learning disabilities and not all students who are LD fail.</p>	
<p>The RTI process is harmful to young children with reading issues. The process takes too long with four different tiers of meetings; unacceptable for the RTI process to be the only way a child can be accepted into the Special Educational Program; educators need to have an avenue to fast track children to Special</p>	

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<p>Education through the use of a discrepancy.</p>	
<p>It becomes a convenient means of denying a child specialized education that they need to make meaningful educational gains, which is the fundamental underlying mandate of IDEA; The best measuring stick to determine eligibility for services for children with learning disabilities should be the same as it is for any other disability: a diagnosis from a medical professional; everything that can be accomplished through RTI can be done within the context of an IEP, which will ensure that the child's educational rights under IDEA must be addressed, not put off.</p>	<p>We do not believe that a medical evaluation is required to determine the existence of a Specific Learning Disability as defined in IDEA 300.8 and NC Policies 1500-2.4. The procedures for determining eligibility and educational need in the IDEA Regulations at 300.306 (C ) requires that in interpreting evaluation data for the purpose of determining if a child is a child with a disability, and the educational needs of the child, each public agency must draw upon information from a variety of sources. If a student's needs warrant a medical evaluation, this evaluation may be conducted and this information may be considered as a part of a comprehensive evaluation.</p> <p>See the above in reference to delay to evaluate.</p>
<p>In the Current NC1503-2.5 <i>Evaluation Procedures</i> states the ability to qualify is using the discrepancy. "...One method is the use of a discrepancy..."</p> <p>This is an option to qualify for LD using the discrepancy of an IQ and assessment performance is completely omitted. They are proposing you may only qualify through the Rti process according to proposed NC 1503-2.5. This is unacceptable. Discrepancy should continue to be an option. The RtI process is great in a lot of ways but for learning disabilities it is devastatingly slow. If a student needed crutches to get down the hallway it should not take a year or two to get them identified and receiving the individualized support they need.</p>	<p>No changes</p> <p>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 <i>require</i> 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 RtI 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.</p> <p>Many groups (Specific Learning Disabilities Roundtable, 2002 and the National Center for Learning Disabilities) have rejected the IQ-achievement discrepancy classification method due to reliability and validity issues</p>

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	<p>(e.g., LD Roundtable, 2002). This method often delays SLD classification until third or fourth grade when academic achievement problems are more difficult to resolve successfully (Fletcher, et al., 2002). In 2007, the National Association of School Psychologists published in their SLD Position statement regarding IQ/Achievement Discrepancy: “an ability/achievement discrepancy as a means of identifying children with specific learning disabilities is at odds with scientific research and with best practice.”</p> <p>No changes</p>
<p>believes the proposed amendments are well-intended but will compromise and postpone the special education rights of many students who, through no fault of their own, cannot read. We have represented many high school students with unidentified learning disabilities who are illiterate or reading well below grade level. There are many reasons why our clients can't read, but one reason is the failure to provide appropriate and timely psycho-educational evaluations. Another reason is that school systems implement RTIs/MTSS for years instead of providing needed special education evaluations and services. And finally, school systems do not re-evaluate special education students who are falling behind and not progressing because they are not learning. We do not believe our clients are isolated examples. We do believe that based upon our clients' experiences that the use of interventions should not exclude the use of a discrepancy analysis just as informal assessments should not exclude the use of formal evaluations. Each approach has its benefits and weaknesses, but both are needed to</p>	<p>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 <i>require</i> 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 RtI 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.</p> <p>Many groups (Specific Learning Disabilities Roundtable, 2002 and the National Center for Learning Disabilities) have rejected the IQ-achievement discrepancy classification method due to reliability and validity issues (e.g., LD Roundtable, 2002). This method often delays SLD classification until third or fourth grade when academic achievement problems are more difficult to resolve successfully (Fletcher, et al., 2002). In 2007, the National Association of School Psychologists published in their SLD Position statement regarding IQ/Achievement</p>

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<p>ensure that students who need specialized instruction receive these services in a timely manner. Proposed NC 1500-3.1 etal</p>	<p>Discrepancy: “an ability/achievement discrepancy as a means of identifying children with specific learning disabilities is at odds with scientific research and with best practice.”</p>
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## Elimination of Discrepancy

<p>The current proposals are not consistent with IDEA’s Child Find mandate that LEAs identify and evaluate “ALL children who are in need of special education services.” Even if you choose to vigorously promote the use of an RTI-type process (hereafter referred to as RTI in the interest of brevity), teams should have the option of considering information regarding significant ability-achievement discrepancies as well as alternatives to discrepancies as basis for determining the existence of a specific learning disability.</p>	<p>No change</p> <p>The use of an RTI-based process as part of a comprehensive evaluation, does not conflict with, nor negate, Child Find requirements.</p>
<p>RtIs are a great idea, but should not be used for eliminating the discrepancy model</p> <p>Both approaches are needed</p>	<p>No change</p> <p>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 <i>require</i> 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 RtI 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.</p> <p>Many groups (Specific Learning Disabilities Roundtable, 2002 and the National Center for</p>

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	<p>Learning Disabilities) have rejected the IQ-achievement discrepancy classification method due to reliability and validity issues (e.g., LD Roundtable, 2002). This method often delays SLD classification until third or fourth grade when academic achievement problems are more difficult to resolve successfully (Fletcher, et al., 2002). In 2007, the National Association of School Psychologists published in their SLD Position statement regarding IQ/Achievement Discrepancy: “an ability/achievement discrepancy as a means of identifying children with specific learning disabilities is at odds with scientific research and with best practice.”</p>
<p>solely rely on the RtI process for qualification. While I see the hypothetical value of RtI to the student and school, it is a slow process that can severely and detrimentally delay the individualized support. Taking out the option to use the discrepancy for qualification severely limits those unidentified intelligent students who naturally over compensate and struggle to stay on grade level that are not failing. The discrepancy could help show their potential. Being on grade level and meeting benchmarks is an average, not a personal best.</p>	<p>No change</p> <p>IDEA requires that “students do not achieve adequately for the child’s age or grade-level standards.”</p>
<p>1503-2.5 – Needs discrepancy discussed</p> <p>1503.3.1 – Needs discrepancy discussed</p>	<p>No changes</p>
<p>In the Current NC1503-2.5 <i>Evaluation Procedures</i> states the ability to qualify is using the discrepancy. "...One method is the use of a discrepancy..."</p> <p>This is an option to qualify for LD using the discrepancy of an IQ and assessment performance is completely omitted. They are proposing you may only qualify through the Rti process according to proposed NC 1503-2.5. This is unacceptable. Discrepancy should continue to be an option. The RtI process is great in a lot of ways but for learning disabilities it is</p>	<p>No change</p> <p>The Analysis and Comments section of the IDEA Federal Register (page 46646) clarifies that “states are free to prohibit the use of a discrepancy model.”</p>

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<p>devastatingly slow. If a student needed crutches to get down the hallway it should not take a year or two to get them identified and receiving the individualized support they need.</p>	
<p>Another concern is the change to solely rely on the RtI process for qualification. While I see the hypothetical value of RtI to the student and school, it is a slow process that can severely and detrimentally delay the individualized support. Taking out the option to use the discrepancy for qualification severely limits those unidentified intelligent students who naturally over compensate and struggle to stay on grade level that are not failing. The discrepancy could help show their potential. Being on grade level and meeting benchmarks is an average, not a personal best. Those unidentified borderline students are potentially struggling and then requiring them to wait for RtI process is damaging and inappropriate instruction. The process takes too long with four different tiers of meetings before qualifying a child that needs help. Our daughter missed a year of individual specialized teaching in Kindergarten and part of first grade, which now has made her far behind her two sisters and other peers in school, the older she got/gets.</p>	<p><b>No changes</b></p> <p>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 <i>require</i> 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 RtI 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.</p> <p>Many groups (Specific Learning Disabilities Roundtable, 2002 and the National Center for Learning Disabilities) have rejected the IQ-achievement discrepancy classification method due to reliability and validity issues (e.g., LD Roundtable, 2002). This method often delays SLD classification until third or fourth grade when academic achievement problems are more difficult to resolve successfully (Fletcher, et al., 2002). In 2007, the National Association of School Psychologists published in their SLD Position statement regarding IQ/Achievement Discrepancy: “an ability/achievement discrepancy as a means of identifying children with specific learning disabilities is at odds with scientific research and with best practice.”</p>
<p>Lastly, I have significant concerns with regards to the</p>	<p>No change-</p>



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<p>“research” used when studying the various SLD models. There is a significant amount of research available that both supports and denounces the use of the Patterns of Strengths and Weaknesses approach. And there is an equivalent amount of research that both supports and denounces the use of an RTI-only based approach. To pick and choose to use only the research that backs one particular philosophy is misleading and unfair. Clearly there is split down the middle on this issue. If the research cannot agree that either model alone is sufficient, then we should not be forced to choose only one. For the entirety of my professional career, we have been allowed to use an “alternative to the discrepancy” approach. Therefore I implore the committee to allow us to have some type of alternative to an RTI-only based approach. We should be given the option to use BOTH approaches.</p>	<p>Neither model perfectly identifies students with SLD.</p>
<p>the 15-point discrepancy criteria is <u>invaluable</u> in obtaining special education services for students when the school staff do not want to have another child with an IEP in their school, whether that is because of limited special education resources, including exceeding the 12.5% cap; increased accountability for the school that accompanies an IEP; or because of a misperception of the reason the child is achieving below grade level. Relying solely on RtI/MTSS for eligibility determination gives the school unfettered power to deter and delay SLD eligibility because the school has sole control over the selection, administration, timing, and length of interventions, in addition to the unbalanced influence that school staff have in making IEP team decisions in general. Proposed NC 1500-3.1 <i>et al.</i></p>	<p>No Change</p> <p>Procedural safeguards and due process requirements remain in place and are not negated by the elimination of a 15 pt discrepancy criterion.</p>
<p>We are concerned with the use of MTSS as the sole framework for SLD eligibility in part because MTSS is focused on "school improvement" rather than identifying the unique needs of a particular child, as required by IDEA. Proposed NC 1500- 2xx (Multi-tiered system of support (MTSS)).</p>	<p>No change</p> <p>MTSS is provided as a definition. There is no requirement that MTSS, as defined in policy, be fully implemented for the evaluation and identification of children with SLD. The comprehensive evaluation, which includes existing data, provides information to determine the unique needs of the student.</p>

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### Patterns of strengths and weakness/Intellectual ability

<p>Also, not including an intellectual assessment as part of the evaluation process means that the team will likely not have enough information to determine that the academic underachievement is not due to an intellectual disability. What information would the team use to make that call?</p> <p>I do not think that it is appropriate, clinically correct, or possibly consistent with IDEA to define a disability by the method used to identify it. This is not the case with any other category of eligibility and it shouldn't happen with SLD. If a child has a specific learning disability, that processing disorder exists whether or not they are ever evaluated. The proposed change would be similar to defining a seizure as a particular pattern of lines on an EEG printout. People had seizures long before the EEG was invented! It is clear that the goal was to make as much of the wording in <i>Policies</i> support the decision to change to an RTI-only identification strategy. However, the current language better describes processing problems that are inherent to the child involved, rather than the activities of others</p>	<p>300.309(3)(ii) The requirement is maintained that the primary determinant factor for the student's learning difficulties are not primarily due to an intellectual disability; therefore, the team must have sufficient evidence to rule-out an intellectual disability. If the team does not have sufficient information through the review of existing data, evaluations of intellectual and adaptive functioning would need to be considered in order to guide decision-making.</p>
<p>Pattern of Strengths and Weaknesses (PSW) model - if used correctly</p> <p>PSW is backed by research and has predictive utility. (e.g., see Schultz, Simpson, and Lynch (2012) <i>Specific Learning Disability Identification: What Constitutes a Pattern of Strengths and Weaknesses?</i>. <i>Learning Disabilities: A Multidisciplinary Journal</i>, 18, p87-97)</p> <p>PSW should not be viewed as a calculation but as a way of organizing and understanding information related a child's learning needs.</p> <p>PSW tells us <i>why</i> students are struggling and thereby helps us to design specialized instruction, whereas RTI can sometimes become a guess and check system; we try interventions but without linking them to underlying processes that impact a student's learning, we may not be addressing the correct skills or concerns.</p>	<p>No change</p> <p>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 in IDEA 2004. As noted by the US Department of Education, in many cases, "Assessments of cognitive processes simply add to the testing burden and do not contribute to interventions" (Federal Register, 2006 p. 46651).</p>

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<p>While there is research supporting moving to an RTI model, there is also a lot of research supporting the PSW model. I have significant concerns about disregarding this research and when it seems that that is the direction the field is moving in.</p>	<p>No Change</p> <p>The research that continues across the field of learning disabilities will continue to be considered and has not been disregarded.</p>
<p>The SLD models of discrepancy and RTI are both incomplete. Neither one follows current models used for professional diagnosis of SLD/dyslexia, or IDA recommendations. It is critical that professional diagnoses, scattering of scores, parent input, hereditary indicators, history and work samples including spelling be included, along with criteria outlined by IDA. “A pattern of strengths and weaknesses” on professional evaluations is very typical of dyslexia and dyslexia-related learning disabilities such as dysgraphia.</p>	<p>No Change</p> <p>In order to fulfill the requirement of a full and individual evaluation, the IEP team is required to review all existing data and determine what, if any, additional information is needed to inform decision-making. The information available for each individual child will guide the IEP team in making appropriate decisions regarding the data needed to fulfill the requirement. The required screenings and evaluations section of policy describes the multiple data sources that must be included.</p> <p>The IEP team makes decisions of eligibility within the fourteen areas of disability and does not make diagnoses.</p>
<p>...need additional instructional support and do not need to wait for intellectual assessment to identify them as SLD or dyslexic readers. This will be a very big shift in NC policy, one that will require training for school psychologists and EC team members in many school districts who, astonishingly, still rely on intellectual or cognitive testing and even discrepancy formula (more than ten years after the passage of IDEA, 2004) for identification of SLD, dyslexia, and reading disabled students.</p>	<p>We agree with this comment. Over the next five years, professional development and technical assistance will be provided in these areas.</p>
<p>IDEA law allows for a child to be identified as having a SLD and eligible for special education in two ways:</p> <p>From IDEA Section 300.309; For clarification, please see page 46,652 of the Federal Register, Part II, Department of Education, 34 CFR Parts 300 and 301, which states:</p> <p>“We agree that § 300.309(a)(2)(ii) could be stated more clearly and will rewrite it to state that the eligibility group can determine that a child has an SLD if the</p>	<p>The position of NCDPI ECD is to establish consistency in identification of SLD. As such, the current amendments have adopted 300.309(a)(2)(i) – lack of sufficient progress in response to SRB intervention, rather than continuing to allow variability in methods of determining eligibility.</p>

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<p>child meets the criteria in § 300.309(a)</p>	
<p>What needs to be examined is scattering of scores -- on diagnostic assessments examining nonverbal and word-level verbal skills such as phonemic awareness, rapid naming, decoding, spelling, writing -- and discrepancies in the child's own diagnostic assessments, rather than comparisons to some broad-based standard child that only lives on spreadsheets in boardrooms, and the specific areas outlined by IDA and other experts in the field. NC is embarking on a slippery path, that could harm bright dyslexic students if dyslexia laws are not passed to counterbalance RTI, if RTI policies disregard best practices related to identification of dyslexia, and if separate policies don't exist for twice-exceptional dyslexic students who score in the gifted range in nonverbal skills, but have SLD that requires remediation as well as accommodations -- both remediation for disability plus access to advanced classes.</p>	<p>Full and individual evaluations are required of all students suspected of a disability under IDEA. The current policy amendments account for the unique characteristics of the learner and also require teams to determine whether additional data is needed to inform decisions regarding eligibility for special education and related services.</p>
<p>By not relying on any cognitive testing to determine any ability/achievement discrepancies and delineating "academic underachievement" as opposed to an "impaired ability" the proposed changes create a "wait to fail" system in which a child may genuinely struggle, but not fall far enough behind to receive help until he or she is so far behind that it becomes very difficult to catch up. If these new changes are passed, a child with a learning disability who struggles to stay on grade level will never be able to meet his or her academic potential and will likely eventually begin to fail as the work becomes more difficult and his or her ability to overcompensate for their learning disability is no longer sufficient.</p>	<p>In the absence of a requirement to utilize cognitive measures for determining the presence of a learning disability, the requirement to consider not only a student's level of learning (achievement level), but also the student's rate of learning (rate of improvement) in order to determine the presence of SLD cannot be underscored enough. NC 1501-1.1 states that "Each LEA must ensure that FAPE 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 a student's academic proficiency levels of a student (level of achievement), but also to examine the rate of a student's responsiveness to instruction and intervention being delivered (rate of progress). Analysis of these two factors will assure that the twice exceptional students, who are both gifted and</p>

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	<p>have a learning disability, are appropriately identified.</p>
<p><u>Retain The Existing Eligibility Criteria for SLD</u> (+4 others same comment)</p> <p>The proposed changes removes from the eligibility requirements the “strengths and weaknesses” alternative to the criterion that a student is not making sufficient progress to meet age or grade-level standards. What remains as the sole method for identifying students with SLD is Response to Intervention (RtI). But, RtI is not a diagnostic assessment; rather it is a general education initiative.</p> <p>Eliminating the “strengths and weaknesses” alternative results in the failure to recognize that a SLD is a cognitive processing disorder. It defines SLD as simply a student who is failing to achieve age or grade-level standards; a student with a SLD is simply a student who fails to learn. Fiorello, Catherine A. (2014) “Response to the Special Issue: The Utility of the Pattern of Strengths and Weaknesses Approach,” Vol. 20, No. 1, pp. 55 – 59, <u>Learning Disabilities</u>.</p> <p><u>Furthermore, the elimination of the “strengths and weaknesses” alternative is a radical and impermissible departure from federal law. Federal law requires this alternative. 34 CFR Section 300.309(a)(2).</u></p> <p><u>The existing NC eligibility criteria for SLD conform with the SLD criteria in Federal Law, the Individuals with Disabilities Education Act (IDEA). We respectfully request that the existing NC eligibility criteria for SLD be retained.</u></p>	<p>RtI data alone should not be considered a full and individual evaluation. The policy amendments require IEP teams to utilize a child’s responsiveness to instruction and scientific research-based intervention (RtI) as the <u>basis</u> for a comprehensive evaluation when determining whether a child has a Specific Learning Disability.</p> <p>The current policy amendments have established criteria that require not only inadequate achievement, but also insufficient rate of progress. As such, the second factor does not suggest that a child with a learning disability fails to learn; rather, it suggests that their rate of improvement despite SRB intervention is not sufficient enough to close the gap in performance within a reasonable period of time.</p> <p>Federal requirements currently allow for PSW; however, there is nothing that indicates a requirement to use PSW in determination of SLD.</p> <p>No Change</p>

## Implementation

<p>The proposed changes do not explain how children who receive special education services in the category of SLD will be periodically reevaluated as required by IDEA. The proposed language would suggest that could only continue to be eligible if their special education services are ineffective. If the services are effective in narrowing the achievement gap, the student might be found to be</p>	<p>No change</p> <p>IDEA requirements for reevaluation have not changed. For students who qualified for services using the discrepancy model, it is assumed the initial eligibility process was valid.</p>
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<p>ineligible even though continued services may be necessary for them to keep up with steadily increasing performance expectations, not just catch up to the point of not being “significantly below expectations.” Special education can build skills, but it will not re-wire an LD brain.</p>	<p>Neuroimaging studies have found that evidence-based instructional interventions create changes in brain connections and networks.</p>
<p>children who are enrolled in homeschools or other private schools. Most private schools are not going to provide the required interventions and documentation required to meet the definition, evaluation or eligibility of these proposals. I cannot imagine all of the LEAs in the state being prepared to send teachers out to private and home schools to conduct RTI. The ability to raise questions about the “quality” of core instruction will also exclude many children home schools or small private schools from being identified under the proposed changes.</p>	<p>No change</p> <p>The Analysis and Comments section of the IDEA Federal Register states (p. 46656) “As part of the evaluation, the eligibility group must consider whether the child received appropriate instruction from qualified personnel. For children who attend private schools or charter schools or who are homeschooled, it may be necessary to obtain information from parents and teachers about the curricula used and the child’s progress with various teaching strategies. The eligibility group also may need to use information from current classroom-based assessments or classroom observations. On the basis of the available information, the eligibility group may identify other information that is needed to determine whether the child’s low achievement is due to a disability, and not primarily the result of lack of appropriate instruction. The requirements for special education eligibility or the expectations for the quality of teachers or instructional programs are not affected, and do not differ, by the location or venue of a child’s instruction.”</p> <p>In making a SLD eligibility determination for these students the same evaluation components and eligibility procedures apply.</p> <p>Specific to validating underachievement, policy requires that the IEP team must consider the following factors:</p> <p>Data demonstrating prior to or as part of the referral process, the student was provided appropriate instruction in general education settings</p>

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	<p>Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student’s parents (i.e., screenings/interim assessments and progress monitoring data)</p> <p>The requirements for a SLD determination must still be met. The necessary documentation of repeated assessments of achievement at reasonable intervals might need to be collected as part of the referral process. In such cases, the IEP team will need to develop a data collection plan as part of the evaluation. Every effort should be made to inform the parent and private school personnel of the need to address the student’s academic difficulties through the provision of supplemental instruction and use of frequent progress monitoring. The IEP team must review all data and pertinent information when making an eligibility decision.</p>
<p><u>Independent Evaluations</u>- I am not clear from the current Proposed changes how the plan will support the rights of parents to pursue an independent evaluation. With the existing Proposed changes, it would appear that the only way to consider a student’s needs will be through the MTSS data. To the best of my knowledge, over time, parents have always had the option of pursuing an evaluation within the community.</p>	<p>No change.</p> <p>Parents retain the right to pursue an independent educational evaluation. 300.502(c) states that if a parent shares with the public agency an evaluation obtained at private expense, the results of the evaluation must be considered by the public agency, if it meets agency criteria...”. Multiple sources of data are an important component of an Rti-based evaluation, including data derived from independent evaluations.</p>
<p>2- <u>Continuity and transition support</u> - I have significant concerns about how the Proposed Policy Amendments will affect students in their transitions over time (e.g., within their school years and as moving from secondary to community college, college and beyond).</p>	<p>We agree that the current definition and evaluation process is different from the definition in a medical model and what has been traditionally done-the IQ discrepancy model. However, any model must be based on scientific based research. The research no</p>

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<p>- The proposed definition and evaluation process are out of sync with the SLD frameworks commonly used in the community (e.g., DSM-5 <a href="http://www.dsm5.org/Pages/Default.aspx">http://www.dsm5.org/Pages/Default.aspx</a> and the International Dyslexia Association- <a href="http://eida.org/definition-of-dyslexia/">http://eida.org/definition-of-dyslexia/</a>, <a href="http://eida.org/testing-and-evaluation/">http://eida.org/testing-and-evaluation/</a> or <u>Basic Facts about Dyslexia and Other Reading Problems</u> by LC Moats &amp; K Dankin, or <u>Basic Facts about Assessment of Dyslexia</u> by S. Lowell, R Felton &amp; P Hook).</p>	<p>longer supports an IQ discrepancy model to identify a specific learning disability.</p>
<p>The Proposed changes are out of sync with what is currently required when establishing accommodation needs beyond the public school classroom (e.g., ETS- <a href="http://www.ets.org/disabilities/documentation/documenting_learning_disabilities/">http://www.ets.org/disabilities/documentation/documenting_learning_disabilities/</a>, Association on Higher Education and Disability-AHEAD <a href="http://ahead.org/about">http://ahead.org/about</a>, College Board for the AP, PSAT, SAT type tests- <a href="https://www.collegeboard.org/students-with-disabilities/documentation-guidelines/learning-disorders">https://www.collegeboard.org/students-with-disabilities/documentation-guidelines/learning-disorders</a>, UNC System- <a href="https://accessibility.unc.edu/eligibility/documentation/examiner-information">https://accessibility.unc.edu/eligibility/documentation/examiner-information</a>, Community Colleges for example Asheville Buncombe Tech <a href="http://www.abtech.edu/content/disability-support-services/documentation-requirements#Learning">http://www.abtech.edu/content/disability-support-services/documentation-requirements#Learning</a>).</p>	<p>We agree that post-secondary education colleges may not be familiar with the RtI component of a comprehensive evaluation. However, we believe that a comprehensive evaluation using RtI should yield even better information regarding the academic and functional strengths and needs of eligible students.</p>
<p><u>Child Find</u>- I am not clear from the current Proposed changes how the plan will translate for Child Find efforts and evaluating the needs of students who are not currently attending an NC Public Schools Program.</p>	<p>The requirements for a SLD determination must still be met. The necessary documentation of repeated assessments of achievement at reasonable intervals might need to be collected. In such cases, the IEP team will need to develop a data collection plan as part of the evaluation. Every effort should be made to inform the parent and private school personnel of the need to address the student's academic difficulties through the provision of supplemental instruction and use of frequent progress monitoring. The IEP team must review all data and pertinent information when making an eligibility decision.</p>
<p>Currently, there are few research-based interventions and a lack of infrastructure for the support of interventions</p>	<p>The vision for MTSS in NC is the following: Every NC Pre K-12 public education system</p>



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<p>done with fidelity at the secondary level. How will this be addressed?</p>	<p>implements and sustains all components of a Multi-Tiered System of Support to ensure college and career readiness for all students. In order to accomplish this vision, NC DPI is embarking on a 5 year implementation plan that includes creating and deploying quality professional development and coaching for all districts that supports implementation across Pre-K-12th grade. In addition, NC DPI is creating tools in order to assist at all levels of implementation. Specific to secondary implementation, NC DPI is providing intensive support to five districts across the state in scaling up a MTSS at the secondary level. As these sites progress in their implementation, the goal is that they also provide guidance to other districts regarding successful installation at the secondary level.</p>
<p>How will SLD be considered at the secondary level when many of our secondary schools do not have universal screeners?</p>	<p>Research has demonstrated that a traditional universal screening of basic skills using Curriculum-Based Measures may not be necessary at the high school level due to the large amount of historical data available to serve as a “first screen”. More information regarding this will be included in both the MTSS guidance and Professional Development as well as the SLD guidance and Professional Development.</p>
<p>Current Rtl’ weaknesses:</p> <p>There appears to be a very significant lack of good progress monitoring options in math available to most school systems in the state.</p> <p>We do not always have the right data to link interventions to underlying processes causing academic struggles, and, therefore, we do not know if we are doing the <i>most effective</i> interventions. The concern then arises that an effective intervention strategy will be delayed in the search for what a child responds to, rather than a comprehensive evaluation being able inform an IEP Team about phonological processing skills, auditory vs. visual memory, verbal comprehension skills, visual reasoning skills, etc.</p>	<p>With regard to the area of math, there are currently progress-monitoring measures available in this area in the form of Curriculum-Based Measures. They have limitations in their scope however in that these brief measures do not always paint a clear picture of all the skills a student has mastered and not mastered due to the brevity of administration time. However, progress-monitoring measures are not meant to serve a diagnostic purpose but are appropriate as one measure of a student’s rate of learning. In order to appropriately determine why a student is demonstrating a gap in performance, more in-depth formal and informal assessments of academic skills may</p>

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	<p>be needed. The IEP team must make decisions regarding eligibility and instruction based on a comprehensive evaluation and not solely a student’s response to intervention and instruction. However, the research is not conclusive regarding the benefits of generating interventions based on specific cognitive processing weaknesses or strengths in the area of math. Therefore these types of assessments should be utilized only if they assist in instructional decision making.</p>
<p>“Qualified teachers” needs to be defined; please firmly state a plan to ensure that teachers are qualified to make a difference in teaching students with dyslexia. Even if they can assess and determine skills gaps, that does not mean they have the expertise to teach dyslexic students.</p>	<p>IDEA 2004 300.18 and NC Policies 1500-2.14 describes the requirements for highly qualified special education teachers.</p>
<p>easy to administer, timely assessments be given perhaps by alternate party (i.e., guidance counselor or school psychologist) to assess their progress under this P.E.P process (<i>I did see verbiage to this effect in 1500-2.11 under progress monitoring</i>); if progress is slower than expected that the school IEP team move more quickly to get appropriate screening for ADHD and Dyslexia or reading disorders and move toward more formal testing for SLDs if warranted in order to intervene early enough in the formative years of reading and language development in KG-2nd grade</p>	<p>We agree that early intervention is critical and note that the IQ/achievement discrepancy method often resulted in a “wait to fail” model where children were often not identified until 3rd or 4th grade. If a disability is suspected, then an evaluation must be considered by the IEP team.</p>
<p>Social and Developmental as screening: if there are concerning signs or trends that are identified, then that formal screen and observed concerns needs to be shared with medical provider as soon to ro possible medical conditions; Breaking down communication barrier is best medically and educationally; can be done medico-legally via appropriate parent or guardian consent on every child identified as struggling in school.</p>	<p>If there are educationally relevant medical concerns noted while gathering the Social Developmental History, or during any part of the screening process, prior to obtaining a special education referral, the LEA is not prohibited from obtaining consent from the parent to gather information and share information with the student’s medical provider. Any information gathered may be used to consider appropriate interventions and supports for the student in the general education program. For any struggling student, the expectation is that the child’s teacher and/or other appropriate school staff will have ongoing communication with the parents. This communication would not</p>

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	require written consent.
How will the training take place statewide?	A multi-year, multi-layered support and infrastructure plan is being developed currently to fully install a MTSS in every public school in NC. This includes professional development opportunities, coaching, implementation tools and strategic communication to stakeholders, as well as determining SLD eligibility.
Concerns with infrastructure	A multi-year, multi-layered support and infrastructure plan is being developed currently to fully install a MTSS in every public school in NC. This includes professional development opportunities, coaching, implementation tools and strategic communication to stakeholders, as well as determining SLD eligibility.
What structures and technical support will be given to LEAs to understand how to consider best practices in “rule-outs” of primary causes of SLD?	This will be included in implementation guidance.
Will there be an opportunity for state-wide universal screeners in all feasible SLD categories so students can truly be compared to local, district, and state normative data?	This is currently being explored.
How much leeway and gray areas with LEAs have with implementing policy? What will the accountability structures look like over time? Small picture and big picture from schools, school districts, and the state?	The Department of Public Instruction has taken much care to present the proposed policy changes in a manner that is clear and concise. The State has developed a 5 year plan to allow time to build infrastructure and common language as well as provide professional development, coaching and support to LEAs for preparation and implementation of MTSS which will lay the foundation for implementation of the new policies.. By the 2020-2021 School Year all LEAs will be required to use MTSS data for eligibility decisions for SLD.
, these policies can not be implemented without a detailed implementation manual or guidance document. Two of the main factors when determining SLD eligibility must	We agree. In order to install MTSS, NC DPI is embarking on a 5 year implementation plan that includes creating and deploying

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<p>be specifically and operationally defined: academic underachievement and insufficient rate of progress.</p>	<p>quality professional development and coaching for all districts that supports implementation across Pre-K-12th grade. In addition, NC DPI is creating tools in order to support implementation of MTSS and SLD eligibility decisions and processes.</p>
<p>Additionally, the writers of these policies have seriously overestimated the quality of the RTI/MTSS programs in the school system. The current status of RTI/MTSS in the schools is completely inadequate to use as the sole determining factor of such a life-altering determination, that a child has a disability. The schools simply do not have the resources available to be able to consistently provide a system of high quality research-based interventions or multiple tiers of instruction matched to student need for all grade levels across all eight educational areas. The essential components required in order to use a child's responsiveness to instruction as the basis for eligibility decisions (Section NC 1503-2.5) are simply not in place, which makes using an RTI-only based model an impossible task.</p>	<p>This is not an RtI- only model. The requirement for a comprehensive evaluation has not been removed.</p> <p>We recognize that many of the essential components are not in place across all LEAs. NC DPI is embarking on a 5 year implementation plan that includes creating and deploying professional development and coaching for all districts that supports implementation across PreK-12th grade. In addition, NC DPI is creating tools in order to assist at all levels of implementation.</p>
<p>I have concerns about asking the schools to say their teachers are not providing appropriate education</p>	<p>The federal regulations state that a child must not be determined to be a child with a disability if the determinant factor for that determination is the lack of appropriate instruction in reading or math, or limited English proficiency. However uncomfortable it may be, schools must be honest regarding the instruction being provided to the child who is being evaluated.</p>

## Teacher Preparation/Professional Development/Instruction

<p>Students who struggle with literacy skills need instruction from a highly trained teacher, who uses a research-based curriculum with fidelity and provides the correct intensity of instruction to produce best results and close the gap.</p>	<p>We agree with the commenter.</p>
<p>Teachers don't have the knowledge to help children, even regular students, to learn to read; implored DPI to</p>	<p>Partnerships have been formed between NCDPI and IHEs with special education</p>

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<p>go to IHEs to help teachers know how to teach children to read.</p>	<p>teacher preparation programs. In several North Carolina IHEs, coursework has been developed and/or revised to include information on how to teach students with persistent reading problems using evidence based practices.</p>
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## Twice Exceptional

<p>intellectually gifted children. Including “academic underachievement” in the definition of SLD in NC 1500-2-4, and in the Determination of Eligibility under NC 1503-2.5 will systematically eliminate consideration for the vast majority of these kids. The proposed description of academic underachievement as being “significantly below expectancies for the age or grade level standards” will require that gifted children are much more impaired relative to their ability level in order to fall below that bar. These children will also not be as likely to be referred for the required scientific research-based interventions and progress monitoring.</p>	<p>CHANGE</p> <p>Academic underachievement has been changed to “substantially limits academic achievement.”</p>
<p>We strongly disagree with the <u>omission</u> of the requirement for data that compares a student's current level of achievement to his or her ability/aptitude from proposed section NC 1503-2.5 (11)(i)(H) and from proposed section NC 1503-2.5 (11)(ii)(B). Given these omissions, the result is that students whose IQ is at least 15 points above average (115) but are functioning at grade level on achievement tests (100) never can be found to have SLD and thereby receive specialized instruction to meet their unique needs. This violates IDEA's requirement that each LEA must ensure that FAPE is available to any individual child with a disability who needs special education and related services, <u>even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.</u> NC 1501-1.1 (c); 34 CFR 300.101. This requirement has been interpreted by the courts to require that an IEP ensure that educational progress, significant learning, and meaningful benefit are likely in light of a child's individual abilities and potential. While IDEA does not require the school to "maximize</p>	<p>Multiple sources of data have always been critical to inform decisions. The existence of discrepancy models led to a “heavy weighting”/reliance on two particular scores rather than “multiple sources” (i.e., an intellectual ability score and standard academic achievement test score(s).) Within an RtI based identification model, the utilization of multiple sources of data to inform decisions is now the focus, and, in doing so, the team is not prohibited from gathering any and all additional assessment data in order to arrive at accurate decisions within the context of eligibility determination, as related to the unique learning style of each individual child.</p>

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<p>a child's potential," it does require schools to take the child's potential into account in determining the existence of a disability and in determining special education services the child needs to receive FAPE. This cannot happen when North Carolina relies solely on the child achieving below age or grade level for SLD eligibility. Further, these omissions violate NC 1503-2.7 (c) (1) (i) and (ii), which require that all eligibility determinations "[d]raw upon information from a variety of sources, including <u>aptitude</u> and achievement tests . . . ." and "[e]nsure that information obtained from all of these sources is documented and carefully considered."</p>	
<p>For these students, the most common diagnosis is intellectually gifted with SLD or dyslexia. These students cannot be held to the same standard for identification of SLD and for meeting grade level standards. Flexibility and clinical expertise will be needed to be sure the twice exceptional student will be identified and can receive appropriate specially designed instruction and accommodations. For the twice exceptional student, intellectual evaluation is a critically important part of the diagnostic profile. Flexibility in this area is allowed in IDEA, 2004.</p>	<p>No change</p> <p>RtI data alone should not be considered a full and individual evaluation. The policy amendments require IEP teams to utilize a child's responsiveness to instruction and scientific research-based intervention (RtI) as the <u>basis</u> for a comprehensive evaluation when determining whether a child has a Specific Learning Disability.</p>
<p>Taking out the option to use the discrepancy for qualification extremely limits those unidentified intelligent students who naturally over-compensate and struggle just to stay at grade level but aren't failing. The discrepancy could help to show their potential. Being on grade level and meeting benchmarks is an average, not a personal best. Those unidentified borderline students could be already floundering and then requiring them to wait for RtI process is damaging and inappropriate instruction</p>	<p>No change</p> <p>Based on conclusions arrived at from years of research regarding the lack of utility of ability/achievement discrepancy, significant changes in 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 <i>require</i> 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).</p> <p>The current policy amendments do not</p>

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	<p>compromise the requirement of a full and individual evaluation for all students suspected of a disability under IDEA, with consideration given to the unique learning needs of each child, based on <u>multiple</u> sources of data collected and reviewed by the IEP team.</p>
<p>Another concern is the change to solely rely on the RtI process for qualification. While I see the hypothetical value of RtI to the student and school, it is a slow process that can severely and detrimentally delay the individualized support. Taking out the option to use the discrepancy for qualification severely limits those unidentified intelligent students who naturally over compensate and struggle to stay on grade level that are not failing. The discrepancy could help show their potential. Being on grade level and meeting benchmarks is an average, not a personal best. Those unidentified borderline students are potentially struggling and then requiring them to wait for RtI process is damaging and inappropriate instruction. The process takes too long with four different tiers of meetings before qualifying a child that needs help. Our daughter missed a year of individual specialized teaching in Kindergarten and part of first grade, which now has made her far behind her two sisters and other peers in school, the older she got/gets.</p>	<p>No change</p> <p>RtI data alone should not be considered a full and individual evaluation. The policy amendments require IEP teams to utilize a child's responsiveness to instruction and scientific research-based intervention (RtI) as the <u>basis</u> for a comprehensive evaluation when determining whether a child has a Specific Learning Disability.</p>
<p>dyslexia and "evidence-based" interventions are left out of policy discussions, and gifted and bright dyslexics are denied needed services under an RTI model, unless dyslexia laws are enacted to counterbalance.</p> <p>The idea that a child professionally diagnosed repeatedly with dyslexia and dysgraphia can actually be told they don't qualify for their SLD based on some non-diagnostic standard curriculum test and a low-threshold based on other children that have nothing to do with the bright dyslexic, under RTI, simply is counterproductive, lacks common sense, stunts the child's growth, and results in failure to thrive... essentially cripples the bright dyslexic child for life unnecessarily, instead of remediating the disability so the child can thrive in standard and advanced classrooms.</p>	<p>The current policy amendments do not compromise the requirement of a full and individual evaluation for all students suspected of a disability under IDEA, with consideration given to the unique learning needs of each child, based on <u>multiple</u> sources of data collected and reviewed by the IEP team.</p>

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Apart from specific dyslexia-identification and remediation laws, and policy addressing twice-exceptional children with nonverbal strengths (think Einstein, Edison, Steve Jobs, Disney et al), RTI will have devastating results in a few years, for bright dyslexic children.

... If an SLD/dyslexic child cannot read, decode and spell on the level of the child's own expected performance rather than some low-threshold for a broad-based data child that has nothing to do with the individual, for instance a gifted child with a the SLD of dyslexia or dyslexia combined with dysgraphia, denying and delaying interventions harms the child and results in far costlier problems down the road. Reading and writing are intertwined, and no dyslexic child should graduate from high school unable to spell and write proficiently, or read fluently, because this is preventable with proactive and effective instruction. ( <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2344144/>

RTI frequently uniquely discriminates against this generation's Einstein, Edison, Disney, Churchill, Spielberg, Steve Jobs, Mark Twain, Agatha Christie, John Lennon, da Vinci, Picasso, etc., by delaying and denying the important evidence-based interventions that could prevent the child from requiring ongoing special education... or bounces the child in and out based on some fixed line on broad data, rather than provide complete remediation when identified. By using RTI as a gateway to deny services to bright dyslexic children, NC will limit these bright innovators and creative problem solvers, prevent them from going on to be successful in college and increase the school drop out rate.

Dyslexia remediation requires a complete program in phonemic awareness based reading, spelling and writing -- the type of multi-sensory systematic language instruction that works best for all children, but is rarely used in the standard-test focused classroom. Just getting the child to pass a grade level Lexile test of reading comprehension, when dyslexia is based on word-level decoding/encoding deficits, NOT in-context story comprehension or thinking problems, has nothing at all to do with best practices or solid



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<p>evidence-based research in the field of dyslexia.</p> <p>Dyslexics may fill in the blanks of word-level deficits when provided with enough context clues, but that is not an efficient way to read, compensating to such a degree fails them in informational text, out-of-context reading, when reading test questions or instructions, scanning text for information, or when tired or stressed. Asking the bright dyslexic to compensate rather than giving them instructional interventions leads to poor spelling and significant writing deficits.</p> <p>What needs to be examined is scattering of scores -- on diagnostic assessments examining nonverbal and word-level verbal skills such as phonemic awareness, rapid naming, decoding, spelling, writing -- and discrepancies in the child's own diagnostic assessments, rather than comparisons to some broad-based standard child that only lives on spreadsheets in boardrooms, and the specific areas outlined by IDA and other experts in the field. NC is embarking on a slippery path, that could harm bright dyslexic students if dyslexia laws are not passed to counterbalance RTI, if RTI policies disregard best practices related to identification of dyslexia, and if separate policies don't exist for twice-exceptional dyslexic students who score in the gifted range in nonverbal skills, but have SLD that requires remediation as well as accommodations -- both remediation for disability plus access to advanced classes.</p>	
<p><u>Retain Response to Intervention as a Progress Monitoring Tool Only</u> (+4 others same comment)</p> <p>Do not improperly expand RtI to be the sole evaluation method for SLD. RtI is a general education initiative designed to give academic support in delineated tiers for students in general education whom are struggling or not achieving at age or grade-level. In addition to providing academic support, RtI progress monitoring provides data that <i>may</i> be used as a part of a comprehensive evaluation for a SLD; however, RtI, may not account for or identify gifted students or those not falling below grade level. The United States Department of Education's Office of Special Education</p>	<p>There is no compromise made to the requirement of a full and individual evaluation for each student suspected of a disability under IDEA. Based on the information brought forward through the review of existing data, the IEP team members decide “what additional information is needed” in order to determine whether the student has a disability under the IDEA.</p> <p>Multiple sources of data have always been critical to inform decisions, unfortunately, this has not been as closely monitored as it should have been and the existence of</p>

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<p>(OSEP) and Office of Civil Rights (OCR) has issued several memorandums regarding identification of a SLD in students with high IQ and those not failing. Court Cases, Ohio (Toledo School District 1989) and Pennsylvania (Conrad Weiser Area School District v. Thomas and Wendy L., 1992) found achieving at or above grade/age level or achievement level does not disqualify a student from eligibility for special education services.</p> <p>RtI was not designed to provide a diagnostic assessment of a struggling student by a licensed professional specializing in the assessment and diagnosis of a SLD or AD(H)D. Students who are struggling should have ready access, as set out by federal law, to a comprehensive evaluation that includes a cognitive assessment to ascertain the student's strengths and weaknesses.</p>	<p>discrepancy models led to a “heavy weighting”/reliance on two particular scores rather than “multiple sources” (i.e., an intellectual ability score and standard academic achievement test score(s).) Within an RtI based identification model, the utilization of multiple sources of data to inform decisions is now the focus, and, in doing so, the team is not prohibited from gathering any and all additional assessment data in order to arrive at accurate decisions within the context of eligibility determination.</p>
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## Mechanical Errors

<p>Specific Learning Disability The method for determining eligibility in the disability category of Specific Learning Disability is the use of a systematic problem-solving process based on the child’s response to instruction and scientific research-based interventions (RtI/MTSS) and the evaluation of data (i.e. progress monitoring data) documenting the child’s response to scientifically-based research instruction.</p>	<p>Correction made</p> <p style="text-align: center;"><i>The method for determining eligibility in the disability category of Specific Learning Disability is the use of a systematic problem-solving process based on the child’s response to instruction and scientific research-based interventions (RtI/MTSS) and the evaluation of data (i.e. progress monitoring data) documenting the child’s response to scientifically research-based instruction.</i></p>
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### General Questions/Comments

<p>Of critical concern is NC DPI’s proposed and impermissible departure from well-settled federal standards governing identification and eligibility under the category of Specific Learning Disability as articulated in IDEA, and as further articulated below. Such a departure, if adopted, may trigger legal challenges when scrutinized, and accordingly, the proposed revisions cannot be adopted.</p>	<p>IDEA gives DPI the option of eliminating the IQ discrepancy model and using a comprehensive evaluation with a RTI component, as a number of other states have done.</p>
<p>The PowerPoint outlining the proposed policy changes states the following, “Assessments of cognitive processing can be used, as determined by the IEP team, to inform instruction and intervention, but not for eligibility determination. However, if cognitive assessment determines the student has an intellectual disability, does this not necessitate a decision about eligibility determination (at least under the SLD label)?</p>	<p>Semantics issue – to further clarify the intent of the statement was to underscore the shift from over-reliance on cognitive assessments for the purpose of calculating discrepancies or conducting PSW analyses as a basis for determining eligibility as SLD, not as a basis for ruling out this eligibility category.</p>
<p>concerned that participation by a school psychologist does not appear to be a required component. Although school psychologists have been significant participants in pilot programs, an LEA could complete the eligibility process without any involvement of a school psychologist and be in compliance the DPI policy. I feel that school psychologists have unique training that is critical to the successful implementation of the proposed amendments (i.e., using an RtI-based model of identification for SLD) and that their participation in the process should be mandated in policy.</p>	<p>Within NC 1503-3.2(b), all three example role group members were removed from this statement (<i>school psychologist, speech-language pathologist, or remedial reading teacher</i>). Specific role group members are not identified for any other disability category, and this has not resulted in exclusion of them from the IEP team.</p>
<p>Who will the parents contact to discuss their concerns if the child does not make progress through RTI and TAT? Who can they appeal to if they disagree with the services provided?</p>	<p>The IEP team, which includes the parent, must review all the relevant progress monitoring data as part of the evaluation process. Disagreements regarding the identification, evaluation, educational placement, or FAPE may be resolved by the dispute resolutions procedures in <i>Procedural Safeguards: Handbook for Parents</i>.</p>
<p>Who will oversee these children to determine if the RTI and TAT is working. Who makes the</p>	<p>RtI is only one component of a comprehensive evaluation to determine eligibility. As part of the comprehensive evaluation, the IEP Team</p>

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<p>determination if they are to become EC/LD?</p>	<p>will monitor the child's response to research-based interventions. Based on this information and other measures, the IEP team is required to make the eligibility determination.</p>
<p>How long is the process utilized before the child is determined to be a child with an LD?</p>	<p>NC Policies state that initial evaluations must be conducted, eligibility determined, and for an eligible child, the IEP developed and placement completed within 90 days of the referral. NC 1503-2.2</p>
<p>Is this process solely determined by each school system and who oversees this this process to see that the protocol is being followed?</p>	<p>Each school district, charter, or PRTF is required to establish procedures that meet the requirements and ensure that the procedures are followed.</p>
<p>How are the child's educational rights protected?</p>	<p>The child's educational rights are unchanged.</p>
<p>Overall the proposed changes for Identification of Children with Specific Learning Disabilities from my standpoint as a medical professional are excellent and I applaud them - they are forward thinking and progressive and will only enhance the educational lives of NC's school children who struggle in the classroom.</p>	<p>Thank you for your comment.</p>
<p>The whole PEP/RTI/IEP process needs simplified for parents (fewer acronyms, shorter time frame to get into IEP process and shorter time for the actual IEP team meetings); the process should engage the families into a team approach for proper identification and intervention</p>	<p>No change required. We would concur with the need to engage and collaborate with families.</p>
<p>Children who are struggling must be screened and tested for Dyslexia; an IEP established educational specialist who has been properly trained in these methods.</p>	<p>North Carolina currently has existing screening tools that can identify risk factors for reading disabilities, including dyslexia. School psychologists and special education teachers can interpret assessments in areas that are indicators of a reading disability, such as dyslexia (e.g. word reading accuracy, reading fluency, reading comprehension and spelling). IEP teams however do not make diagnoses of dyslexia. Their function is to determine if a student meets the criteria of any of the 14 disability categories as defined by IDEA.</p>

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<p>NC regs then the regs need to me more inclusive (instead of exclusionary language) and focus more on prevention of failure by allowing students to be diagnosed early and receive early intervention. I do appreciate their addition through out the proposal of the word <i>scientifically-based</i> when referring to research and instruction.</p>	<p>Installation of a MTSS is contingent upon implementation of prevention and early intervention strategies in order to promote high quality instruction for all students.</p>
<p>but some guidance, even if the proposed rules remain unchanged, on how schools should approach the assessment of children who are home schooled or who are in private schools for SLD would certainly be helpful. (The guidance in the federal regulations from 2006 does not really rise to that level.); <i>It is up to each State to develop criteria to determine whether a child has a disability, including whether a particular child has an SLD. In developing their criteria, States may wish to consider how the criteria will be implemented with a child for whom systematic data on the child's response to appropriate instruction is not available. However, many private schools collect assessment data that would permit a determination of how well a child responds to appropriate instruction. The group making the eligibility determination for a private school child for whom data on the child's response to appropriate instruction are not available may need to rely on other information to make their determination, or identify what additional data are needed to determine whether the child is a child with a disability. However, under § 300.306(b), a public agency may not identify any public or private school child as a child with a disability if the determinant factor is lack of appropriate instruction in reading or math</i> P 46648</p> <p><a href="http://www.myschoolpsychology.com/wp-content/uploads/2014/02/final-2006-regulations-for-the-IDEA-2004.pdf">http://www.myschoolpsychology.com/wp-content/uploads/2014/02/final-2006-regulations-for-the-IDEA-2004.pdf</a></p>	<p>No change</p> <p>The Analysis and Comments section of the IDEA Federal Register states (p. 46656) “As part of the evaluation, the eligibility group must consider whether the child received appropriate instruction from qualified personnel. For children who attend private schools or charter schools or who are homeschooled, it may be necessary to obtain information from parents and teachers about the curricula used and the child’s progress with various teaching strategies. The eligibility group also may need to use information from current classroom-based assessments or classroom observations. On the basis of the available information, the eligibility group may identify other information that is needed to determine whether the child’s low achievement is due to a disability, and not primarily the result of lack of appropriate instruction. The requirements for special education eligibility or the expectations for the quality of teachers or instructional programs are not affected, and do not differ, by the location or venue of a child’s instruction.”</p> <p>In making a SLD eligibility determination for these students the same evaluation components and eligibility procedures apply.</p> <p>Specific to validating underachievement, policy requires that the IEP team must consider the following factors:</p> <p>Data demonstrating prior to or as part of the referral process, the student was provided appropriate instruction in general education</p>

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	<p>settings</p> <p>Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents (i.e., screenings/interim assessments and progress monitoring data)</p> <p>The requirements for a SLD determination must still be met. The necessary documentation of repeated assessments of achievement at reasonable intervals might need to be collected as part of the referral process. In such cases, the IEP team will need to develop a data collection plan as part of the evaluation. Every effort should be made to inform the parent and private school personnel of the need to address the student's academic difficulties through the provision of supplemental instruction and use of frequent progress monitoring. The IEP team must review all data and pertinent information when making an eligibility decision.</p>
<p>NC 1503- 2.5 (11) Evaluation Process , as long as Dyslexia is being "ruled out" or "ruled in" or at least tested for, that information can be then given to the medical professional as "suspicion for Dyslexia" or "suspicion for ADHD or attention disorder" and we as the medical team can confirm these diagnoses for the school system</p>	<p>An IEP team must consider multiple sources of data. A medical diagnosis could be considered but is not required. A medical diagnosis alone is not sufficient to determine eligibility for special education. IEP teams make the decisions regarding the appropriate evaluations necessary to determine eligibility for special education.</p>
<p>We must remember the practical needs of schools. As students transfer into our schools, they may lack progress monitoring, benchmarking, or other data necessary for making a true response to intervention decision. Students transferring into our schools from private schools, homeschooling, or from out of state,</p>	<p>An LEA must ensure a prompt completion of the evaluation within the 90 day timeline.</p>

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<p>may have severe educational needs requiring individually designed instruction. Using a 90-day timeline may cause difficulties when collecting such time-intensive information, such as benchmarking and progress monitoring data. The data required by this policy may cause this population of students to struggle during an already difficult transition, or fall through the cracks. Flexibility for situations such as this may be implied, but it is difficult to interpret as a practitioner. While collecting this type student data is vital to positive educational outcomes, policy needs to be applicable to all students at all times.</p>	
<p>Evidence-based (for dyslexia) instructional interventions are critical for dyslexic students, and bright and gifted dyslexics respond even more quickly to effective interventions designed to remediate dyslexia, as opposed to generic reading programs that are ineffective for this purpose. By using a standard achievement model, with assessments that are NOT grounded in deficits associated with dyslexia as outlined above, these children will be denied the effective interventions needed (often two years or less depending on how early the dyslexia is identified), k-12, resulting in tremendous cost to the child and society.</p>	<p>We do not believe that the MTSS process will unnecessarily delay or deny eligibility for special education and related services.</p> <p>A comprehensive assessment system is a critical component of MTSS. The data gathered during the assessment is designed to allow effective problem solving at all tiers and across all student groups (i.e., subgroups), in order to design responsive instruction. These components are also important data sources within a comprehensive evaluation to determine if a child has a Specific Learning Disability. If a child is determined to have a SLD appropriate available data may be used to determine the nature and extent of the special education and related services needed.</p>
<p>Finally, RtI is still in the developmental stages. The process has no state or federal regulations and no guidelines or timelines. Moreover, RtI is practiced differently in every state, county, and even schools in the same school district. When properly implemented, RtI can be a powerful education tool, but it is not a substitute for a comprehensive evaluation of a student suspected of having a SLD.</p>	<p>The proposed policy is not an “RtI only” model of identification. The requirement for a comprehensive evaluation is maintained. In response to the development of RtI frameworks, NC DPI has developed a strategic plan to scale up implementation of a Multi-Tiered System of Support (MTSS) across the state in the next five years. This plan includes elements to ensure more consistent implementation of the essential components from school to school to promote positive outcomes (academically and behaviorally) for all students.</p>
<p>RtI is a general education initiative designed to give</p>	<p>The proposed policy is not an “RtI only”</p>

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<p>academic support in delineated tiers for students in general education who are not achieving at age of grade-level. In addition to providing academic support, RtI progress monitoring provides data on students that may be used as part of a comprehensive evaluation for a SLD.</p> <p>RtI was not designed to provide a diagnostic assessment of a struggling student. Rather, students who are struggling should have ready access, as set out by federal law, to a comprehensive evaluation that includes a cognitive assessment to ascertain the student’s strengths and weaknesses.</p> <p>Additionally, RtI is still in the developmental stage. The process has no State or Federal regulations and no guidelines or timelines. To add to the confusion, RtI is practiced in a different manner in every State and every school district and every school in the country and in every school in the state of North Carolina. RtI has the potential, if properly implemented, to be a powerful educational tool, but it is not a substitute for a comprehensive evaluation of a student suspected to have a SLD.</p>	<p>model of identification. The requirement for a comprehensive evaluation is maintained. In response to the development of RtI frameworks, NC DPI has developed a strategic plan to scale up implementation of a Multi-Tiered System of Support (MTSS) across the state in the next five years. This plan includes elements to ensure more consistent implementation of the essential components from school to school to promote positive outcomes (academically and behaviorally) for all students.</p>
<p>I would like to express strong opposition to the proposed “Multi-Tiered System of Support (MTSS)” for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The school systems in the northwest region of North Carolina, that I am associated with, already have multi-tiered systems in place that are working well. The MTSS appears to be reinventing the wheel, utilizing money and manpower that could better be used to attract and sustain good teachers across the state. Good teachers and academic materials are the essential ingredients for academic growth and proficiency, not a redundant “system of support”. Please review the following multi-tiered system:</li> </ol> <p>Tier 1 equals Responsiveness to Instruction (RtI) for every student in every classroom at our school.</p>	<p>The 2004 Individuals with Disabilities Education Act (IDEA) and 2006 federal regulations (34 CFR § 300) for implementing IDEA 2004 state that states could no longer <i>require</i> 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). We agree that the determination of eligibility should never be based on IQ/achievement discrepancy alone, nor should it be based on a student’s response to instruction and intervention alone. However, any model must be based on scientific based research. The research no longer supports an IQ discrepancy model to identify a specific learning disability. The formal incorporation of RtI models in the 2004 reauthorization of IDEA signaled a major change in the approaches that IEP teams may use to</p>



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Tier 2 equals RtI accommodations and modifications implemented for use with students who are displaying symptoms of academic challenges in a regular classroom placement.

Tier 3 equals more advanced and intensive RtI interventions because the student continues to struggle. Referral to Tier 4, including psychoeducational evaluation would be documented in Tier 3.

Tier 4 equals referral for psychoeducational evaluation, as recommended by the Exceptional Children's program team, with the Psychoeducational Report being discussed with the EC team for determination of EC eligibility and placement. This model is compliant with the 2004 NCDPI Exceptional Children's Division related to the reauthorization of individuals with Disabilities Education Improvement Act (IDEA). It should be noted that the discrepancy model of psychoeducational report analysis is used in conjunction with classroom behavioral observations in three settings, behavioral adaptation surveys and reports, parental input, teacher input, administrative input, and information gained from any other related resource. It should be noted that the eligibility placement for Specific Learning Disability (SLD) services was never based upon IQ-Achievement Discrepancy criteria only. This fact would eliminate the need for NCDPI to change policy to "eliminate the IQ-Achievement Discrepancy model as a permissible approach to determining SLD eligibility, recognizing the criticisms and concerns by national experts and the Learning Disabled community". So, if school systems were not utilizing IQ-Achievement Discrepancy criteria as the ONLY criteria to identify eligibility for students with specific learning disabilities, their proposed change in policy is unnecessary. What actually happens is that interventions under the RtI tiered support system are often ineffective in assisting children with disabilities to improve learning efficiency and academic performance. As such, the psychoeducational evaluation process is requested because this process provides valid and reliable

evaluate and identify students as eligible for special education in the specific learning disability category. Rather than viewing students who struggle as being limited by their disability, the proposed policy changes will enable IEP teams to identify students with a disability who are in need of special education, based on their response to quality instruction and research based intervention as a component of a comprehensive evaluation. The President's commission on Excellence in Special Education in 2001 criticized the use of intelligence tests in the identification of students with LD, stating "Eliminating IQ tests from the identification process would help shift the emphasis in special education away from the current focus, which is on determining whether students are eligible for services, towards providing students the interventions they need to successfully learn." Additionally, studies have demonstrated that IQ is not a good predictor of which students were likely to acquire age-appropriate reading skills when provided evidence-based instruction.

The current policy amendments do not compromise the requirement of a full and individual evaluation for all students suspected of a disability under IDEA, with consideration given to the unique learning needs of each child, based on multiple sources of data collected and reviewed by the IEP team.

Many groups (Specific Learning Disabilities Roundtable, 2002 and the National Center for Learning Disabilities) have rejected the IQ-achievement discrepancy classification method due to reliability and validity issues (e.g., LD Roundtable, 2002). This method often delays SLD classification until third or fourth grade when academic achievement problems are more difficult to resolve successfully (Fletcher, et al., 2002). In 2007, the National Association of School

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information to determine EC eligibility status, the information is used as part of the criteria for making an EC enrollment decision, and the psychoeducational evaluation information is extremely useful in determining which area (reading, math, or writing) that the student should receive the most “pull-out” instructional time, and despite what “exports” say, the IQ score accurately predicts the students potential for future academic success. Our experienced teachers report that knowing the POTENTIAL OF THE STUDENT, KNOWING THE DISCREPANCY BETWEEN THE ABILITY AND ACHIEVEMENT LEVELS, AND KNOWING SPECIFIC STRENGTHS AND WEAKNESSES IS ESSENTIAL TO ASSISTING STUDENTS TO ACHIEVE ACADEMIC GROWTH AND PROFICIENCY. The “systems approach to problems solved for all, some, and few students” is basically a waste of time for Learning Disabled students suffering from Attention Deficit Hyperactivity Disorder, Dyslexia, Central Auditory Processing Disorder, and related factors causing specific learning disabilities. Also, MTSS related RtI focused upon “preventative academic instruction” is simply a waste of time because the disabling conditions are already there and EC placement with one-on-one and/or small group instruction will be necessary to support future academic growth and proficiency for that particular student.

2. MTSS information presented outlines four major areas that are being emphasized including Positive Behavior Intervention and Support (PBIS), Responsiveness to Instruction (RtI), Specific Learning Disabilities (SLD), and the Multi-Tiered System of Support (MTSS). Beginning with the proposed PBIS, it should be known that we already utilize a Behavioral Intervention Plan (BIP) and have resources to serve children under the PRC fund source. PBIS is unnecessary because it is already in progress in North Carolina. This information states “PBIS advocates the use of problem solving model to make data based instructional decisions”. Our current BIP states that we have a staff person trained to implement the BIP with the emphasis upon de-escalation of volatile behavior and removal from a regular classroom setting so that

Psychologists published in their SLD Position statement regarding IQ/Achievement Discrepancy: “an ability/achievement discrepancy as a means of identifying children with specific learning disabilities is at odds with scientific research and with best practice.”

MTSS is provided as a definition within the proposed policy. There is no requirement that MTSS, as defined in policy, be fully implemented for the evaluation and identification of children with SLD.

Professional development for all LEAs in NC will begin in the 2016-17 school year.

IDEA 2004 included the option of using an RtI-based approach to the evaluation and identification of students with SLD due to concerns with “instructional casualties” too often being identified as students with disabilities and concerns with the lack of specificity and accuracy using an IQ/achievement approach to identification. Rather than viewing students who struggle as being limited due to their disability, we believe that the best way to determine students who are students with a disability and are in need of special education, is to identify those students who have a poor response to quality instruction and research based intervention.

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other students will not be distracted. The point is, we already have common sense approaches and know what to do without using fancy words such as “preventive behavior instruction”, “data based instructional decisions”; “research based interventions”; “employing the use of scientific”, “research based approaches”; “data-based problem solving model”; “data-driven problem solving interventions”; and other fancy academic terms. These fancy terms make for good reading but are often totally inappropriate for the specific school population that such models are being designed to serve. “Research based interventions” is a term often used for common sense interventions such as moving a student to the front of their class “preferential seating” and/or giving students extra time on tests due to processing weaknesses. The point is, when the current proposed support system is broken down in simple terms, there are few, if any, advantages over the current system that is being implemented in North Carolina.

3. The MTSS model appears to be based upon “responsiveness to instruction” principles. In our experience, with our most experienced teachers, the RtI principles often waste time in getting to the most reliable and valid assessment factor, which is the psychoeducational evaluation process. A 2.5- hour psychoeducational evaluation can provide more valid and reliable evidence than two years of RtI. A full evaluation includes an IQ score with well documented validity and reliability coefficients. Analysis of IQ scores also provides information related to verbal vs. visual learning profiles, potential for academic strengths, potential areas of weakness, and a 95% valid prediction for future academic success. When combining the IQ score with an achievement score

to set up an IQ-Achievement Discrepancy model, the student’s current potential can be compared with a snapshot of the student’s current achievement levels. This comparison not only provides information to be used in an SLD eligibility decision, but provides academic strengths, weaknesses, and related valid information so that teachers understand the areas of strengths/weaknesses, the quantitative amount of those

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strengths and weaknesses, and the exact areas where academic remediation needs to occur. The RtI model often is confusing for new teachers, experienced teachers have difficulty analyzing academic growth and performance in the RtI model, and the psychoeducational IQ-Achievement Discrepancy Model is quick and easy to understand. Any type of “benchmark assessments”, “data gathering systems”, and other types of evaluations under the RtI model have proven invalid, unreliable, and extremely subjective when attempting to determine eligibility, placement, and information to originate a concise Individualized Educational Plan for Disabled students. The only weaknesses that we experience are facts that achievement scores are sometimes difficult to originate with young students (ages 6-7). Also, what happens to a student who does not display a 15-point discrepancy between IQ and achievement scores? In addition, cultural factors related to a valid and reliable test score come into play. These areas of concern have been known since implementation of the IQ Achievement Discrepancy model in 1962. We have very few students who fall into these categories. When they do, other available evidence, such as classroom observations in three different settings, parent reports, teacher reports, and social/behavioral surveys, provide enough evidence to make solid service decisions without focusing upon IQ/achievement results. These situations provide evidence that schools do not rely solely upon a discrepancy model for SLD determination. When reading through MTSS information, I ran across comments such as “IQ test scores have no predictive value”, “A measure of a student’s IQ has little to no value”, and “Data-driven problem solving to maximize MTSS data as the basis for a comprehensive evaluation which is more valid and reliable than an ability/achievement discrepancy”. The fact is that those comments are absolutely NOT TRUE.. It also seems ironic that IQ and achievement scores have been used for placement purposes for 53 years; but, all of a sudden, these scores are “of no value”. I challenge everyone to review the current validity and reliability coefficient scores produced by the newly developed WISC-V IQ test authorization process. Please compare the chances of having higher validity and reliability coefficients with standardized

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test scores used in a discrepancy model, against any coefficient of benchmark assessments, data driven problem solving models, research based intervention analysis, or any other evaluation procedure.

4. The SLD eligibility determination process should remain unchanged. The current process utilizes the IQ/Achievement discrepancy as PART OF the criteria used to make SLD decisions. Other criteria include information gained on DEC forms, behavioral observations in three different settings, teacher reports, parent reports, medical reports, and other related information. This additional information should be combined with the IQ/Achievement Discrepancy model to make valid and reliable specific learning disability decisions, EC enrollment decisions, and provide valid and reliable evidence for originating an Individualized Educational Plan (IEP). Eligibility, enrollment, and IEP decisions are already being made by an EC team of experts. We also originate a Personal Educational Plan (PEP) for every student who is not enrolled in the EC Program. EVERY student in our school has an education plan.

5. Before making teachers responsible for SLD eligibility decisions, RtI documentation, and related understanding of a data driven problem solving model, it should be noted that teachers are trained to teach not to become research oriented individuals, academic evaluators, or EC program directors. The current MTSS model, including data resource collection processes, is like going to visit a general medicine physician rather than a “specialist” if a medical challenge is being experienced. Please allow the current “specialists” (school psychologists, professional counselors, EC directors, and other knowledgeable individuals) to make important EC/SLD decisions rather than attempting to make teachers become “assessment experts” when they are already busy attempting to teach challenging student populations. Please allow the teachers to teach.

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6. Objectivity vs. subjectivity: When any type of referral, evaluation process, eligibility decision, placement decision, or information used to originate an IEP, you can bet that information provided through a psychoeducational evaluation process, using standardized tests, will be much more objective, as contrasted with subjective evidence collected through an MTSS tiered model of service. Data/evidence is much quicker, more valid, and more reliable when gained through a psychoeducational evaluation process as compared to the information gained under an MTSS model of support.

7. The MTSS vision statement reads “Every NC pre-K through 12 public education system implements and sustains all components of an MTSS to ensure college and career readiness for all students”. Please let me share the current student population that I am working with: K-8 charter school with 163 students;

100% Free Lunch

Student Population With Very Little

Parental Support And/Or Experiential

Learning

Over 50% EC With Most Of These

Students Having A Dual Diagnosis

Documenting Both Academic And

Behavioral/Social Weaknesses

In summary, a large percentage of our students are not interested in “college and career readiness for all students”. Our behavioral/emotional challenged students will have difficulty staying out of jail, much less attending college. A significant percentage of our students will work odd “jobs” in rural areas as opposed to students who need “career” training. The point is the recommended MTSS model of support has no valid relationship to our student population at all. Please

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allow local schools to determine what is best for their local student population and not require all school systems in North Carolina to fall under the MTSS proposed model of support. If the MTSS model is adopted, please make this model “OPTIONAL” rather than “MANDATORY”.

8. The NC MTSS mission is documented as follows: “NCDPI will prepare and support LEAs to implement a multi-tiered system of support for total school improvement by providing professional development, coaching and technical assistance, research and evaluation, and communication and visibility that result in college and career readiness for all students”. “NCDPI believes MTSS is the most effective and efficient approach to improving school outcomes and student performance thereby ensuring equitable access to a sound basic education”. Again, these academic terms are good for pleasure reading but can be questioned: How are teachers and related instructional staff going to have the time to participate in professional development, coaching and technical assistance, research and evaluation, and communication and visibility, taking into account the time already spent on teacher certification, class preparation, instructional time, class review and related reporting, EVAAS, EOG preparation, and all the other things that are thrown upon teachers’ shoulders to the point that **TEACHERS DO NOT HAVE TIME TO TEACH!** The MTSS mission and associated “training” is just another reason for experienced teachers to leave education and new teachers to choose other careers.

9. MY time and efforts included in this correspondence are probably already wasted. The materials presented suggest that more MTSS consultants have been hired and regionally placed to implement MTSS. Additional staff will be included in webinars, training and support. A full 5-year phase out plan for IQ/achievement elimination has already been established. It would appear that the “cart might be before the horse” in these plans? Local and state political representatives, the NC Board of Education, and NCDPI officials are bombarded with requests for

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increased teachers' pay, money to purchase academic materials (most teachers are purchasing their own), and more teachers are definitely needed. The resources, including money and manpower, should be placed to attract, sustain, and reinforce good teachers in North Carolina rather than placing more and more responsibility on their backs (such as MTSS) so that they do not have time to teach. In my opinion, newly recommended models of service, such as MTSS, should not be implemented because it detracts rather than supports academic instruction. In our area, there is a mass exodus of good teachers leaving education for reasons such as lack of teacher pay, additional work requirements (such as MTSS), having to purchase their own teaching materials, EVAAS responses, and emphasis placed on EOG preparation and performance. Good teacher instruction is what translates into student academic growth and proficiency, not "evidence based instruction", "data driven problem solving models", "Wikispaces", "Secure Shell information", and/or "assessment fidelity". One of the staff persons responsible for implementing this model actually made the comment that "research based evidence" was actual "FACT" as contrasted with 53 years of historical facts and student historical evidence related to IQ/Achievement Discrepancy model information. Some individuals might argue that "research based evidence" can be used to prove anything.

10. I became skeptical when first reading the initial MTSS information. The information first suggested that the MTSS model was a "national movement". Subsequent information then documented that "NC was the only state implementing the MTSS model". Which is it? I will also argue the comment, no matter where it comes from including "national experts", research data, or whatever resource, that implies that "IQ test scores have no predictive value". This statement is simply untrue. In regards to this statement, I would like to invite any individual or small group to visit me in the Northwest Region to review case histories of students I have evaluated over the past 31 years. Confidentiality of student names will be emphasized. As far as research validity goes, we know that "research based evidence" says that bumblebees



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Proposed Policy Changes to the Definition, Evaluation and Identification of Specific Learning Disabilities cannot fly.

11. Please be aware that MTSS information seems to emphasize a school population of 75% effective students, 20% needing supplemental support (EC), and another 5% who need intensive support. Please allow me to make you aware that our current student population is more like 10% effective, 60% needing supplemental support (EC services and related), and 30% of our students need intensive support. The MTSS model will not adequately “fit” our unique economically disadvantaged, rural, and “truly high risk” student population. As a result, I highly recommend that, if the MTSS model is implemented in North Carolina, schools be allowed to option out of a service model that would be detrimental to the academic growth and proficiency of our specific student target population.

12. The MTSS information documents the following statement: “MTSS data will be used as the basis for a comprehensive evaluation”. Please allow me to submit to you that this statement is why the IQ/Achievement Discrepancy model was preferred in the first place. Benchmark assessments and related evaluation activities often provide invalid and unreliable information used for determining eligibility, including SLD. Standardized testing results, and use of a statistically sound discrepancy model is a much more valid process for determining eligibility status, placement service requirements, and activities such as instructional “pull-out” that leads to academic growth and proficiency. Reverting to MTSS “comprehensive evaluation processes”, as contrasted with standardized testing, is like trading a 1969 Chevy Vega for a 2015 Mercedes Benz. May I add, consistency among schools involving transfer students is much more valuable when academic materials and evaluation assessments are based upon standardized testing results. Administrators, teachers, EC staff, and related staff can usually understand a discrepancy model based on a bell shaped curve and related statistics. It is pretty easy to use math abilities to diagnose a 15-point discrepancy between an IQ and an achievement score. Teachers also understand that a 65-point discrepancy is much more significant than a 15-point discrepancy between IQ and achievement scores. This discrepancy gives us

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some idea as to the adverse effect and significant impact upon a student's learning efficiency and subsequent academic performance. When MTSS "data based problem solving evidence" would be transferred from school to school, educational professionals would have no idea about what this data actually means per student. With standardized test results, including an IQ and achievement discrepancy score, educational decisions are based on "apples to apples" comparisons rather than "apples to oranges" guesses based upon subjective MTSS data. It should also be noted that my comments regarding IQ and achievement testing are based on one-on-one evaluation procedures and NOT GROUP IQ or achievement test scores.

13. As my comments draw to an end, folks will perceive me as being a Licensed Psychological Associate who has fear of losing future contracts leading to a loss of income. I will assure you that is NOT the case. I am 57 years old, looking forward to retirement for reasons related to unnecessary and resource wasting activities such as MTSS, and will continue to conduct psychoeducational evaluations, using the discrepancy model, in private settings. The current documented timeline states that school year 2020-2021 would be the time that "all NC public schools use a student's responsiveness to research-based instruction and intervention data for SLD eligibility decisions at grade K-12". If I am forced to follow the recommended MTSS model of support without options, that would definitely be a good time for me to follow my most intelligent and experienced colleagues and retire from education.. When I review my current calendar, and see all the "mandatory" meetings, webinars, training sessions requiring expensive travel, and other wasteful activities, I decided to take a stance due to the absurdity of the MTSS recommended model. Please take time to simplify education so that administrators can administrate, teachers can teach, EC staff can serve students with disabilities, and educational support staff can educate.

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