



Washington Office of Superintendent of
PUBLIC INSTRUCTION

Specific Learning Disabilities: Recommendations for Evaluation Policy and Practice

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EXECUTIVE SUMMARY

Significant concerns with current practices in evaluating students suspected of having specific learning disabilities (SLD) have been identified in Washington state. For decades, school-based teams have utilized the severe discrepancy method to consider eligibility in special education services. During the past 18 months, an SLD stakeholder cadre has reviewed national research and trends regarding the evaluation of students suspected of having an SLD and is recommending sunsetting the discrepancy model and phasing in, over a three-year period, a more equitable approach to evaluate students that incorporates the use of Response to Intervention (RTI) within a Multi-Tiered System of Supports (MTSS); and allows for additional data considerations such as those based on a pattern of strengths and weaknesses (PSW). Additionally, the SLD stakeholder cadre recommends that school-based teams follow principles established by the National Center for Learning Disabilities (NCLD). The current document provides the rationale for change in practice, recommendations for changes in the Washington Administrative Code (WAC), and a timeline for districts to follow while transitioning to new practices in evaluating students suspected of having an SLD.

INTRODUCTION

Since the reauthorization of Individuals with Disabilities Education Act (IDEA) 2004, state education agencies (SEAs) have adopted rules to include SLD evaluation method(s) in addition to or in place of the severe discrepancy method. The severe discrepancy method requires the existence of a severe discrepancy between the student's intellectual ability and achievement in which a student's intellectual quotient (IQ) score is significantly higher than his or her achievement score in the domain of difficulty. Washington state uses a criterion standard score that is based on the regressed standard score discrepancy formula developed in 1983 by the U.S. Department of Education Office of Special Education Programs (OSEP). See Washington state regulations on SLD identification at [WAC 392-172A-03045](#).

While national trends between 2009 and 2017 show a decline in identification of students with an SLD (NCES, 2017), Washington state showed an increase of 2,521 students (age 6–21) identified as having an SLD over that same 9-year period. Despite the fact that Washington state rules ([WAC 392-172A-03045](#)) include response to scientific-based intervention (RTI) as an optional method for SLD identification, the severe discrepancy model continues to be the prevailing method used by districts and the school psychologists conducting evaluations across the state, as evident through the Washington Integrated System of Monitoring (WISM).

As a result of the current over-reliance on the severe discrepancy model in Washington, the Special Education Division of the Office of Superintendent of Public Instruction (OSPI) put forth a call to action for research and exploration of this topic to include a review of state SLD evaluation models and practices across the United States, a probe of statewide readiness for a strategic phase-out of the discrepancy model, review and consideration of data from stakeholders across the state, and to submit recommendations for a model of SLD evaluation to the assistant superintendent of special education. This work was undertaken by the SLD stakeholder cadre, which included parents, school district, university-level, and state-level stakeholders. This report underscores historical issues with the use of a severe discrepancy model of SLD evaluation, discusses the goals and work of the SLD

stakeholder cadre, and proposes a new state model of SLD evaluation to supplant the discrepancy model through a phased process implemented over several years to allow for training of district personnel.

HISTORY OF THE USE OF SEVERE DISCREPANCY FOR SLD EVALUATION

The Individuals with Disabilities Education Act (IDEA) has undergone several changes since it began as the Education for All Handicapped Children Act (EHA), or Public Law 94-142, in 1975. This law originated to ensure that students with disabilities receive a free appropriate public education (FAPE). Since the inception of Public Law 94-142 and until the 2004 reauthorization of IDEA, the use of a severe discrepancy model had been the only allowable method to qualify students with an SLD.

It has been widely attributed that the use of the discrepancy model for SLD qualification contributes to the disproportionate identification of students with learning disabilities among certain socio-demographic subgroups, typically groups who are already disadvantaged, and is perceived as a persistent problem within the education system. A review of the Education Longitudinal Study of 2002 indicates that socio-demographic characteristics are predictive of identification with a learning disability. While some conventional areas of disproportionality are confirmed (i.e., males and English learners), differences in socio-economic status entirely account for African American and Hispanic disproportionality. Many researchers are concerned that disproportionate identification of students of color with learning disabilities is part of the long history of racism and stratification within education (Patton, 1998; Skiba et al., 2008).

English Learners may be at risk of disproportional over-identification because of the complications presented by distinguishing between limited English proficiency and a learning disability. Artilles, Rueda, Salazar, and Higareda (2005) found that students with limited proficiency in both their first language and English had the highest rates of overrepresentation among Hispanics in classes for students with learning disabilities across the grade levels.

In 2006, another change was made when final regulations were released for IDEA 2004. For years, schools waited until a student fell considerably behind grade level before being eligible for special education services. With the release of the final regulations of IDEA 2004, school districts are no longer required to follow the severe discrepancy model for learning disabilities and are allowed to find other research-based methods to determine if a student has a learning disability or simply needs additional instruction. Some states are now implementing the model through a process called Response to Intervention (RTI).

The IDEA recognizes RTI as an allowable method for SLD identification. Specifically, SEAs “Must permit the use of a process based on the child’s response to scientific, research-based intervention” (IDEA 300.307 a (2)). An RTI method for determining student eligibility for special education as SLD involves the provision of high-quality instruction and timely interventions in the general education setting, delivered on a continuum of individualization and intensity, based on the student’s learning

needs. Decision-making for eligibility in RTI considers dual discrepancy, which requires that students demonstrate both significantly low academic skill level(s) and low rate of improvement (ROI) on progress monitoring tools. Progress monitoring data may then be used to inform specially designed instruction (SDI).

STATEMENT OF THE PROBLEM OF PRACTICE

Definition of Specific Learning Disabilities

The National Center for Learning Disabilities ([NCLD](#)) describes students with SLD as having difficulties acquiring certain academic skills. Students with SLD often have intellectual strengths. They generally struggle with one or more cognitive abilities or processing skills necessary to complete academic tasks successfully. Currently, WAC 392-172A-01035 adheres closely to the federal IDEA 2004 definition of SLD and states:

(k)(i) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, that adversely affects a student's educational performance.

(ii) Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Current practices in Washington state as defined by the provisions of the WAC have lagged significantly behind the directions in the federal IDEA and have resulted in over-identification of students of color appearing to have a disability requiring an Individualized Education Program (IEP) in the PreK-21 school system. The traditional model of severe discrepancy between ability and achievement has many weaknesses; ability tests are highly biased and yield lower scores for many students of color and achievement tests do not accurately reflect the actual teaching practices in many PreK-21 classrooms. Concerns with current evaluation procedures include:

- Over-identification of students identified as having an SLD;
- Overrepresentation of students of color and students who are English learners identified as having an SLD; and
- Discrepancy approach resulting in a “wait-to-fail” model. (Johnson, Mellard, Fuchs, & McKnight, 2006).

The response to the 2004 update in the federal law resulted in the inclusion of two different models for identification for students who might have a learning disability in Washington regulations. Washington state kept the now antiquated severe discrepancy model—requiring a statistically significant “discrepancy” between a student’s capabilities and the student’s academic achievement. The WAC 392-172A-03045 added the ability to look at a student’s RTI (or lack

thereof) as another possible method as well as the inclusion of an examination of the PSW within a student's skills as alternative measures of the existence of a learning disability. Each district selects the process used for its staff and evaluations.

The difficulty with multiple evaluation methods for the identification of learning disabilities is in how it creates a disparate system of practice across the state. Each system has its own unique set of measures and procedures. The three different models of SLD identification suggest the same student may be labeled as having a disability in one district and not in the next simply because of a lack of consistent method for identification.

GOALS OF THE SLD STAKEHOLDER CADRE

The severe discrepancy method is widely used across the state for evaluation and identification of specific learning disabilities. A review of literature reveals multiple, long-debated issues with use of the severe discrepancy model. These issues include, but are not limited to, validity of test instruments and scores, identification of 'slow learners', timeliness of identification, and practitioner inconsistencies (Ihori & Olvera, 2015; Restori, Katz, & Lee, 2009). To address the problem of practice, the Office of Superintendent of Public Instruction (OSPI) Special Education Division conducted a call to action and convened stakeholders across the state tasked with these specific goals:

- Review allowable alternative models and processes of evaluation and identification of specific learning disabilities;
- Address issues related to a phaseout of the discrepancy model in Washington; and
- Develop and submit a report with recommendations of an alternate model for evaluation and identification of specific learning disabilities.

SUMMARY OF STAKEHOLDER INPUT AND CADRE DELIBERATIONS

Stakeholder feedback is essential to the vision, goals, implementation, and outcomes of this initiative. OSPI's Special Education Division solicited stakeholders to serve on the SLD stakeholder cadre from across the state representing various interests including parents, institutions of higher learning (IHEs), educational service districts (ESDs), district administrators, and school psychologists to lend expertise around the problem of practice. The SLD stakeholder cadre members have engaged in outreach to broad stakeholder groups through presentations at the Washington Association of School Administrators (WASA) and the Washington State Association of School Psychologists (WSASP) conferences. In collaboration with the WSASP, broad stakeholder feedback was sought through two surveys distributed to practicing school psychologists across the state. While the group debated the meaning of feedback related to alternatives to current practices, it was clear that a strong majority of practitioners agreed with the need for change in current practices in our state.

SLD Stakeholder Cadre Recommendations

The SLD stakeholder cadre recommends the following (see Appendix for complete list of recommended WAC changes with strikeout and edits):

1. Over a three-year period, following revisions to the WACs governing evaluation and eligibility for SLD, phaseout the severe discrepancy model for evaluating students suspected of having a SLD, and
2. Phase in an approach to evaluate students that incorporates the use of Response to Intervention (RTI) within a Multi-tiered System of Supports ([MTSS](#)); and allows for the use of additional data considerations such as those based on a PSW.

To achieve this goal, the SLD stakeholder cadre recommends the following changes to the following WACs:

- **Remove** the following language:
 - [WAC 392-172A-3045](#) District procedures for learning disabilities:
 - (1) a "Severe discrepancy between intellectual ability and achievement;"
 - the word, "or" from (2); and
 - (3) "A combination of both within a school district, provided that the evaluation process used is the same for all students within the selected grades or buildings within the school district and is in accordance with district procedures."
 - [WAC 392-172A-03055](#):
 - 2(A) "or the group finds that the student has a severe discrepancy between achievement and intellectual ability in one or more of the areas identified in subsection."
 - [WAC 392-172A-03080](#)
 - (B) "The student meets eligibility through a severe discrepancy model consistent with [WAC 392-172A-03070](#);" and
 - (C) the words, "or (B);"
- **Revise**:
 - [WAC 392-172A-3065](#) and [WAC 392-172A-3070](#): Severe Discrepancy to include the following language:
 - "During a three-year sunseting of the discrepancy method, school-based teams may continue to follow the rules that govern use of discrepancy tables (WAC 392-172A-3065) for documenting a severe discrepancy (WAC 392-

172A-3070) in evaluating students suspected of having a specific learning disability.”

- **Retain:**
 - [WAC 392-172A-03060](#)
 - [WAC 392-172A-01165](#)

Recommended Practices

The following sections provide guidance for districts to use RTI for eligibility decisions within an MTSS framework and use of PSW when additional data are needed to support eligibility decisions. The SLD stakeholder cadre recommends that Washington state follow the [NCLD 2019 Joint Principles for Eligibility for Special Education Under a Specific Learning Disability Classification](#). Principles 1–3 address the needs of all students and call for:

1. Rigorous, differentiated universally designed core curriculum with evidence-based supplemental interventions,
2. Teaming practices supported by professional development for data-based decision-making with screening and progress monitoring, and
3. Strong collaboration with families throughout the development and monitoring process.

Principle 4 calls for an evaluation that leads to clear, unbiased, and timely decision-making regarding eligibility for special education services when a disability is suspected. The Joint Principles provide a foundation for the implementation of RTI and assist to rule out a lack of high-quality instruction in considering student eligibility for special education services.

Using RTI for Eligibility Decision-Making within an MTSS Framework

Decision-making for eligibility with RTI takes place within schools that have well established assessment and instructional practices within their MTSS frameworks. The National Center on Response to Intervention (NCRTI) at the American Institutes of Research (AIR) describes the following as essential components for effective decision-making for RTI:

- Assessments—screening, progress monitoring, and other supporting assessments are used to inform data-based decision-making;
- Data-based decision-making processes are used to inform instruction, movement within the multi-level system, and disability identification (in accordance with state law);
- Multi-level Instruction—the MTSS framework includes a school-wide, multi-level system of instruction and interventions for preventing school failure. Commonly represented by the three-tiered triangle, multi-level instruction also is known as the multi-tiered system of supports (MTSS);
- Infrastructure and Support Mechanisms—knowledge, resources, and organizational structures necessary to operationalize all components of RTI in a unified system to meet the

established goals. This includes professional development, leadership, teaming, schedules, collaboration with families, and culturally responsive practices; and

- Fidelity and Evaluation systems for collecting and analyzing data to measure fidelity and effectiveness of the RTI model.

Principle 5 of the [Joint Principles](#) calls for the use of reliable and valid tools and practices and encourages consistency across school districts. Principle 8 encourages use of RTI data as an essential part of the evaluation and states that school personnel must not use RTI procedures to delay a comprehensive evaluation. A major concern that exists among Washington's School Psychologists is that while it is theoretically defensible to recommend "the use of reliable and valid tools and practices" for 'SLD identification', the existence of such tools and practices for all eight areas of SLD eligibility is not widely known and rarely used. It will be the responsibility of districts to provide the resources needed for School Psychologists to obtain the necessary Professional Development around the assessment of all eight areas and the responsibility of the school districts to guarantee that the building assessment teams have access to these assessment tools as well as tiered pathways of intervention for all eight areas. Psychologists must also remember that while, without a severe discrepancy model the use of standardized academic achievement tests are no longer required, they continue to represent a source of data that can be used in the comprehensive evaluation.

To maintain consistency and timely decision-making, the SLD stakeholder cadre recommends the use of a dual discrepancy approach (Fuchs, Mock, Morgan, & Young, 2003; Kovalski & Prasse, 2004), where teams document both significantly low levels of achievement in the area of specified academic need (i.e., one of the eight areas of SLD WAC 392-172A-03055.a-h) and significantly low rate of improvement (ROI) compared to local and/or national norms. The concepts of low academic achievement and insufficient progress are not normed for all students but rather must be discussed and criteria set by the building referral/intervention team and will likely be grade dependent. Both concepts pertain to the student's ability to access the general education curriculum. While the concept of low academic achievement will be discussed in more detail in the guidance document, a general rule of thumb is that low academic achievement equates to the bottom 10% on an assessment tool when compared to peers. A one-year academic achievement level deficit may be relatively insignificant at the upper elementary school level, but extremely significant in the early elementary ages. Similarly, a half-year's growth may be quite insignificant at the upper elementary school level, but again, quite significant at the lower grades. Progress is typically measured in terms of a goal and aim line, which allows for an assessment of growth with the goal and timeline in mind. The goal and reasonable progress toward that goal should be a decision made by the building referral/intervention team in conjunction with parent input and buy-in when goals are set. Progress to goal must be reviewed regularly with adjustments to intervention intensity when appropriate. Additional recommendations and examples of how to develop appropriate goals, aim lines and criteria for adequate progress appears in the Guidance document.

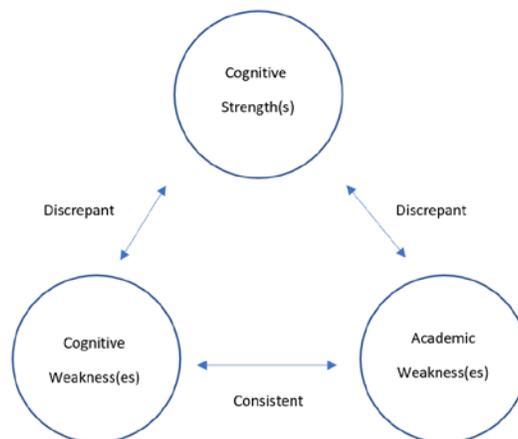
Considerations for Additional Data: Patterns of Strengths and Weaknesses

In cases where a student has not demonstrated adequate progress within a tiered delivery system, a comprehensive psychoeducational evaluation may be warranted. Joint Principle 7 NCLD encourages the use of measures of cognitive functioning when the assessments are needed to rule out intellectual disabilities or to inform educational decisions to better understand the student's strengths and weaknesses. The purpose of the comprehensive psychoeducational evaluation is to answer the following three questions:

1. Does the student have a disability as defined by the IDEA (in this case specific learning disability)?
2. Does the disability adversely affect academic performance?
3. Does the student require special education services and/or specially designed instruction (SDI)?

One way in which school districts can answer the first question is by using a PSW approach for identifying SLD within a comprehensive psychoeducational evaluation.

The conceptual framework for PSW began around 2000; however, the widespread implementation and use by practitioners has not happened until more recently (i.e., last few years). As such, PSW approaches for SLD identification are in their infancy and much confusion exists regarding the overall conceptual framework of PSW and how to implement this approach to identify SLD within a comprehensive psychoeducational evaluation (Flanagan & Schneider, 2016). Therefore, one of the purposes of this report is to provide clarification for educational stakeholder groups regarding a conceptual framework of PSW and how to implement PSW within school districts. The conceptual framework for PSW is as follows:



*Note. In general, when a cognitive strength(s) is discrepant from a cognitive weakness(es) **AND** a cognitive strength(s) is discrepant from an academic weakness(es) **AND** a cognitive weakness(es) is*

consistent with an academic weakness(es), a pattern of strengths and weaknesses (PSW) may be indicated. Further details regarding PSW for eligibility determination will be provided in the revised SLD Handbook.

Cognitive Strength(s) Defined: There are two ways in which a cognitive strength can be determined. The first way is through a normative or interindividual comparison that involves a comparison of differences between individuals. Experts suggest that for the purpose of PSW analysis, a cognitive strength is indicated typically when performance in one or more cognitive domain(s) (e.g., fluid reasoning, working memory, etc.) on a standardized, norm-referenced test is within the average range or above (e.g., standard score(SS) \geq 90). The second way is through an ipsative or intraindividual comparison of within individual differences. This comparison involves comparing a student's individual performance within or across cognitive domains. A cognitive strength is indicated if an individual performs statistically significantly higher in one or more cognitive domain(s) than the others measured.

Cognitive Weakness(es) Defined: Like a cognitive strength, there are two ways in which a cognitive weakness can be determined. The first way is through a normative or interindividual comparison that involves a comparison of differences between individuals. Experts suggest that for the purpose of PSW analysis, a cognitive weakness is indicated typically when performance in one or more cognitive domain(s) (e.g., fluid reasoning, working memory, etc.) on a standardized, norm-referenced test falls below the average range (e.g., SS $<$ 90). The second way is through an ipsative or intraindividual comparison of within individual differences. This comparison involves comparing a student's individual performance within or across cognitive domains. A cognitive weakness is indicated if an individual performs statistically significantly lower in one or more cognitive domain(s) than the others measured.

Academic Weakness(es) Defined: Like a cognitive weakness, there are two ways in which an academic weakness can be determined. The first way is through a normative or interindividual comparison. Experts suggest that for the purpose of PSW analysis, an academic weakness is indicated typically when performance in one or more academic skill domain(s) (e.g., math calculation, basic reading skills, written expression, etc.) on a standardized, norm-referenced test falls below the average range (e.g., SS $<$ 90). The second way is through an ipsative or intraindividual comparison. This comparison involves comparing a student's individual performance within or across academic skill domains. An academic weakness is indicated if an individual performs statistically significantly lower in one or more academic skill domain(s) than the others measured. There is variability among PSW models regarding whether academic strengths must also be present.

Discrepant Defined: If two composite standard scores are statistically significantly different, they are considered discrepant. Another way to ascertain if two scores are discrepant is to determine whether the confidence intervals of the two scores overlap. If the confidence intervals of two scores do not overlap, they are considered discrepant.

Consistent Defined: If two composite standard scores are not statistically significantly different, they are considered consistent in some PSW models. In addition to no statistically significant

difference between the scores, several experts on PSW suggest that the identified cognitive and academic weaknesses must have a documented research-based relationship and/or be ecologically valid. In other models, consistency is not based on whether the difference between the scores is statistically significant. Rather, consistency is based on whether those scores were identified as weaknesses (i.e., <90) and the relationship between the constructs represented by the scores is supported by research. See Appendix for a description of implementation steps.

Impact to School Districts

MTSS/RTI - While many schools in Washington have successful components of MTSS in place, most lack cohesive and integrated systems of support for students. Districts and buildings are encouraged to conduct needs assessments to determine their current strengths and challenges. McIntosh and Goodman (2016) suggest the use of resource mapping to identify what is already in place before determining what practices to add. Multiple initiatives at the statewide level are in place to assist districts and buildings in moving forward with this important work. In 2019, OSPI secured funding through a School Climate Transformation Grant and is providing PLC support to districts regarding MTSS implementation. The grant provided funding for regional MTSS conferences, known as “MTSS Fest.” The most recent conference was offered virtually in May 2020. One session from MTSS Fest 2020 offered by William Rasplica (NCII) and Kelly Glick (Franklin Pierce School District) highlights one district’s pathway to move away from the discrepancy approach for SLD identification to RTI can be found at this link: [Moving From an Ability/Achievement Discrepancy Model to Using RTI Data Within a Comprehensive Evaluation](#).

Recent legislation and emphases on dyslexia, discipline reform, social emotional learning (SEL), and early childhood education all point to the need for MTSS implementation and will provide both rationale and additional support for districts and buildings as they move forward to examine and improve their MTSS models. In 2020, OSPI successfully obtained federal funding for state personnel development aligned with MTSS. This grant will provide opportunities for regional training and coaching for districts as they move forward. OSPI has recently developed a guidance document that will provide a framework and overview of resources for districts to use as they move forward. Training modules and related resources will be in development throughout the 2020–21 academic year. OSPI has Resources for buildings and districts will be updated regularly and may be located here: [OSPI - Support Programs - MTSS](#).

Patterns of Strengths and Weaknesses: Given advances in theory, research, and practice in SLD identification and intervention, a fundamental change in how evaluation teams conceptualize and implement a comprehensive psychoeducational evaluation for SLD is warranted in Washington state. To maximize the efficacy of the SLD identification process, a commitment to the professional development of its staff is needed. This would allow school districts to transition smoothly away from outdated practices, such as simple discrepancy models, to current practices that improve the identification and support of individuals with SLD.

Phase-Out Timeline with Required Benchmarks

The SLD cadre engaged in consultancy interviews with other state agencies (i.e., Florida, Colorado, and North Carolina). Insights on issues related to a phaseout of the discrepancy model were gleaned through interviews, particularly around the need for required benchmarks to meet the phaseout date. The SLD cadre determined that a three-year phaseout of the discrepancy model is feasible based on current policies requiring school districts to implement a MTSS/RTI framework by school year 2021–22 for students in grades K thru 2 ([RCW 28A.320.260](#)). Early spring 2021, external feedback on the proposed phaseout was received by inter- and intra-agency partners, parents/parent advocacy groups, and school district personnel. Based on this additional feedback, a need to extend phaseout of the discrepancy method is realized. Additionally, based on the status of RTI implementation statewide, phaseout of the discrepancy model requires a multi-year transition and implementation process to ensure district readiness and successful transition and implementation of proposed rule changes. Table 1 outlines a proposed multi-year timeline with benchmark status required of school districts to ensure a statewide phaseout of the discrepancy model by the beginning of school year 2028.

	Recommended Benchmarks
Year 1 SY 2021–22	<ul style="list-style-type: none"> ❖ Complete campus needs assessment, K-12, in reading, math, and writing (e.g., Essential Components for RTI Integrity Rubric) and develop a three-year plan related to MTSS/RTI process and implementation, professional development, and resources ❖ Districts must comply with Dyslexia regulations RCW 28A.230.260. See the Dyslexia Implementation Early Screening Guide for additional information ❖ Build and implement Universal Design Learning (UDL strategies) districtwide to support Tier I instruction and interventions
Year 2 SY 2022–23	<ul style="list-style-type: none"> ❖ Initiate professional development and resource procurement based on needs assessment data ❖ School teams begin to utilize universal screening and progress monitoring data with the intent of identifying academically at-risk students who are potential special education referrals ❖ Districts create workgroups to review and revise as needed special education school board policies Washington State School Directors’ Association ((WSSDA) Form 2161)
Year 3 SY 2023–24	<ul style="list-style-type: none"> ❖ K-12 assessment teams begin to utilize progress monitoring data as part of a comprehensive evaluation for identification of students with a learning disability ❖ Districts submit special education school board policy (WSSDA Form 2161) ❖ Monitoring, evaluation, and improvement of fidelity cycles (e.g., Fidelity Inventories)
Year 4–9 SY 2023–2028	<ul style="list-style-type: none"> ❖ Ongoing multi-year implementation and transition of SLD evaluation using an RTI process, and phaseout of the discrepancy method by 2028 ❖ Continuous improvement, ongoing support activities, and technical assistance

Table 1. Phase-out Timeline with Required Benchmarks

CONCLUSIONS

When the SLD cadre initially met, one outcome surfaced immediately and unanimously—the sunsetting of the severe discrepancy model for identifying eligibility of SLD. For reasons already explained in this report, this model was viewed as deficient in many respects including the perpetuating of disproportionality among learning-disabled populations as well as creating a ‘wait-to-fail’ model that was not assisting students to be successful in general education. Once discarded, the focus of the cadre was on designing a model for special education eligibility that met the needs of ALL students in addition to the federal IDEA guidelines. For over a year the cadre reviewed various state models; interviewed state Department of Education representatives and discussed potential impacts of the models.

It was recognized that Washington’s school districts are moving toward a MTSS model that involves prevention, early identification, and intervention. MTSS is holistic in that it addresses not only academic needs, but the social, emotional, and behavioral needs of students as well. The MTSS framework will serve as the overarching umbrella, which will include implementation and data collection that can be used within a comprehensive evaluation for special education. This model will also allow us to view eligibility for special education as more far-reaching than merely the one category, SLD. The RTI framework will provide data for all eight eligibility areas of SLD (reading comprehension, basic reading skills, reading fluency skills, math computation, math problem-solving, written expression, listening comprehension, oral expression). It is understood by the cadre that districts vary with respect to their readiness to follow an MTSS or RTI framework at this time. The expectation is that soon, MTSS processes can be utilized to provide data through universal screening, diagnostic evaluation, and progress monitoring with respect to all eight SLD areas as well as other handicapping categories (i.e., social emotional disabilities).

The recommendations herein would allow, upon a student being referred for a comprehensive evaluation to determine eligibility for special education services, the Multi-Disciplinary Team (MDT) will identify additional data required for a decision regarding eligibility. In addition to observation in the learning environment, parent and student interview data and a review of all educational and relevant medical records, the comprehensive evaluation **might** include assessments in the areas of cognition (identifying a PSW) that would reflect the pattern of academic strengths and weaknesses observed in the student and might additionally address the area of executive functioning), social-emotional development, fine/gross motor, communication, and adaptive daily-living skills.

The proposed evaluation approach is one component of a comprehensive evaluation, required to establish eligibility for special education services, allowing additional data as necessary to better understand the disability, the adverse impact that the disability is exerting, and the need for specially designed instruction. See the Appendix for more information about evaluations using the MTSS/RTI approach and use of additional information based on the PSW process.

NEXT STEPS

The SLD cadre recommends the following as next steps:

Item No.	Action	Start By	Complete By
1	Seek additional feedback from external stakeholders (i.e., WEA, ESD Directors, parent advocacy groups).	11/13/2020	11/30/2020
2	Revise WACs (rules for the provision of special education) spring school year 2020–2021	01/01/2021	05/01/2021
3	Conduct an internal review of related OSPI Special Education procedures (i.e., requirements for submission of policy changes, WISM monitoring of evaluations and eligibility) and adjust requirements as needed	01/10/2021	03/01/2021
4	Begin three-year phaseout of discrepancy model school year 2021–2022	08/01/2021	06/25/2024
5	Create communication media around proposed changes spring 2021 (i.e., sunseting discrepancy, phase-out benchmarks, professional development, resources, FAQs)	03/01/2021	06/31/2021
6	Coordinate professional development through lead agencies and external partners (i.e., WASA, WSASP, WEA, AWSP, school districts). See the OSPI MTSS/RTI website for recommended professional development and resources	01/01/2021	Ongoing

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REFERENCES

Artiles, A.J., Rueda, R., Salazar, J.J., & Higuera, I. (2005). Within-group diversity in minority disproportionate representation: English Language Learners in urban school districts. *Exceptional Children, 71* (3), 283–301. doi:10.1177/001440290507100305

Flanagan, D. P., & Schneider, W. J. (2016). Cross-Battery Assessment? XBA PSW? A case of mistaken identity: A commentary on Kranzler and colleagues' "Classification agreement analysis of Cross-Battery Assessment in the identification of specific learning disorders in children and youth", *International Journal of School and Educational Psychology, 4* (3), 137–145. <https://doi.org/10.1080/21683603.2016.1192852>.

Fuchs, D., Mock, D., Morgan, P. L., & Young, C. L. (2003). Responsiveness-to-intervention: Definitions, evidence, and implications for the learning disabilities construct. *Learning Disabilities Research and Practice, 18* (3), 157–171. doi:10.1111/1540-5826.00072

Hall, T.E., Meyer, A., & Rose, D.H. (2012). *Universal design for learning in the classroom: Practical applications*. New York: The Guilford Press.

Ihori, D., & Olvera, P. (2015). Discrepancies, responses, and patterns: Selecting a method of assessment for specific learning disabilities. *Contemporary School Psychology, 19*(1), 1–11. doi:10.1007/s40688-014-0042-6

Johnson, E., Mellard, D.F., Fuchs, D., & McKnight, M.A. (2006). *Responsiveness to intervention (RTI): How to do it*. Lawrence, KS: National Research Center on Learning Disabilities.

Kovaleski, J.F., & Prasse, D.P. (2004). *Response to instruction in the identification of learning disabilities: A guide for school teams*. Bethesda, MD: National Association of School Psychologists.

McIntosh, K., & Goodman, S. (2016). *Integrated multi-tiered systems of support: Blending RTI and PBIS*. New York: The Guilford Press.

National Center for Learning Disabilities. (2019). [Eligibility for Special Education Under a Specific Learning Disability Classification](#).

National Center on Response to Intervention. (2014). [RTI essential components integrity rubric](#).

Patton, J.M. (1998). The disproportionate representation of African Americans in special education: Looking behind the curtain for understanding and solutions. *The Journal of Special Education*, 32 (1), 25–31. doi:10.1177/002246699803200104

Restori, A. F., Katz, G. S., & Lee, H. B. (2009). A critique of the IQ / achievement discrepancy model for identifying specific learning disabilities. *Europe's Journal of Psychology*, 5(4), 128–145.

Skiba, R.J., Simmons, A.B., Ritter, S., Gibb, A.C., Rausch, M.K., Caudraro, J., & Choong-Geun, C. (2008). Achieving equity in special education: History, status, and current challenges. *Exceptional Children*, 74 (3), 264–288. doi:10.1177/001440290807400301

Ward, C., St. Martin, K., Horner, R., Duda, M., Ingram-West, K., Tedesco, M., Putnam, D., Buenrostro, M., & Chaparro, E. (2015). *District capacity assessment*. National Implementation Research Network, University of North Carolina at Chapel Hill

APPENDIX

Proposed Changes to Washington Administrative Code

The proposed evaluation model requires changes to current WAC rules governing evaluations for specific learning disabilities. The underscored sections would be removed from this WAC following the due date of the phaseout of the discrepancy model. The following rules with proposed changes are underscored below:

WACS Specific to SLD Eligibility

WAC 392-172A-3045: District procedures for specific learning disabilities.

In addition to the evaluation procedures for determining whether students are eligible for special education, school districts must follow additional procedures for identifying whether a student has a specific learning disability. Each school district shall develop procedures for the identification of students with specific learning disabilities which include the use of:

~~(1) A severe discrepancy between intellectual ability and achievement; or~~

~~(2)(1) A process based on the student's response to scientific, research-based intervention; or~~

~~(3) A combination of both within a school district, provided that the evaluation process used is the same for all students within the selected grades or buildings within the school district and is in accordance with district procedures.~~

WAC 392-172A-03055: Specific learning disability—Determination.

The group described in WAC 392-172A-03050 may determine that a student has a specific learning disability if:

(1) The student does not achieve adequately for the student's age or meet the state's grade level standards when provided with learning experiences and instruction appropriate for the student's age in one or more of the following areas:

(a) Oral expression.

(b) Listening comprehension.

(c) Written expression.

(d) Basic reading skill.

(e) Reading fluency skills.

(f) Reading comprehension.

(g) Mathematics calculation.

(h) Mathematics problem solving.

(2)(a) The student does not make sufficient progress to meet age or state grade level standards in one or more of the areas identified in subsection (1) of this section when using a process based on the student's response to scientific, research-based intervention ~~or the group finds that the student has a severe discrepancy between achievement and intellectual ability in one or more of the areas~~ identified in subsection (1) of this section; and

(b) When considering eligibility under (a) of this subsection, the group may also consider whether the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state grade level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, and through review of existing data.

(3) The group determines that its findings under subsection (2) of this section are not primarily the result of:

- (a) A visual, hearing, or motor disability;
- (b) Intellectual disability;
- (c) Emotional disturbance;
- (d) Cultural factors;
- (e) Environmental or economic disadvantage; or
- (f) Limited English proficiency.

(4) To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider:

- (a) Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
- (b) 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.

(5) The district or other public agency must promptly request parental consent to evaluate the student to determine if the student needs special education and related services, and must adhere to the time frames for an initial evaluation under [WAC 392-172A-03005](#):

- (a) If, prior to a referral, a student has not made adequate progress after an appropriate period when provided instruction, as described in subsection (4)(a) and (b) of this section; or
- (b) Whenever a student is referred for an evaluation.

Severe Discrepancy: [WAC 392-172A-3065](#) and [WAC 392-172A-3070](#)

During a three year sunseting of the discrepancy method, school-based teams may continue to follow the rules that govern use of discrepancy tables (WAC 392-172A-3065) for documenting a severe discrepancy (WAC 392-172A-3070) in evaluating students suspected of having a specific learning disability.

[WAC 392-172A-03080](#)

The highlighted sections would be removed from this WAC following the due date of the phaseout of the discrepancy model.

WAC 392-172A-03080 Specific documentation for the eligibility determination of students suspected of having specific learning disabilities states:

(1) In addition to the requirements for evaluation reports under [WAC 392-172A-03035](#), for a student suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:

(a) Whether the student has a specific learning disability;

(b) The basis for making the determination, including an assurance that the determination has been made in accordance with [WAC 392-172A-03040](#);

(c) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;

(d) Any educationally relevant medical findings;

(e) Whether:

(i) The student does not achieve adequately for the student's age or meet state grade level standards in one or more of the areas described in [WAC 392-172A-03055\(1\)](#); and

(ii)(A) The student does not make sufficient progress to meet age or state grade level standards when using a process based on the student's response to scientific research-based interventions consistent with [WAC 392-172A-03060](#); or

~~(B) The student meets eligibility through a severe discrepancy model consistent with WAC 392-172A-03070; and~~

(C) If used as part of the eligibility determination under (A) ~~or (B)~~ of this subsection, a discussion of the student's pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state grade level standards, or intellectual development.

(f) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and

(g) If the student has participated in a process that assesses the student's response to scientific, research-based intervention:

(i) The instructional strategies used, and the student-centered data collected in accordance with the district's response to intervention procedures; and

(ii) The documentation that the student's parents were notified about:

(A) State and school district policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(B) Strategies for increasing the student's rate of learning; and

(C) The parents' right to request an evaluation.

(2) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

WACS Specific to RTI Approach

WAC 392-172A-03060 states that school districts using an RTI approach should adopt procedures to ensure that such process includes the following elements:

- "Universal screening and/or benchmarking at fixed intervals at least three times throughout the school year;
- A high-quality core curriculum designed to meet the instructional needs of all students;
- Scientific research-based interventions as defined in [WAC 392-172A-01165](#) are identified for use with students needing additional instruction;
- Scientific research-based interventions used with a student are appropriate for the student's identified need and are implemented with fidelity;
- A multi-tiered model is developed for delivering both the core curriculum and strategic and intensive scientific research-based interventions in the general education setting;
- Frequent monitoring of individual student progress occurs in accordance with the constructs of the multi-tiered delivery system implemented in the school consistent with the intervention and tier at which it is being applied; and
- Decision-making using problem solving or standard treatment protocol techniques is based upon, but not limited to, student centered data including the use of curriculum-based measures, available standardized assessment data, intensive interventions, and instructional performance level."

WAC 392-172A-03060 requires the previous elements, because school districts must show that:

- “The student's general education core curriculum instruction provided the student the opportunity to increase her or his rate of learning;
- Two or more intensive scientific research-based interventions, identified to allow the student to progress toward his or her improvement targets, were implemented with fidelity and for a sufficient duration to establish that the student's rate of learning in the general education setting, in addition to or in place of the core curriculum, did not increase or allow the student to reach the targets identified for the student; and
- The duration of the intensive scientific research-based interventions that were implemented was long enough to gather sufficient data points below the student's aim line to demonstrate student response for each of the interventions through progress monitoring to determine the effectiveness of the interventions.”

Clarification and Resources to Support WAC 392-172A-03060 Requirements

Universal Screening

Best practices for universal screening include that districts use screening tools three times across the year with ALL students. These screening tools should be reliable and valid and should accurately predict risk status for students. Screening data, along with other data used to identify the student as underachieving, should be incorporated in comprehensive evaluation reports to establish an adverse impact and need for specially designed instruction.

High quality core curriculum designed to meet the instructional needs of all students

According to the NCRTI, Tier 1 instruction should include research and standards-based curriculum. Schools should be using high quality core curriculum that is appropriate for the population of learners at the school and have methods of checking for fidelity of implementation, which may include peer to peer observations, discussion through Professional Learning Communities (PLCs), coaching, and principal observations. We recommend a proactive model of assuring fidelity of implementation across all components of an RTI System. Additionally, teachers should: 1) articulate learning within and across grades so that all students have opportunity for strong learning experiences; 2) differentiate learning experiences so that students are receiving core instruction with appropriate accommodations and not at frustration level; and 3) receive strong professional development to support their implementation of core curriculum. Applying principles of universal design for learning (UDL; Hall, Meyer, & Rose, 2012) provides a foundation for teachers to enhance success in diverse classrooms. With UDL, strategies that are helpful to support students with additional needs are recognized as potentially benefiting all students (McIntosh & Goodman, 2016).

Evidence-based interventions for students needing additional instruction

WAC 392-172A-01165 defines scientifically based research as:

1. "Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and
2. Includes research that:
 - a. Employs systematic, empirical methods that draw on observation or experiment;
 - b. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
 - c. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
 - d. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random assignment experiments, or other designs to the extent that those designs contain within condition or across condition controls;
 - e. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
 - f. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review."

Additionally, interventions utilized for supplemental (strategic or Tier II) interventions should be (1) well aligned with the core curriculum and teach/support foundational skills for students to be successful in the core curriculum, (2) delivered with fidelity (see resources in C-2 above), (3) led by well-trained staff and have group optimal size (according to program's manual and research), and 4) be offered through additional time (not during core instructional time).

Frequent progress monitoring and data-based decision-making

When students are identified as needing supplemental (strategic or Tier II) interventions, schools must set goals for students to determine the program's effectiveness. In an RTI system, goals are generally measured with curriculum-based measures (CBM). Progress monitoring tools should have multiple alternate forms of equal and controlled difficulty and have evidence of reliability and validity for performance level and slope, specify minimum acceptable growth, and provide benchmarks for end of the year performance. Teams must use systematic means to set goals for students using end of the year benchmarks or national norms for rate of improvement.

For timely and effective decision-making in RTI, we suggest that data teams or PLC teams collaborate to monitor and adjust Tier II interventions. Teams are typically composed of grade level

or department teacher teams, plus building reading specialists and other intervention specialists (such as an ELL teacher, school psychologist, etc.). This ensures consistent implementation of interventions and progress monitoring across grade level/department and helps to increase reliability. A highly effective model at the elementary school level calls for grade level PLCs to meet weekly to allow for discussion of Tier I implementation and student progress, then troubleshoot any pressing Tier II/Tier III issues. Each grade level then meets every six weeks with a building level team to make decisions about students in Tier II/III level interventions. School based data teams or PLC teams should monitor Tier II interventions at least twice monthly. We recommend weekly progress monitoring when making decisions about response to intervention.

It is important that teams utilize progress monitoring tools that are measuring the skills taught in the intervention, that are sensitive to change, and that are not at a frustration level. While schools should administer benchmark (screening) tools with grade level probes to all students, they should use progress monitoring tools that are at instructional level for the student.

To follow procedures consistent with [WAC 392-172A-01165](#), school-based teams must look at data from a first intervention phase and utilize decision-making rules regarding progress monitoring data. If a student does not demonstrate adequate progress utilizing a 4 data point (looking at the last 4 data points with at least 6 data points of intervention required) or trend line rule (comparing the trend line to the goal line with at least six data points), the school should consider making a change in the intervention. School based Data/PLC teams should utilize a problem-solving process involving consultation from individuals with knowledge and experience with reading interventions. The team may choose to intensify the intervention in five possible ways (or combinations thereof), including changes in:

1. Frequency of the intervention (increase the sessions of intervention per week)
2. Duration of the intervention (increase the time of sessions per week)
3. Group size (decrease the group size to provide more individualized instruction and feedback)
4. Interventionist (consider using an instructional coach or teacher with more experience)
5. Program used for intervention (utilize a different program)

After the second phase of intervention, the school-based team may again apply one of the two decision-making rules (4 data point rule or trend line analysis). If the student is demonstrating significantly lower rate of improvement and level of performance compared to peers, the team may refer for a more comprehensive evaluation.

A note about Tier III (Intensive) Intervention: Tier III interventions are typically provided for students who do not make adequate progress with Tier II interventions. The school-based team may determine that a student at this place in the intervention process will best be served by having a comprehensive evaluation and specially designed instruction (SDI). Tier III interventions are more frequent, longer in duration, and occur one-on-one or in a very small group (no more than three students). In addition, Tier III interventions should be delivered by well trained staff experienced in

individualizing instruction based on student data (NCRTI, 2014). Tier III Intervention programs are highly targeted toward the student's specific area of need(s) and utilize evidence-based interventions with fidelity. However, Tier III interventions may be applied differently for a period. For example, a student who speaks very limited English may be served most effectively by starting with Tier III intervention targeted at vocabulary development (functional English), along with Tier I/core instruction. As the ELL student gains proficiency in English, they can move into Tier II intervention. Weekly progress monitoring should accompany all Tier III intervention efforts, to ensure that adequate progress is being made.

PSW Implementation Steps

Although there are many ways to conduct a PSW analysis following a comprehensive psychoeducational evaluation, this report provides a general framework for practitioners to reference.

Step 1: Administer standardized, norm-referenced measures of academic achievement in the areas of suspected difficulty. The purpose of beginning the formal assessment with academic achievement measures is that SLD requires that an individual has a weakness in one or more academic skills (e.g., oral expression, reading fluency, etc.). If an individual does not have an academic weakness as defined above, SLD may not be indicated. If, however, test results suggest an academic weakness that is corroborated by other data sources, move to Step 2.

Step 2: Determine whether one or more exclusionary factors is the *primary* reason for academic skill weaknesses, as one or more of these factors is often *contributory* and does not "rule out" SLD. The definition of SLD does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage. Therefore, the evaluation team must "rule out" exclusionary factors as a primary reason for academic skill weaknesses prior to moving to Step 3.

Step 3: Administer standardized, norm-referenced measures of cognitive abilities and processes because, SLD involves a disorder in one or more of the basic psychological processes. Experts typically agree that the cognitive abilities and processes most closely associated with the individual's specific academic skill weaknesses should be assessed.

Step 4: Determine whether the results of a PSW analysis support the classification of SLD within the context of the case conceptualization.

Step 5: Ensure that data are gathered from multiple sources, through multiple methods, and across multiple settings. Determine whether there is sufficient convergence of indicators, including the results of PSW analysis, and clinical judgment to warrant a classification of SLD. This classification decision is made by a multidisciplinary team, which includes parents.