

SENATE, No. 3991

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 24, 2021

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes requirements concerning methods for determining whether child has specific learning disability under federal Individuals with Disabilities Education Act.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the identification of students with specific
2 learning disabilities and supplementing chapter 46 of Title 18A
3 of the New Jersey Statutes.

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5 BE IT ENACTED by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. a. The State criteria for determining whether a child has a
9 specific learning disability under the federal “Individuals with
10 Disabilities Education Act,” 20 U.S.C. s.1400 et seq., shall:

11 (1) permit the use of a process based on the child’s response to
12 scientific, research-based intervention;

13 (2) permit the use of other alternative research-based
14 procedures; and

15 (3) effective July 1, 2023, prohibit the use of a severe
16 discrepancy between intellectual ability and achievement for
17 determining whether a child has a specific learning disability.

18 b. The State Board of Education shall promulgate regulations
19 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
20 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this
21 section. The regulations shall permit the use of methodologies for
22 determining whether a child has a specific learning disability that
23 are consistent with the provisions of this section.

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25 2. This act shall take effect immediately.

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28 STATEMENT

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30 This bill establishes requirements concerning the methods used
31 to determine whether a child has a specific learning disability under
32 the federal “Individuals with Disabilities Education Act” (IDEA),
33 20 U.S.C. s.1400 et seq.

34 Under the IDEA, states that receive federal special education
35 funding are required to implement procedures for the identification
36 and evaluation of children with disabilities who require special
37 education and related services. Federal regulations implementing
38 the IDEA at 34 C.F.R. s.300.307 provide that a state’s criteria for
39 determining whether a child has a specific learning disability: (1)
40 must not require the use of a severe discrepancy between
41 intellectual ability and achievement; (2) must permit the use of a
42 process based on the child’s response to scientific, research-based
43 intervention; and (3) may permit the use of other alternative
44 research-based procedures.

45 However, the State Board of Education regulations at
46 N.J.A.C.6A:14-3.5(c)12 only permit school districts to use two
47 methodologies for determining whether a child has a specific
48 learning disability under the IDEA: (1) a severe discrepancy

1 between achievement and intellectual ability; and (2) use of a
2 response to scientifically based interventions methodology.

3 This bill requires the State to include the third approach under
4 federal IDEA regulations and permit the use of other alternative
5 research-based procedures for determining whether a child has a
6 specific learning disability. Adoption of this method of specific
7 learning disability identification will allow school districts to use
8 identification procedures that are consistent with core research
9 principles.

10 Additionally, effective July 1, 2023, this bill prohibits the use of
11 a severe discrepancy between a child's intellectual ability and
12 achievement in determining whether the child has a specific
13 learning disability. The use of severe discrepancy criteria has a
14 long-standing history of controversy and criticism, with many
15 experts believing that the practice should no longer be allowed.

16 The bill also directs the State Board of Education to promulgate
17 regulations to effectuate the provisions of this bill.