



NATIONAL
ASSOCIATION OF
SCHOOL
PSYCHOLOGISTS

NASP Recommendations for IDEA Reauthorization: Identification and Eligibility Determination for Students with Specific Learning Disabilities

The National Association of School Psychologists (NASP) represents approximately 23,000 school psychologists, promotes educationally and psychologically healthy environments for children and their families by implementing research-based, effective programs that promote healthy behaviors, enhance independence and promote optimal learning. This is accomplished through state-of-the-art research and training, advocacy, ongoing program evaluation, and caring professional service. The following document represents our thoughts and recommendations for strengthening the Individuals with Disabilities Education Act (IDEA) regarding the eligibility and identification of learning disabilities.

School psychologists work within many contexts of IDEA, providing accurate and comprehensive assessments, providing education and professional development for other educators and staff, developing and implementing individualized education programs and behavioral intervention plans, providing community and school-based mental health and psychological services, consulting with parents and teachers on strategies to improve academic success, and linking students and families to resources within the community.

NASP applauds the approach the Administration is taking to focus on early identification and intervention of reading and other learning problems. NASP strongly supports efforts to intervene as early as possible to avoid more costly and extensive services down the road, or even the need to refer to special education at all. We all know that the “wait and fail” model serves no one. School psychologists play a key role in this type of early identification and problem solving.

NASP also supports the Administration’s position that schools can and should address many needs of students within the general education curriculum, without having to place them in special education. This approach can only succeed, however, if adequate services are accessible in the general education setting. We know that the paradox of IDEA is that you must place in special education students who need additional help in order to get them needed services. If concerns surround the growing numbers of students in special education, then services -- and the resources to provide these services -- must be offered and available outside of special education.

School psychologists often act as the bridge between special education and general education programs, school and community-based programs and services, and parents and the school community. Most importantly, we are specifically trained to link mental health and learning deficits to successful academic interventions. For these reasons, we are integral players in successful and effective application of IDEA principles and practice.

NASP has received many comments from our members on both the positive aspects resulting from the prior authorization and suggestions for improvements. We would like to highlight recommendations on LD eligibility and identification for your consideration. Some recommendations allow for either statewide or school district implementation, depending upon the manner in which the state chooses to adopt rules. We look forward to continued dialogue as IDEA reform plans are developed.

Core Concepts

1. Maintain current *definition* of LD in law (see IDEA 1997), but change *eligibility criteria* in regulations.
2. Eliminate use of the scientifically unsupported ability-achievement discrepancy requirement.
3. As an alternative, introduce a multi-tiered model that is based on the dual criteria of significantly low underachievement and insufficient response to intervention. The multi-tiered model ensures that students with learning problems receive supports in general education in a timely manner. These supports specifically include:
 - a. Curriculum-based assessment and targeted interventions to ensure acquisition of literacy and numeracy skills during the primary grades, and
 - b. A systematic problem-solving process.

Characteristic features of the multi-tiered model are as follows (as elaborated upon in Appendix A):

Tier 1: High quality instructional and behavioral supports for all students in general education

Tier 2: Targeted intensive prevention or remediation services for students whose performance and rate of progress lag behind the norm for their grade and educational setting

Tier 3: Comprehensive evaluation by a multi-disciplinary team to determine eligibility for special education and related services

4. School psychologists are key members of teams designing and supporting Tier 2 interventions; designing and implementing appropriate assessment activities at Tier 3; and providing training and evaluation activities to support the model at all levels.
5. Multidisciplinary teams conduct educational evaluations as the final step, or tier, for purposes of eligibility determination and, if needed, IEP development. Evaluations consist of:
 - a. Design (or re-design) and implementation of individualized interventions, charting progress on specified academic skills relative to peers in the same educational setting, and
 - b. Individual comprehensive assessments as needed, to identify strengths and weaknesses in relevant skills areas and to rule out other disabilities or non-cognitive factors as the primary cause of low achievement.
6. The IEP Team, when designing or conducting evaluations, or making determinations about eligibility, shall include certified professionals with the requisite training and skills to analyze the child's suspected learning problems (e.g., school psychologist, special education teacher, speech language pathologist).

Procedures for Implementation

1. Phase in new eligibility procedures by grade level. For the current reauthorization, establish a deadline by which new LD identification/eligibility regulations must be used in the elementary school setting (grades K through 4, or K through 5 for those schools that include grade 5). The graduated phase-in schedule will allow less prepared school districts or states to wait, watch and learn from others.
2. Allow states and school districts to support qualifying Tier 2 activities (e.g., pre-service and in-service training, consultation, materials, data collection and program evaluation) through a combination of special education and general education funding sources.

3. Establish demonstration sites in selected school districts through a competitive RFP process and track results through a national evaluation network. This evaluation research should investigate systemic impact on prevalence rates and student outcomes, as well as the effects of phasing out special funding and supports. Conduct evaluation studies to determine whether remedial and intensive instructional services in the early grades result in better outcomes, at what cost, and with what effect on special education prevalence rates.
4. Provide professional development training and pre-service education to all Pre K – Grade 12 general, special education and related services personnel on the multi-tiered model and on implementation and monitoring of research-based interventions.

Appendix A. Proposed Multi-Tiered Model for LD Identification

The following proposal for a multi-tiered model is designed to link assessment and intervention and engender seamless coordination between general education and special education. Intended results include better outcomes for low-achieving students and students with disabilities, and continued protection of rights for students with disabilities.

IDEA should retain the two-part definition of a child with a disability, that is: (1) the child meets the eligibility criteria for a disability category, and (2) needs special education (e.g., specialized instruction) and related services as a result of the disability.

Eligibility determinations, however, would incorporate the following dual criteria:

a. Significantly low achievement

States may set uniform standards or allow school districts to set their own criteria for “significantly low achievement.” As in current law, this would not include learning problems that are “primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.”

b. Insufficient response to intervention

- Interventions proven to be effective through high caliber research
- Interventions administered within general education
- Lack of response not due to low effort, cultural differences, limited English proficiency or non-attendance.

The process outlined below operationalizes these concepts in making LD eligibility determinations.

Tier 1

High-quality, research-based instruction and behavioral supports must be provided for *all* students in general education given the wide range of individual differences found in the normal population. Ongoing, curriculum-based assessment of basic literacy skills is an essential component of high-quality instruction. Based on the data from ongoing assessments, students receive instruction at their appropriate instructional level. Teachers must prepare to implement a variety of research-supported teaching modalities and approaches. Remedial instruction and group interventions within general education must be provided. Such assurances of appropriate instruction in general education are preconditions for the funding opportunities described under Tier 2.

Tier 2

Students whose performance level and rate of progress continue to lag behind (as determined by curriculum-based measures) receive research-based, intensive prevention or remediation services and/or individually

designed interventions (e.g., modifications, alternative strategies, additional services) targeted to their individual needs.

These Tier 2 options may qualify for blended funding (see formula below), but fall within the administrative and fiscal responsibility of general education. In order to qualify for blended funding:

- The prevention or remediation services must be research-based and time-limited.
- The problem-solving process must involve general and special education teachers and support services personnel, be initiated through a formal request for assistance, and include parent notification and consent.

The problem-solving process may use any of various structures (e.g., grade level teams, school-wide teams), as long as essential requirements are observed (see Appendix B). More informal, less rigorously monitored procedures may be implemented (e.g., teacher-consultant dyads) as an initial step in the problem-solving process, but would be regarded as Tier 1 strategies if they fail to meet specified requirements.

At Tier 2, students should receive frequent monitoring of progress to determine response to intervention. Relevant school personnel should review progress at 6-8 week intervals for no more than one year. At each review, this team should determine if the student needs additional or modified interventions, referral to Tier 3 for special education evaluation, or if the current intervention plan is sufficient for continuing support. After up to one year of monitoring progress at Tier 2, school personnel should conduct a formal review of the student's progress and either refer to Tier 3 or document a plan for any necessary continued support in general education.

Local districts are encouraged to study and establish normative standards regarding response to intervention—e.g., determining typical rates of progress in basic skills.

A referral to Tier 3 may be made because of insufficient progress, or because the services provided are so intensive or specialized as to meet the definition of special education. Effectiveness of a school district's Tier 2 interventions is routinely monitored by tracking the percentage of requests for assistance that are successfully resolved without referral to special education.

Special education funds may support up to 50 percent of the cost of Tier 2 interventions. A schedule should be established for the proportion of a school district's special education Part B funds that may be devoted to Tier 2 interventions such that the rate accelerates sharply with increases in Part B funding (see example, Appendix C).

Tier 3

A student who meets both the low achievement and insufficient response to Tier 2 interventions criteria is referred to a multi-disciplinary evaluation team for evaluation. A determination of insufficient response to intervention may be made at any point following implementation of at least two evidence-based strategies over a period of at least six weeks.

Upon referral, the multi-disciplinary team conducts a comprehensive evaluation that includes:

- Indirect sources of information (parent, teacher, and student interviews; work products; teacher logs; review of pertinent records),
- Direct observation,
- Response to intervention using a systematic, individualized data-based problem-solving process and,
- Individual assessment, as prescribed by the evaluation team. This may include norm-referenced and criterion-referenced measures of cognitive and academic skills, as well as indirect sources of data, but would not automatically include standardized intelligence or achievement tests. The selection of

- appropriate sources of cognitive data would be determined by the school psychologist according to the individual needs of the student and existing data.

The problem-solving component of the process (i.e., step C) involves precise charting of progress as general education interventions and strategies are implemented. Formal documentation procedures are used to assess rate of progress on targeted goals, and to verify a high level of intervention fidelity, and compared to local norms if available. If the problem-solving process implemented within Tier 2 fully satisfies these and other specified requirements (see Appendix B), there is no need to replicate it or extend it in Tier 3.

The response to intervention component is interpreted as follows: The student, despite receiving appropriate instruction at his/her instructional level, is failing to make educational progress at the level expected given his/her:

- cognitive abilities,
- instructional history, and
- other environmental factors such as attendance, language background, and motivation.

This would be established through the collaborative professional judgment of the multidisciplinary team based on a comprehensive array of data. The requirement of needing specialized instruction would continue to apply.

As a unique component of Tier 3, the multidisciplinary team might implement and compare the student's response to general education interventions with those that meet the definition of special education (i.e., "specialized instruction"). This can help the team make eligibility decisions and determine the educational needs of the student.

The multidisciplinary evaluation team must complete the evaluation within 60 school days of initial referral. Within 15 calendar days of notifying the parent that the evaluation has been completed, the IEP Team must convene a meeting to determine eligibility for special education and, if required, to write an IEP.

Although general education teachers are involved in the evaluation process and implementation of interventions, Tier 3 is the administrative and fiscal responsibility of special education.

Appendix B. Essential Characteristics of Tier 2 Interventions (Sample)

The following list provides a sample set of essential characteristics that would be required for Tier 2 interventions to qualify for blended funding:

- ✓ Array of research-based remedial programs, modifications, and instructional interventions in general education
- ✓ Array of student support services (including health and mental health) in general education
- ✓ Systematic problem-solving process involving specified steps, such as:
 - a. Screening/proactive identification
 - b. Problem definition/functional analysis of problem
 - c. Generating and selecting strategies
 - d. Evaluation of strategies
- ✓ Routine application of systematic data collection procedures, including progress monitoring
- ✓ Professional development and pre-service education for all Pre-K through Grade 12 educators on:

- supporting at-risk students and students with disabilities in the general education classroom, including strategies that are effective for specific populations such as children from diverse ethnic and linguistic backgrounds
 - using effective, research-based practices, especially in the areas of early reading instruction and behavior management/support
 - use and value of the multi-tiered model
- ✓ Resources (staffing, materials, etc.) to implement individualized strategies
 - ✓ Administrative support
 - ✓ Time allotted for collaboration and consultation among general education, special education, and support services personnel
 - ✓ Treatment fidelity
 - ✓ Maintaining of rights for students with disabilities, with full and clear explanations to the family about the nature of the multi-tiered model and how it interrelates with special education and related services

Appendix C. Illustration of Availability of Federal Funds for Tier 2 Activities

This option is strictly discretionary for a school district, and presumes compliance with requirements such as those outlined in Appendix B.

- If IDEA Part B funding for excess costs is at or below the 10 percent level, up to 10 percent of a district's special education funds may be expended on Tier 2 activities.
- For each one-percent increment in IDEA funding for excess costs above the 10 percent level, district Part B monies that may be expended on Tier 2 activities will be one-half percent plus the base rate of 10 percent.
- If IDEA funding is reduced in any year, the percent of Part B monies available for Tier 2 activities will not decrease by more than 1 percent.

[Note: Computations may vary on a state-by-state basis, given that the current formula for the federal share of excess costs does not yield a uniform rate for all states.]

<i>Examples:</i>	Federal Funding For Excess Costs	Percent Available for Tier 2 Activities
	10%	10%
	15%	12.5%
	20%	15%
	20% → 17%	14%
	25%	17.5%
	40%	25%