

## Specific Learning Disabilities & the WV Eligibility Criteria

**Specific Learning Disability (SLD)** is an identifiable category of disability in both the federal law, *Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)*, and West Virginia Policy 2419: *Regulations for the Education of Students with Exceptionalities*.

### SLD Eligibility Criteria in Policy 2419

West Virginia’s Policy 2419 that became effective March 2012, specified that districts were required to be implementing the revised eligibility criteria no later than:

Elementary Schools – Reading	July 1, 2009
Elementary Schools – Math	July 1, 2010
Middle Schools	July 1, 2011
High Schools	July 1, 2012

### Why was there a change in the eligibility criteria?

The SLD eligibility criteria in WV Policy 2419 were revised to align with federal law (IDEA 2004) and federal regulations. The validity and reliability of basing SLD identification on a significant discrepancy between assessed ability (intelligence) and achievement has been seriously challenged for many years through extensive research. Identification processes that have operated in a test, then determine eligibility, then provide intervention manner have often resulted in what is referred to as a wait-to-fail phenomenon. This occurred when a student was having difficulties, but was not eligible for intervention (via special education) because the discrepancy was not yet large enough. This approach to addressing learning difficulties has now given way to one that provides interventions for any child as part of a Support for Personalized Learning (SPL)/problem-solving process at the earliest indication of need. If both low achievement and insufficient progress are still evident after significant intervention, the student’s poor response to intervention, along with other relevant information, may lead to a referral for special education evaluation and to an SLD/special education eligibility determination.

### Summary of Eligibility Criteria & Determinations:

Special education eligibility in the category of a Specific Learning Disability is based upon evidence that the student does not achieve adequately for the student’s age or to meet State-approved grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving.

Basically, the multidisciplinary team must determine through a body of evidence that in one or more of the areas identified above based on 3 standards:

1. The student has one or more significant academic skill deficit(s) as compared to age or State-approved grade-level standards – Level of Learning.
2. The student is making insufficient progress in response to scientific, research-based intervention – Rate of Learning.
3. The student’s learning difficulties are not PRIMARILY the result of visual, hearing, or motor disability; intellectual disability; behavior/emotional disorder; cultural factors; environmental or economic disadvantage; or limited English proficiency – Exclusion Factors.

The student exhibits a pattern of strengths and weaknesses in performance, achievement or both. Exhibits a pattern of Strengths and Weakness.

In addition, as pertains to the identification of any disability, the findings of underachievement cannot be the result of a lack of appropriate instruction, specifically in the essential components of English/language arts and mathematics.

Eligibility for special education is based on final determinations that the student:

### **How does a Support for Personalized Learning/ Problem-Solving process enter into the identification of a Specific Learning Disability?**

The West Virginia Support for Personalized Learning (SPL) framework is a state-wide initiative that suggests flexible use of resources to provide relevant academic, social/emotional and or behavioral support to enhance learning for all students. SPL is characterized by seamless system of high quality instructional practices allowing all students to sustain significant progress, whether they are considered at-risk, exceeding grade-level expectations or at any point along the continuum.

An integral component of SPL is the problem-solving process through which a team of professionals and a student's parents use student-centered data to inform the instruction to be provided.

It is essential that this process be implemented prior to or as part of the evaluation for SLD in order to determine the child does not make sufficient progress to meet age or State-approved grade-level standards when using a process based on the child's response to scientific, research-based intervention. In addition, implementation of this process may provide further evidence that the student's difficulties are not due to a lack of appropriate instruction.

### **How has evaluation for special education changed?**

Both West Virginia Policy 2419 and the federal regulations require a full and individual evaluation that must be conducted before the initial provision of special education and related services. This evaluation includes assessments in all areas related to the suspected disability. In the past, the comprehensive evaluation was interpreted by most to mean a common battery of assessments for all students referred. Now a more focused, student-centered approach is indicated. It is anticipated that the variety of data gathered during the SPL/Problem-Solving process and the change in the eligibility criteria for a Specific Learning Disability should reduce the need for extensive formal assessment following a special education referral.

Even though it is more focused, it is specified in law that the evaluation must be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the primary disability category in which the child has been identified.

### **What is the relationship between dyslexia and a Specific Learning Disability?**

Although the definition of Specific Learning Disability (in both federal and state law) refers to dyslexia as one of the conditions that may be included, dyslexia is not a special education disability category in and of itself.

**Dyslexia** is a specific learning disability that is neurological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often expected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge. (Formal definition of dyslexia developed by the international Dyslexia Association, Also used by the National Institute of Child Health and Human Development [NICHD].)

However, there is some confusion between the identified educational disability category of SLD and a clinical diagnosis of dyslexia. An individual identified as having dyslexia may or may not be eligible for special education services. Eligibility is dependent on whether the SLD criteria are met and the other required determinations are made by the Eligibility Committee.

### **Where do I find more comprehensive information concerning the SLD eligibility criteria and the identification process?**

West Virginia Policy 2419: *Regulations for the Education of Students with Exceptionalities* and the attached West Virginia Procedures Manual for the Education of Students with Exceptionalities addresses all important aspects of this process.



**Shift in the Identification of Specific Learning Disabilities**  
(As a result of IDEA 2004, Federal Regulations and Policy 2419)

PROACTIVE INTERVENTION	
THEN	NOW
Waiting to intervene until criteria for special education are met and services can be provided (“wait-to-fail”)	Intervening at first indication of learning difficulties, utilizing universal screening and progress monitoring of essential skills
Within child focus of problem; focus on internal unalterable variables	Systems approach to problem-solving; emphasis on the effectiveness of CORE instruction for all students; focus on alterable variables (instruction varied as to time, intensity and focus)
Clear eligibility criteria (in or out) – targeted/intensive services often not provided unless found eligible for special education	Leveled model of services across general, scaffolded and special education
PROBLEM-SOLVING	
THEN	NOW
Student Assistance Teams; individual students typically referred to SAT by teachers with academic and behavioral concerns, frequently resulting in a special education referral	Problem-Solving Teams; problem-solving process central to the work of teams that include general and special educators; parents involved through process and kept informed of instructional strategies and progress; collaborative educational decisions, including adjustments to instruction, are based on ongoing school, classroom and individual student data; increased focus on early detection and proactive response to difficulties
ASSESSMENT/EVALUATION	
THEN	NOW
Reliance on assessment largely external to the learning context for the purpose of disability identification	Reliance on direct measures of learning that inform instruction, as well as consideration for special education
Assessment data collected during a limited number of sessions used to make eligibility decisions	Multiple data points collected over time and in direct relationship to the instruction provided used to make important instructional decisions (including special education eligibility)  Emphasis on assessments in the area(s) of suspected disability and/or educational need that directly assist in determination of instruction
Comprehensive evaluation consisting mainly of formal assessments conducted by individual members of the multidisciplinary team; often the same battery of tests administered to all children referred, assessments resulting in eligibility decisions administered during a limited number of sessions	Full and individual evaluation collaboratively planned and relying heavily on existing data collected through the SPL process; evaluation includes the data gathered through universal screenings, observations, teacher checklists, progress-monitoring, diagnostic assessments, etc., parents and classroom teachers integral members of the team
SLD CONSTRUCT	
THEN	NOW
SLD construct of “unexpected under-achievement” indicated by low achievement as compared to a measure of the child’s ability (IQ/achievement discrepancy)	SLD construct of “unexpected under-achievement” indicated by low achievement and insufficient response to validated instruction that works with most students, even struggling ones
“Slow learners” (having low achievement and flat cognitive profiles) not identified as eligible for special education services	Recognition that children we might have thought of as “slow learners” may very well have specific learning disabilities that are causing cognitive profile flatness and may require the long-term targeted intensive interventions available through special education

Adapted from Colorado State Department of Education. (2010) *Fast Facts*.

## More Key Facts

- ▶ 2.5 million public school students—or about 5% of all students in public schools—were identified as having learning disabilities in 2009 and were eligible to receive educational assistance under the federal Individuals with Disabilities Education Act (IDEA).
- ▶ The number of school-age children with learning disabilities who receive these Federally-authorized special education services escalated rapidly during the late 1980s and 1990s. However, during the last decade (2000-2009) the number of children identified as LD in public schools has declined by 14%.
- ▶ Males comprise almost two-thirds of school age students with LD who receive special education services.
- ▶ Conditions such as ADHD, autism, intellectual disabilities, deafness and blindness are frequently confused with LD.
- ▶ The cost of educating a student with LD is 1.6 times the expenditure for a general education student. This is dramatically less than the average cost for all students with disabilities, which runs 1.9 times the cost for a general education student.
- ▶ In 2008, 62% of students with LD spent 80% or more of their in-school time in general education classrooms. In 2000, that figure was just 40%.
- ▶ Students with LD are retained in grade much more often than those without disabilities. In addition, they are involved in school disciplinary actions at a much higher rate than their nondisabled peers.
- ▶ Only a small percentage—estimated at between 25% and 35%—of students with LD are being provided with assistive technology to support their instruction and learning.
- ▶ The high school dropout rate among students with LD was 22% in 2008, down from 40% in 1999.
- ▶ More students with LD are graduating with a regular high school diploma—64% in 2008—up from 52% a decade earlier.
- ▶ Students with LD go on to postsecondary education at a much lower rate than their nondisabled peers, and of those who do, few seek supports in college and few earn undergraduate or advanced degrees.
- ▶ In 2005, 55% of adults with LD (ages 18-64) were employed compared to 76% of those without LD, 6% were unemployed vs. 3%, and 39% were not in the labor force vs. 21%.
- ▶ Few adults with LD access workplace accommodations or understand their rights under disability anti-discrimination laws.