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Policies Governing Children With Disabilities Addendum



Public Schools of North Carolina
State Board of Education
Department of Public Instruction

Exceptional Children Division

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This addendum reflects the policy changes for Specific Learning Disabilities. The changes were approved by the North Carolina State Board of Education on February 4, 2016.

The policy changes documented in this addendum are effective July 1, 2020 or upon the receipt of the Intent to Implement from the local education agency.

NC 1500 General

NC 1500-2 Definitions

Scientific research-based intervention (evidence-based):

The term evidence-based intervention means a defined practice, program, or strategy that:

(I) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on –

- (i) strong evidence from at least one well-designed and well-implemented experimental study; (II) moderate evidence from at least one well-designed and well-implemented quasiexperimental study; or
- (ii) promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(II) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and -

- (i) includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

School-based teams should use the highest level of evidence available when determining interventions across areas of concern.

NC 1500-2.4(b)(11) Specific learning disability

Specific learning disability.

- (i) General. Means a ~~disability~~ **disorder** in one or more of the basic processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations. ~~The disability substantially limits academic achievement so that the child does not learn at an adequate rate when provided sustained, high quality instruction and scientific research~~ **evidence** based intervention. Alternate terms **conditions** may include, but are not limited to, dyslexia and dyscalculia.
- (ii) Disabilities not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of serious emotional disturbance, or of environmental, cultural, or economic disadvantage.

NC 1500-2.x Comprehensive ~~balanced~~ assessment system

Comprehensive ~~balanced~~ assessment system- The data gathered within this assessment system is designed to allow effective problem solving at all tiers and across all student groups (i.e., subgroups), in order to design responsive instruction for all students. These components are also important data sources within a comprehensive evaluation to determine if a child has a Specific Learning Disability and the nature and extent of the special education and related services the child needs. A comprehensive ~~balanced~~ assessment system includes the following components:

- (a) Common formative assessments;
- (b) Interim/Benchmark assessments;
- (c) Outcome assessments;
- (d) Universal screening;
- (e) Progress monitoring; and
- (f) Diagnostic assessments.

NC 1500-2.x Diagnostic assessments

Diagnostic assessments and processes are used to assist in developing hypotheses about why a problem is occurring and to identify a student's specific skill deficits and strengths in order to determine the instructional focus and to inform decisions about how to adapt and individualize interventions. They allow instruction and interventions to be focused on the specific target skill and sets of skills that will increase overall academic or behavioral competency. They assist educators in teaching precisely to realize the largest gains in student achievement.

NC 1500-2.11(b)(13) Progress Monitoring

Progress monitoring

Progress monitoring refers to an ~~scientific research~~ **evidence**-based practice used to assess students' academic and/or behavioral performance and evaluate the effectiveness of instruction and/or specific interventions. Progress monitoring can be implemented with individual students, groups of students, or an entire class. Central to the practice is data-based documentation of repeated assessments that produce quantitative results that are charted over time to document rates of improvement. The measures should be brief, reliable, valid, sensitive, linked to the area of intervention/instruction, and measure the same construct/skill over time. Embedded assessments within evidence-based intervention programs can also be an important source of progress monitoring data for students that are performing well below grade level. Students who are performing very far below expected levels may be progress-monitored the most frequently with these types of measures, but should also receive periodic progress monitoring ~~using a general outcome measure (CBM)~~ in order to ensure skills are transferring to content that is closer to grade level expectations.

NC 1500-2.11(b)(15) Social/Developmental History

Social/Developmental History

A social history documents normal and abnormal developmental and/or medical events and includes a review of information gathered during the screening process and/or systematic problem-solving process including disciplinary removals, mobility and attendance/tardy rates. For preschool children, a social history must include an assessment of family composition, support systems, stressors, and environment as they correlate with the child's need or special services. The history also must include the family's or caregiver's perspective about the child and the need for special services. The history may be obtained by a licensed social worker, special educator, school psychologist, counselor, nurse, teacher or other appropriate persons.

NC 1500-2.xx Multi-tiered system of support (MTSS)

MTSS is a multi-tiered framework which promotes school improvement through engaging, research-based academic and behavioral practices. MTSS employs a systems approach using data-driven problem solving to maximize growth for all.

NC 1500-2.xx Responsiveness to instruction/responsiveness to intervention

Responsiveness to instruction/responsiveness to intervention is the practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make changes in instruction or goals, and applying child response data to important educational decisions.

NC 1500-2.xx Screening

Screening may be used for the following purposes:

- (a) Universal screenings are those screenings done with all students.
- (b) Individual screenings, such as hearing, vision, and motor screenings, may be required as part of the evaluation process for eligibility for special education and related services.
- (c) The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

NC 1500-2.xx Systematic problem-solving process

A systematic problem-solving process is a structured, methodical approach to determine and address student needs to promote growth. Required steps include:

- (a) Problem identification and information gathering;
- (b) Problem analysis;
- (c) Solution development; and
- (d) Evaluation of impact.

The process for gathering information includes reviewing, interviewing, observing, and testing across the domains of instruction, curriculum, environment and learner.

NC 1500-2.xx Universal screening

Universal screening includes administering measures or collecting other data to allow broad generalizations to be made regarding the future performance and outcomes of all students at individual and group level (e.g. classroom, grade, school, district). The purpose is to give district and school teams a broad view of the overall health of instruction for all students as well as to identify those students requiring more intensive intervention and enrichment.

NC 1503-2 Referrals, Evaluations and Reevaluations
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NC 1503-2.5 Evaluation Procedures

NC 1503-2.5(d)(11) Specific learning disability

(11) Specific Learning Disability.

The method for determining eligibility in the disability category of Specific Learning Disability is the evaluation of multiple sources of assessment data to document low achievement and a child's response to instruction and ~~scientific research~~ **evidence**-based interventions.

A child's responsiveness to instruction and ~~scientific research~~ **evidence**-based intervention is not, when considered alone, a comprehensive evaluation. Teams must draw upon information from multiple sources to conduct a full and individual evaluation, and may not rely on any single procedure or source of data for determining eligibility for special education and related services. Based on a preponderance of the data, including the child's **academic performance data** achievement level and rate of progress, the IEP Team must determine that the child ~~needs resources beyond what can reasonably be provided in general education~~ **requires specially-designed instruction**.

When using a child's responsiveness to instruction and ~~scientific research~~ **evidence**-based intervention as the basis for eligibility decisions for children with Specific Learning Disabilities, the following essential components must be in place:

- A system of high-quality core instruction and ~~scientific research~~ **evidence**-based intervention;
- Multiple tiers of instruction, that vary in intensity, matched to student need;
- A systematic process of problem-solving/data-based decision making; and
- A comprehensive, ~~balanced~~ assessment system that includes: common formative assessments, interim/benchmark assessments, outcome assessments, universal screening, progress monitoring and diagnostic assessments.

~~Determination of Eligibility~~

~~Determination of a specific learning disability includes all of the following conditions:~~

- ~~Inadequate academic achievement;~~
- ~~Insufficient rate of progress; and~~
- ~~Adverse effect on educational performance that requires specially designed instruction.~~

- (i) A comprehensive evaluation includes the following required screenings and evaluations.
- (A) Hearing screening;
 - (B) Vision screening (far and near acuity);
 - (C) Speech/language screening;
 - (D) Documentation of the results of ~~at least two identified scientific research~~ **evidence**-based intervention(s) which align to the academic area(s) of concern (e.g. critical components of reading, math, writing, listening comprehension, oral expression, etc.) including progress monitoring data;
 - (E) Summary of conference(s) with parents or documentation of attempts to conference with parents;
 - (F) Review of existing data to include documentation of the systematic problem-

solving process (which would include formal and/or informal diagnostic assessments) and observation data of core instruction;

- (G) Social/developmental history, including any educationally relevant medical findings, a review of disciplinary removals, ~~mobility~~transiency and attendance/tardy rates;
- (H) Observation across settings, including core instruction and the setting in which intervention is delivered, to assess academic and functional skills;
- (I) Multiple sources of educational assessment data, which must include diagnostic and/or standardized norm-referenced measures of achievement (related to the area(s) of concern) and data from progress monitoring. These measures must include relevant comparisons to state and/or national norms and other relevant comparison groups (such as age/grade level peers and appropriate intervention group comparisons). Additional measures may include: common formative assessments, universal screening, interim/benchmark assessments and outcome assessments. ~~include, but are not limited to: universal screening, interim/benchmark assessments, data from progress monitoring and formal and/or informal diagnostic assessments. Student performance must include comparison to state and/or national norms, and district norms when available.~~

(ii) In order to be eligible in the disability category of specific learning disability, the criteria in subsections (A), (B), (C) and (D) below must be met:

- (A) The disability must not be the primary result of:
 1. A visual, hearing or motor disability;
 2. Intellectual disability;
 3. Emotional disturbance;
 4. Cultural factors;
 5. Environmental or economic influences; and/or
 6. Loss of instructional time due to factors that include, but are not limited to absences, tardies, high ~~mobility~~transiency rates and suspensions.

A child must not be determined to have a specific learning disability if the determinant factor for that determination is any of the following:

1. Limited English Proficiency;
 2. Lack of appropriate instruction and ~~scientific research~~ evidence-based intervention in reading, including the essential components of reading instruction as defined in Section 1208(3) of the ESEA (i.e. phonemic awareness, phonics, vocabulary, fluency and comprehension); and/or
 3. Lack of appropriate instruction and ~~scientific research~~ evidence-based intervention in math.
- (B) Inadequate academic achievement: Inadequate academic achievement is based on evidence from multiple sources of data indicating the child does not achieve adequately for the age or grade-level standards in which the child is enrolled in one or more of the following areas when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:
1. Basic reading skills;
 2. Reading fluency skills;

3. Reading comprehension;
4. Written expression;
5. Mathematics calculation;
6. Mathematics problem solving;
7. Listening comprehension; or
8. Oral expression.

~~These measures must include, but are not limited to, two or more of the following: universal screening, interim/benchmark assessments, data from progress monitoring and/or standardized measures of achievement related to the area of concern. When available, sources of data must include state and districtwide assessments. Student performance must include comparison to state and/or national norms and district norms when available. This may include comparison to other groups such as culturally and linguistically similar peers, classroom, school, and/or other comparison groups (such as culturally and linguistically similar peers, classroom and/or school). These data must be relevant to the area(s) of concern (e.g., reading, math, writing, listening, oral language).~~

~~When the area of concern includes listening comprehension and/or oral expression, additional measures of other academic skills impacted may be necessary to document inadequate achievement.~~

- (C) Insufficient rate of progress: When provided with high-quality core instruction that a majority of students are responding to and ~~scientific, research~~ **evidence**-based intervention(s) matched to area(s) of need, the child demonstrates either a lack of response to instruction and intervention or is responding at a rate that is insufficient to reduce their risk of failure after an appropriate period of time.

Documentation of insufficient rate of progress must include:

1. The type, intensity, and duration of identified ~~scientific, research~~ **evidence**-based instructional intervention(s)
 - Documentation that the intervention length and frequency is in accordance with the identified research-based criteria that supports effective results;
2. The child's rate of progress during the instructional intervention(s);
3. A comparison of the child's rate of progress to expected rates of progress, including evidence that the intervention yielded successful responses and outcomes for the majority of other children receiving the intervention;
4. Progress monitoring on a schedule that:
 - Allows a comparison of the child's progress to the performance of peers;
 - Is appropriate to the child's age and grade placement;
 - Is appropriate to the content monitored; and
 - Allows for interpretation of the effectiveness of intervention; ~~and~~
5. Evidence that the intervention was implemented with fidelity.

* Valid and reliable measures of progress monitoring may not be available for the areas of listening comprehension and oral expression. In these cases, teams

may use valid and reliable measures of other academic skills that are impacted by the listening comprehension and/or oral expression deficits (i.e., reading, math, written language measures of progress monitoring) to assess a student's rate of progress and the impact of the ~~scientific research~~ **evidence**-based intervention on these academic areas. Additional measures that directly assess progress in listening comprehension and/or oral expression should also be collected to supplement these data.

- (D) Demonstrated educational need: The disability must ~~adversely impact educational performance,~~ and require specially designed instruction.

NC 1503-3 Additional Procedures for Evaluating Children with Specific Learning Disabilities

NC 1503-3.1 Specific learning disabilities

- (a) General. The State has adopted, consistent with NC 1503-3.3, criteria for determining whether a child has a specific learning disability as defined in NC 1500-2.4(c)(11). The criteria –
- (1) Requires the use of a systematic, problem-solving process based on the child's response to ~~scientific, research~~ **evidence**-based interventions (RTI/MTSS) and the evaluation of data (i.e. progress monitoring data) documenting the child's response to instruction and ~~scientific research~~ **evidence**-based intervention.
- (b) Consistency with State criteria. LEAs must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 34 CFR 300.307)

NC 1503-3.2 Additional group members

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in NC 1500-2.4, must be made by the child's parents and a team of qualified professionals, which must include--

- (a)
 - (1) The child's regular teacher; or
 - (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
 - (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and
- (b) At least one person qualified to conduct and interpret individual diagnostic examinations of children.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 34 CFR 300.308)

NC 1503-3.3 Determining the existence of a specific learning disability

- (a) The group described in NC 1503-2.6 may determine that a child has a specific learning disability, as defined in NC 1500-2.4(b)(11), if the child meets the criteria described previously in section NC 1503-2.5(d)(11).
- (b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in NC 1503-2.4 through NC 1503-2.6 -
 - (1) Data that demonstrates that prior to, or as a part of the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel;
 - (2) Documentation that ~~scientific, research~~ **evidence**-based interventions addressing the identified area(s) of concern were delivered by qualified personnel; and
 - (3) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting the child's progress and changes in intervention was provided to the child's parents.
- (c) Following a referral from school personnel or a parent, if additional data is sought for determining a child's eligibility, parental consent must be obtained and the public agency must adhere to the timeframes described in NC 1503-2.1 and NC 1503-2.3 unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in NC 1503-2.6(a)(1) –
 - (1) If, prior to a referral, the child has not made adequate progress after an appropriate period of time, when provided instruction as described in paragraphs (b)(1),(b)(2) and (b)(3) of this section; and
 - (2) Whenever a child is referred for evaluation.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 34 CFR 300.309)

NC 1503-3.4 Observation

- (a) The LEA must ensure that ~~systematic~~ observational data/**information** is collected in the child's learning environment (including core instruction and the setting in which the child received intervention) in order to:
 - (1) Document the child's academic achievement, functional performance and behavior in the area(s) of difficulty.
 - (2) Assist in the documentation that appropriate instruction was provided, and that ~~scientific research~~ **evidence**-based interventions were delivered.
- (b) The IEP Team described in NC 1503-2.7(a)(1), in determining whether a child has a specific learning disability, must ~~decide to use-~~
 - (1) ~~Information from at least one systematic observation conducted during routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation~~ **Relevant observation data/information regarding instructional, curricular, and/or environment areas addressed to support appropriate instruction of all students that was completed before the child was referred for an evaluation, or as part of the evaluation described in NC 1503.2.5 through NC 1503-2.7;**

- (2) ~~Information from at least one systematic observation conducted within the setting in which the child receives scientific research-based intervention, that was completed before the child was referred for an evaluation~~ **Relevant observation data/information collected within the setting in which the child receives intervention to support effective evidence-based intervention delivery that was completed before the child was referred for an evaluation, or as part of the evaluation as described in NC 1503.2.5 through NC 1503-2.7;**

*The person(s) responsible for collecting the observational data of ~~scientific research~~ **evidence-based intervention must have specific content knowledge of the curriculum and/or behavioral area that is targeted for the intervention.***

- (3) Information from at least one systematic observation, that was conducted by a member of the group described in NC 1503-2.7(a)(1), of the child's academic performance during routine classroom instruction after the child has been referred for an evaluation and parental consent, consistent with NC 1503-1(a), is obtained.
- (c) For English Language Learners (ELLs), at least one of the individuals conducting the observation(s) must be a person knowledgeable about instruction for ELLs, as well as any pertinent cultural and/or linguistic characteristics of the individual child.
- (d) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.
- (e) In the case of a school-age child who is in a placement outside of the local education agency (LEA), a team member must observe the child in the child's current educational environment.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 34 CFR 300.310)

NC 1503-3.5 Specific documentation for the eligibility determination

- (a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in NC 1503-2.7(a)(2), must include a statement of--
- (1) Whether the child has a specific learning disability;
 - (2) The basis for making the determination, including an assurance that the determination has been made in accordance with NC 1503-2.7(c)(1);
 - (3) The relevant academic, functional and behavioral data collected, during the observations of the child in relationship to the child's academic functioning;
 - (4) The educationally relevant medical findings, if any;
 - (5) The determination of the group concerning the effects of Limited English Proficiency or lack of appropriate instruction in reading or math on the child's achievement level;
 - (6) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic influences; or loss of instructional time due to factors such as absences, tardies, high ~~mobility~~ **transiency** rates and disciplinary removals on the child's achievement level;
 - (7) Whether the child is demonstrating either a lack of response to instruction and intervention or is responding at a rate that is insufficient to reduce their risk of failure after an appropriate period of time;
 - (8) Within the assessment of the child's response to ~~scientific, research~~ **evidence-based** intervention –
 - (i) The instructional strategies used and the student-centered data collected; and
 - (ii) The documentation that the child's parents were notified about –
 - (A) The State's policies regarding the amount and nature of student performance data collected and the general education services that would be provided;

- (B) Strategies for increasing the child's rate of learning; and
 - (C) The parent's right to request an evaluation.
- (b) Each group member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the group member must submit a separate statement presenting his or her conclusions.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 34 CFR 300.311)

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