

SENATE EDUCATION COMMITTEE

STATEMENT TO

with committee amendments

SENATE, No. 2256

STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 2022

The Senate Education Committee favorably reports Senate Bill No. 2256 with committee amendments.

As amended, this bill establishes requirements concerning the methods used to determine whether a student has a specific learning disability under the federal “Individuals with Disabilities Education Act” (IDEA), 20 U.S.C. s.1400 et seq.

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

However, the State Board of Education regulations at N.J.A.C.6A:14-3.5(c)12 only permit school districts to use two methodologies for determining whether a child has a specific learning disability under the IDEA: (1) a severe discrepancy between achievement and intellectual ability; and (2) use of a response to scientifically based interventions methodology.

This bill requires the State to include the third approach permitted under federal IDEA regulations, and permits the use of other alternative research-based procedures, including, but not limited to, patterns of strengths and weaknesses or case studies, for determining whether a student has a specific learning disability. Adoption of the third method of specific learning disability identification will allow school districts to use identification procedures that are consistent with core research principles.

Additionally, effective July 1, 2024, this bill prohibits the use of a severe discrepancy between a student’s intellectual ability and achievement in determining whether the student has a specific learning disability. The use of severe discrepancy criteria has a long-standing history of controversy and criticism, with many experts believing that the practice should no longer be allowed.

The bill prohibits a board of education from using any single procedure as the sole criterion for determining whether a student has a specific learning disability or for determining an appropriate educational program for the student. Also under the bill, a board of education will ensure that the evaluation is sufficiently comprehensive and, at a minimum, includes an assessment of basic psychological processes to identify all of the students special education and related services needs given the most current evidence-based research and practice available when making the determination.

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

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that alternative research-based procedures used to determine whether a student has a specific learning disability may include patterns of strengths and weaknesses or case studies.

The committee also amended the bill to prohibit a board of education from using any single procedure as the sole criterion for determining whether a student has a specific learning disability or for determining an appropriate educational program for the student. The committee further amended the bill to require a board of education to ensure that the evaluation is sufficiently comprehensive to identify the student's special education and related service needs. Additionally, the committee amendments replace references to "child" with the term "student."

Finally, the committee amended the bill to require that the use of a severe discrepancy method of determining whether or not a student has a specific learning disability will be phased out by July 1, 2024.