

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1812

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 25, 2024

The Senate Education Committee favorably reports Senate Bill No. 1812 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 students 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 student has a specific learning disability: (1) is not to require the use of a severe discrepancy between intellectual ability and achievement; (2) is to permit the use of a process based on the student’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 student 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.

The amended bill requires the State to include the third approach permitted under federal IDEA regulations, and permits the use of other alternative research-based procedures for determining whether a student has a specific learning disability. Adoption of the third method of specific learning disability identification allows school districts to use identification procedures that are consistent with core research principles.

Additionally, effective in the fourth full school year following the date of enactment, the amended 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 amended 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 is to ensure that the evaluation is sufficiently comprehensive and, at a minimum, includes an assessment of basic psychological processes to identify all of the student's special education and related services needs given the most current evidence-based research and practice available when making the determination.

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

This bill was prefiled for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- replace references to “child” with the term “student”;
- 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;
- require a board of education to ensure that the evaluation is sufficiently comprehensive to identify the student's special education and related service needs; and
- require the bill's prohibition on the use of a severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability to be effective in the fourth full school year following the date of enactment, rather than July 1, 2023.