

ASSEMBLY, No. 4696

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

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District 15 (Hunterdon and Mercer)

SYNOPSIS

Concerns State criteria for determining whether child has specific learning disability under federal Individuals with Disabilities Education Act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/21/2020)

1 AN ACT concerning the identification of students with specific
2 learning disabilities and supplementing chapter 46 of Title 18A
3 of the New Jersey Statutes.

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5 BE IT ENACTED by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. a. The State criteria for determining whether a child has a
9 specific learning disability under the federal “Individuals with
10 Disabilities Education Act,” 20 U.S.C. s.1400 et seq., shall:

11 (1) not require the use of a severe discrepancy between the
12 child’s intellectual ability and achievement;

13 (2) permit the use of a process based on the child’s response to
14 scientific, research-based intervention; and

15 (3) permit the use of other alternative research-based
16 procedures, including a process that examines whether the child
17 exhibits a pattern of strengths and weaknesses in performance,
18 achievement, or both, relative to age, State-approved grade-level
19 standards, or intellectual development, that is determined by the
20 eligibility group to be relevant to the identification of a specific
21 learning disability, using appropriate assessments.

22 b. The State Board of Education shall promulgate regulations
23 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
24 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this
25 section. The regulations shall permit the use of methodologies for
26 determining whether a child has a specific learning disability that
27 are consistent with the provisions of this section.

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29 2. This act shall take effect immediately.

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32 STATEMENT

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34 The federal “Individuals with Disabilities Education Act”
35 (IDEA), 20 U.S.C. s.1400 et seq., requires states that receive federal
36 special education funding to have in effect procedures to identify
37 and evaluate children with disabilities who are in need of special
38 education and related services. Federal regulations implementing
39 the IDEA at 34 C.F.R. 300.307 provide that a State’s criteria for
40 determining whether a child has a specific learning disability under
41 the act: (1) must not require the use of a severe discrepancy
42 between intellectual ability and achievement; (2) must permit the
43 use of a process based on the child’s response to scientific,
44 research-based intervention; and (3) may permit the use of other
45 alternative research-based procedures. Federal regulations at 34
46 C.F.R. 300.309 further specify three permissible methods for
47 determining whether a child has a specific learning disability: (1)
48 lack of adequate achievement in certain identified areas; (2) use of a

1 process based on the child's response to scientific research-based
2 intervention; and (3) finding a pattern of strengths and weaknesses
3 in performance or achievement.

4 New Jersey State Board of Education regulations at
5 N.J.A.C.6A:14-3.5(c)12 currently permit school districts to use two
6 methodologies for determining whether a child has a specific
7 learning disability under the IDEA: (1) a severe discrepancy
8 between achievement and intellectual ability; and (2) use of a
9 response to scientifically based interventions methodology. This
10 bill requires the State to also permit a school district to utilize the
11 third approach permitted under federal IDEA regulations, which
12 examines whether the child exhibits a pattern of strengths and
13 weaknesses in performance, achievement, or both, relative to age,
14 State-approved grade-level standards, or intellectual development,
15 that is determined by the eligibility group to be relevant to the
16 identification of a specific learning disability, using appropriate
17 assessments. The bill also directs the State Board of Education to
18 promulgate regulations accordingly.