

SENATE, No. 1023

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

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.



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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STATEMENT

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

1 research-based intervention; and (3) finding a pattern of strengths and
2 weaknesses in performance or achievement.

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