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May 28, 2020

NCDPI  
Exceptional Children Division  
ATTN: Matt Hoskins  
6356 Mail Service Center  
Raleigh, NC 27699-6356.

Re: *Policies Governing Services for Children with Disabilities*  
Updates to the 2016 Specific Learning Disability Addendum

Dear Mr. Hoskins,

The Learning Disabilities Association of North Carolina ("LDANC") is pleased to provide these comments on the *Policies Governing Services for Children with Disabilities*, Updates to the 2016 Specific Learning Disability Addendum that were released for comment on April 29, 2020 ("Updates").

### **Introduction**

LDANC has grave concerns with North Carolina adopting Response-to-Intervention ("RTI") as the sole method of evaluation and identification of Specific Learning Disabilities ("SLD"). We also have concerns that, despite many attempts by the North Carolina Department of Public Instruction ("NCDPI") to draft and adopt language on this adoption of RTI, the NC Policies, including the Updates proposed here, continue to be confusing and do not provide clear guidance to the individuals who are charged with implementing this change. For example, throughout the Updates there is an inconsistent use of terms and phrases, and a failure to define some terms and phrases.

We want to make clear that submitting these comments is in no way to indicate that LDANC supports North Carolina's (1) adoption of RTI as the sole method of evaluation or (2) removal of the word "psychological" in the definition of SLD. Rather we recognize that for the immediate future RTI as the method of evaluation and identification will be the practice in North Carolina and we desire to provide guidance so that its implementation is well-ordered and fair.

RTI is not a valid method of evaluation for a specific learning disability. It fails to identify the psychological processing deficits responsible for the impaired ability to learn; accurate

identification of these deficits is required in order to provide appropriate interventions, instruction, accommodations, and protections to a student with a specific learning disability.

The Learning Disabilities Association of America's *Core Principle on the Evaluation and Identification of Learning Disabilities* makes clear what must be in an evaluation for a SLD:

Multiple sources of data are needed to conduct an ecologically valid evaluation to determine the presence of a Learning Disability. In addition to standardized, norm-referenced assessments of cognitive abilities and academic achievement, an evaluation of Learning Disabilities must include data when available from criterion referenced and curriculum-based assessments, progress monitoring data pertaining to the student's response to evidence-based interventions targeting specific academic deficits, and informal teacher designed assessments. Parent, teacher and student input and observations should be obtained via interview and/or questionnaires that assess behavioral, social/emotional functioning and attention/executive functioning.

The Core Principle further provides: "RTI data should be used when appropriate and available. For example, RTI data is not relevant in the evaluation of older students and adults."

A valid evaluation for a specific learning disability can include data learned from RTI, but RTI in-and-of-itself is not a substitute for a valid evaluation by a qualified professional for a specific learning disability.

<https://ldaamerica.org/core-principles-evaluation-and-identification-of-learning-disabilities/>

### **Comments on Changes in the Updates**

We have a number of concerns with the changes proposed in the Updates, however we will here only comment on three (3). We believe these three changes can be readily revised to make the language more clear and to follow the intent of the implementation of RTI.

#### **Definition of "evidence-based"**

The definitions section includes the phrase, "Scientific research-based intervention (evidence-based)." **Use of this phrase conflates two different concepts: (1) "research-based," and (2) "evidence-based."** Essentially, research-based means there are theories behind the practice, but they aren't always proven true; evidence-based means there is efficacy to support the practice. These terms should be separately defined in the definitions section.

Also, as the definition of "evidence-based" is currently set out in the Updates, the paragraph numbering has errors, and will lead to confusion.

**Thus we request that the definitions section should separately include the term "evidence-based," and then follow exactly the definition provided in ESSA** (see below). This will preclude confusion when schools are choosing which interventions to use.

Further, **we recommend that the term “research-based” be added separately in the definitions section.**

Last, **we recommend that a word search be done throughout the NC Policies, including the Updates, on the words “research-based” and “evidence-based” so these terms are used consistently and clearly throughout these regulations.**

Currently in the Updates:

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.

The definition of “evidenced-based” provided in ESSA:

“EVIDENCE-BASED.—

IN GENERAL.—[... T]he term ‘evidence-based’, when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

(i) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(I) strong evidence from at least 1 well-designed and well-implemented experimental study;

(II) moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or

(III) promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii) (I) 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

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

20 USC §8101(21)(A)

#### Definition of Specific Learning Disability

The Updates propose to revise the definition of Specific Learning Disability to note that “alternate conditions [for a Specific Learning Disability] may include, but are not limited to, dyslexia and dyscalculia.”

NC 1500-2(11) Definitions

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.**

This statement in bold is wrong. Dyslexia and dyscalculia are not “alternate conditions” for an SLD, rather they are types of SLD’s. We suggest you simply return to the language in the federal regulations which gets this right: “... including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.” 20 USC §1401(30)

Thus the North Carolina definition would read:

“...that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical **calculations including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.**”

Require standardized norm-referenced measures of achievement in the educational assessment

The Updates provide that educational assessment must include data from “diagnostic **and/or** standardized norm-referenced measures of achievement.”

**Educational assessment data MUST include data from “standardized norm-referenced measures of achievement.” This should NOT be optional, but required for every student.**

The second test to determine eligibility for special education in the category of SLD is:

(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 ...” NC 1503-2.5(d)(11)(ii)(B).

**In order to determine if a child is not achieving adequately for his or her age, “standardized norm-referenced measures of achievement” must be used,** anything less results in an evaluation which is subjective and exposes a child to the potential biases and limitations of the individual doing the assessment.

**Thus, we recommend that that Updates be amended to provide,**

**“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.”**

Currently in the Updates:

NC 1503-2.5(d)(11)(i)(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.

**Closing**

Again, we appreciate the opportunity to comment on the Updates. If you have any questions, or require additional information, please feel free to reach out to me at [joannajbarnes@hotmail.com](mailto:joannajbarnes@hotmail.com).

Yours,

A handwritten signature in black ink, appearing to read "JoAnna J. Barnes". The signature is fluid and cursive, with the first name "JoAnna" and last name "Barnes" clearly legible.

JoAnna J. Barnes

President

Learning Disabilities Association of North Carolina

cc: Eric Davis, Chair, State Board of Education  
Mark Johnson, State Superintendent