



January 25, 2024

Position Statement

Seeking Amendments

S-1812 (McKnight)

Establishes requirements concerning methods for determining whether child has specific learning disability under federal Individuals with Disabilities Education Act.

The New Jersey School Boards Association (NJSBA) believes the authority for management of public schools should rest with local boards of education and State authority over school districts should not exceed the scope necessary to fulfill the constitutional mandate for a thorough and efficient system of free public education. The NJSBA believes all children should receive the highest quality education.

S-1812 should be amended to be consistent with federal regulation. The federal regulations that accompany the Individuals with Disabilities Education Act require New Jersey and all states to adopt criteria for determining whether a child has a specific learning disability. The criteria adopted by the state:

- (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability;
- (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 for determining whether a child has a specific learning disability. 34 CFR § 300.307

The federal regulations permit the use of severe discrepancy as part of the tools for determining whether a student has a learning disability. S-2256 would remove severe discrepancy as one of those evaluation tools. As New Jersey struggles to meet its obligations to its special education students post-pandemic, the NJSBA asserts that local school districts should be permitted to use every tool permitted by federal regulations in order to meet the needs of all of New Jersey's special education students.

S-1812 should be consistent with earlier legislative efforts. In 2018, the Senate Education Committee approved S-2526 (2018), which contained language consistent with the federal regulations. S-2526 received unanimous approval by the Senate on June 7, 2018.

Therefore, NJSBA offers the following amendments to S-1812:

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

- (1) [permit the use of a process based on the child's response to scientific, research-based intervention;] **not require the use of a severe discrepancy between the child's intellectual ability and achievement;**
- (2) [permit the use of other alternative research-based procedures] **permit the use of a process based on the child's response to scientific, research-based intervention;** and
- (3) [effective July 1, 2023, prohibit the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.] **permit the use of other alternative research-based procedures, including a process that examines whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the eligibility group to be relevant to the identification of a specific learning disability, using appropriate assessments.**

The NJSBA urges the Senate Education Committee to approve S-1812 as amended above. Thank you for your consideration of the NJSBA's position on this important matter. Any questions or comments may be directed to John Burns, Esq., Senior Legislative Counsel, at jburns@njsba.org or 609-278-5275.