

**FINAL REPORT
CLEARINGHOUSE RULE 21-011
CHAPTER PI 11
CHILDREN WITH DISABILITIES**

Analysis by the Department of Public Instruction

Statutory authority: s. 227.11 (2) (a) (intro.), Stats.

Statute interpreted: ss. 115.76 (5) (a) 10. and 115.762 (3) (a), Stats.

The proposed rule seeks to update ch. PI 11 of the Wisconsin Administrative Code with respect to eligibility criteria for children with specific learning disabilities. The current rule is burdensome and does not reflect current research, recent changes in progress monitoring tools, and alignment with the Every Student Succeeds Act. The proposed revisions are more responsive to individual student needs and allow for more alignment to each area of specific learning disabilities. The proposed revisions are consistent with the federal requirements under the Individuals with Disabilities Education Act (IDEA), and in particular with sections 34 CFR §§ 300.307-311, which in part requires states to develop criteria for determining whether a child has a specific learning disability.

The hearing notice was published in the January 25, 2021 edition of the Wisconsin Administrative Register. A public hearing was held on February 19, 2021.

The following persons testified at the February 19, 2021 hearing:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Kathy Champeau	Wisconsin State Reading Association			X
Kim Coronado	Representing Self			X
Katie Kasubaski	Decoding Dyslexia Wisconsin			X
Carrie Ballman	Decoding Dyslexia Wisconsin			X
Amanda Kidwell	Madison Metropolitan School District	X		
Tracy Stanislawski	Representing Self			X
Jane Detmerring	Prentice School District			X
Martha Siravo	Madtown Mommas and Disability Advocates			X
Mattie Reese	Madtown Mommas and Disability Advocates			X

The following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
-------------	---------------------	---	---	--------------

Von Saunders	Merrill Area Public Schools			X
Britney Gabert	Chippewa Falls Area Unified School District		X	
Tanya Milanowski	St. Croix Falls School District			X
Jennifer Gossen	Representing Self			X
Janell Decker	Racine Unified School District			X
Karen Wydeven	Representing Self			X
Christilee Sprinkle	School District of Black Hawk, Monticello, and Juda		X	
Stacy Boehm	CESA 10	X		
Kelly Plitt	Representing Self			X
Timothy Bonson	Representing Self		X	
Angelica Breczynski	Representing Self			X
Timothy Bonson	Representing Self		X	
Angelica Breczynski	Representing Self			X
Moriah Quackenbush	Representing Self		X	
Jorie O'Hagan	Representing Self			X
Kristin Kashian	Representing Self			X
Gabby Hansen	Representing Self			X
Katie Kasubaski	Decoding Dyslexia Wisconsin			X
John Humphries	Representing Self		X	
Chan Stroman	Representing Self			X
Kathy Champeau	Wisconsin State Reading Association			X
Mary Newton	Wisconsin Reading Coalition		X	
Priscilla Gresens	Arnold Reading Clinic, Inc.		X	
Lynette Magnin	Howard-Suamico School District			X
Tonya Klem	Wisconsin School Psychologists Association, Inc.			X
Kim Brown	Oshkosh Area School District			X
Jeanne Murphy Curtis	Representing Self		X	
Deborah Cromer	Representing Self			X
Debra Zarling	Representing Self			X

Summary of public comments relative to the rule and the agency's response to those comments:

Some respondents had comments regarding flexibility in the identification process and the use of alternate procedures for children with a specific learning disability, including the following:

1. One respondent requested that the stricken language in s. PI 11.36 (6) (h) providing that a child "who performs to generally accepted expectations in the general education classroom... is no longer a child with a disability" remain in the rule, arguing that children who are performing up to expectations in the classroom, without needing specially designed instruction, should not be labeled as having a learning disability.

Agency Response: This sentence was removed because the criteria and re-evaluation procedures are specific to a child who has met eligibility under the category of a specific learning disability. Anytime a student is performing at or above grade level, the individualized education program (IEP) team is required to consider whether or not

the child requires special education services or specially designed instruction as a matter of practice. This part of the rule, related to re-evaluations, already states “a child who met initial identification criteria and continues to demonstrate a need for special education under s. PI 11.35, including specially designed instruction, is a child with a disability under this section.” Eligibility upon re-evaluation is already defined. No changes are necessary.

2. One respondent requests providing another method of evaluating older students for a specific learning disability that is different from the current or proposed rule. The respondent proposes a version of the prior methodology which may be used only with students for whom research-based interventions are not available or plausible and timely. The respondent believes this change could provide an opportunity to properly identify students who perhaps were overlooked earlier in their education and help students with their postsecondary goals.

Agency Response: Evidence-based interventions, or interventions which research has shown to be effective, exist for older students (Evidence for ESSA 2021; Institute of Education Sciences 2020; National Center on Intensive Intervention 2021). Scientific, research-based interventions restrict options for working with older students suspected of having a specific learning disability. Further, there is general consensus that the significant discrepancy model has little empirical evidence and many conceptual and psychometric flaws for identifying specific learning disabilities (Maki & Adams 2020; Ysseldyke 2005). Providing evidence-based interventions as part of a diagnostic or problem solving process within an evaluation for older students is intended to help students make progress toward their postsecondary goals when implemented properly. No changes are necessary.

3. One respondent requests the eligibility criteria for a student with a specific learning disability needs to include processing deficits as a major component of the rule. The respondent argues the eligibility criteria under the current rule emphasizes lack of progress after interventions and creates a mismatch between the definition and eligibility. While the respondent argues it is good to do interventions in areas such as reading, it should not be done primarily so that a student might be eligible for a specific learning disability.

Agency Response: The purpose of interventions should be to help a student accelerate in the area in which they are struggling. If the IEP team properly conducts a comprehensive special education evaluation, that includes multiple data sources and collection methods, and has eliminated exclusionary factors as a primary cause for inadequate achievement and insufficient progress, the evaluation has in effect established that the underlying cause of the specific learning disability is due to a deficit in one or more basic psychological processes as defined by IDEA, whether or not the team explicitly identifies one or more theoretical psychological processes as “disordered.” Additionally, the purpose of a special education evaluation is to not only determine whether a student meets eligibility criteria, but also to provide the necessary information to develop the student’s IEP. Nothing in the proposed rule prevents an IEP team from more closely examining psychological processing to identify student needs or align and implement specialized instruction. No changes are necessary.

4. One respondent expressed disagreement with how parentally-placed private school students with specific learning disabilities are identified, which the respondent believes is not only unclear but does not align with the statutes. The respondent points to a form based on standard discrepancy which is utilized for students enrolled in private school and states a standard discrepancy model of 1.75 standard deviation below the mean is utilized for those who are enrolled in private school, which is outdated in the statutes as it is no longer in effect. The respondent argues the system should not be working against children with learning disabilities regardless of the school they are enrolled in, and guidance from the department should be clear and based on current law. Further, the respondent believes the department should be holding school districts accountable to Federal Child Find mandates in identifying all students who are suspected of needing special services, including parentally placed private school students.

Agency Response: Local education agencies (LEAs) cannot require private schools to implement various parts of the current rule. Under the federal Child Find law, LEAs must identify, locate, and evaluate all students suspected of having a disability, including students enrolled by their parents in private schools and home-based education programs. The current rule places requirements on private schools that cannot be implemented. The proposed rule fixes this by replacing these requirements with specific requirements in line with federal law for conducting evaluations of students suspected of having a specific learning disability who attend private school or home based education programs. A parent who believes the LEA conducting the evaluation may be in violation of Child Find obligations may use the dispute resolution options available under special education law. No changes are necessary.

5. One respondent raised concerns about the wording in s. PI 11.36 (6) (d) 2. that schools will see this change as a way to disqualify a student and push them back to response to intervention and will bar even more children who truly have a disability in reading from getting the additional help they need or bar the student and protections provided through the IEP process. Further, the respondent requested a clarification as to why appropriate instruction in the general education setting for mathematics is not defined, believing this change is discriminatory against those with a reading disability who need to reach a higher bar to qualify for special education services.

Agency Response: This section of the rule will allow IEP teams to gather data and have in depth discussions related to the primary reason for a child's inadequate achievement and insufficient progress. This change is necessary in order to ensure children that have a specific learning disability are accurately identified. The IEP team is required to consider whether a lack of appropriate instruction is the primary cause of insufficient progress and inadequate achievement for an individual student. If a lack of appropriate instruction is present, but is not the causal factor for a child's inadequate achievement or lack of progress, it cannot be used to deny a student a free and appropriate public education or allow a student to languish before, during or after a referral for an evaluation is made. It is the responsibility of the LEA to ensure all students are provided adequate instruction in reading and math that align with state standards. The expectation is that LEAs must provide adequate instruction in both reading and math. Reading is specifically defined within the rule because within a specific learning disability, reading-related specific learning disabilities, such as basic reading, reading fluency, reading comprehension, represent the vast majority of identifications (Alfonso & Flanagan 2018). No changes are necessary.

6. One respondent requested changes to s. PI 11.36 (6) (e) to require parent notification before their child is being observed. The way this is worded, the respondent believes the student may have started the response to intervention process with no prior notification to the parents.

Agency Response: LEAs make determinations every day regarding how to best structure interventions and supports for students in the general education setting. When a specific learning disability is considered as part of a special education evaluation, the IEP team must document that the parent was notified of the progress monitoring data collected and the strategies used for increasing the student's rate of learning, including the intensive interventions. While there is nothing in the law that requires such notification prior to a special education referral, it would be recommended practice for schools to develop a system in which parents are notified of the general education instruction, including interventions, used with their children. During these interventions, observations may occur as part of a general education problem solving process. Anytime a school initiates a special education referral, the parent receives a notice of receipt of referral and start of initial evaluation, as well as a notice of child and parent procedural safeguards, commonly referred to as parent rights. The IEP team will also contact the parent to determine any additional assessments needed, which includes interventions. However, as part of a special education evaluation when a specific learning disability is considered, the IEP team must document the parent was notified of the progress monitoring data collected and the strategies used for increasing the student's rate of learning, including the intensive interventions. No changes are necessary.

7. One respondent believes it would be helpful to allow for further flexibility in the rule with the addition of alternate methods of identification of specific learning disabilities, such as pattern of strengths and weaknesses or use of professional judgement. The respondent believes the requirement of two interventions may cause unnecessary delay in the identification of specific learning disabilities for a number of students.

Agency Response: If the IEP team conducting the evaluation completes a comprehensive special education evaluation, including multiple data sources and collection methods, and has eliminated exclusionary factors as a primary cause for inadequate achievement and insufficient progress, then the IEP team determines the specific learning disability is due to deficits in one or more basic psychological processes involved in understanding or using language, spoken or written. Additionally, the purpose of a special education evaluation is to not only determine whether a student meets eligibility criteria, but it must be sufficiently comprehensive to develop the student's IEP. Nothing in this rule prevents an IEP team from more closely examining cognitive processing to identify student needs or align and implement specialized instruction. The intent behind two interventions is to accelerate student progress in the areas in which they are struggling. The IEP team may request an extension to allow for the completion of required interventions and collection of progress monitoring data that meet the standards described in the rule. Finally, if an eligibility decision is delayed because data needed by the IEP team were not collected in a manner consistent with the rule or because the LEA unnecessarily delayed the implementation of interventions and collection of progress monitoring data following a specific learning disability referral, the LEA may be required to consider whether compensatory services are needed due to the delay if the student is found eligible. No changes are necessary.

8. Another respondent argues the proposed rule should be evaluated and considered in light of regressing performance of students who are economically disadvantaged. The respondent questioned how many students with a specific learning disability have needs that are not being identified nor met by their school because of their economic disadvantage or did not have the financial resources to get help elsewhere. Further, the respondent notes the proposed rule maintains response to intervention as the exclusive criterion without other research-based procedures for determining whether a student has a specific learning disability, as provided under 34 CFR § 300.307(a)(3), as another acceptable way of establishing eligibility. The respondent notes several reasons maintaining response to intervention as the exclusive gateway to identification of specific learning disabilities is problematic, due to the following: the lack of adequate information to parents about if, when, what, and how long interventions are being administered to their children prior to special education referral; the uncertainty as to the legal right to an independent educational evaluation if parents disagree with the evaluation; the lack of guidance on how the IEP team is to objectively determine when evaluation results that would otherwise meet the criteria for a specific learning disability determination are instead primarily due to exclusionary factors; and the barriers to eligibility for students who, but for their disability, would be capable of achieving at a gifted and talented level. The respondent argues the proposed rule should provide clear direction to schools and the families of students who are underachieving, are not making appropriate progress, or are suspected of having a disability, so that those students can be promptly evaluated and be appropriately served.

Agency Response: The IEP team must base its decision of whether a child has a specific learning disability on a comprehensive evaluation using formal and informal assessment data regarding academic achievement and learning behavior from sources such as standardized tests, error analysis, criterion referenced measures, curriculum-based assessments, pupil work samples, interviews, systematic observations, analysis of the child's response to previous interventions, and analysis of classroom expectations, and curriculum in accordance with s. 115.782, Stats. All other concerns regarding objectivity of evaluations and exclusionary factors are addressed in best practice. No changes are necessary.

Some respondents submitted comment about the shift from scientific, research-based interventions under the current rule to evidence-based interventions in the proposed rule, including the following:

9. Some respondents questioned the proposed rule's shift from scientific, research-based interventions, under the current rule, to evidence-based interventions.

Agency Response: The term scientific, research-based interventions used in the current rule comes from a cross-reference to No Child Left Behind, which is no longer in effect and has been replaced with Every Student Succeeds Act (ESSA). ESSA uses different terminology, referring to evidence-based interventions. ESSA recognizes four levels of evidence. The rule references only the top three levels, as those require findings of a statistically significant effect on improving student outcomes or other relevant outcomes. The top three levels of evidence are: strong evidence, using at least one well-designed and well-implemented experimental (i.e., randomized) study; moderate evidence, using at least one well-designed and well-implemented quasi-experimental (i.e., matched) study; and promising evidence, using at least one well-designed and well-implemented correlational study with statistical controls for selection bias. The proposed rule also requires the interventions implemented were at the highest level of evidence base available for the areas of specific learning disability being assessed under par. (c) 1. The use of evidence-based interventions will allow educators to use interventions or practices in areas of specific learning disabilities in which scientific, research-based interventions were difficult to locate or did not exist, such as oral expression, listening comprehension, written expression, and math reasoning.

10. One respondent voiced concern regarding the amount of subjectivity the proposed rule provides. Depending upon the team conducting an evaluation, the respondent believes evidence can be interpreted with a high degree of variability and could result in a large number of students who show some level of academic struggle meeting the criteria for a specific learning disability. The respondent also notes the removal of many aspects of the current rule will create a high level of unpredictability for evaluation teams after having grown accustomed to many of the requirements for identifying a student with a specific learning disability under the current rule.

Agency Response: The rule still requires interventions to be implemented with adequate fidelity. The definition for evidence-based interventions, as given in this rule and under ESSA, is clearer and allows for more targeted and individualized intervention relative to scientific, research-based interventions under the current rule. The proposed rule also requires the interventions implemented were at the highest level of evidence base available for the areas of specific learning disability being assessed under par. (c) 1. However, the proposed rule does not prohibit school districts from using interventions that are already in place. Many interventions currently used by school districts meet the first or second tier of evidence-based interventions as defined under ESSA and referenced in the proposed rule. No changes are necessary.

11. One respondent requests that the proposed rule's definition for evidence-based interventions be reviewed to ensure school districts have the flexibility to create their own research-based interventions. The respondent fears a situation that may result from the proposed rule in which school districts are required to procure interventions from third parties because school districts don't have the resources to conduct their own interventions. Rather than require school districts to require evidence-based interventions, the respondent argues the current rule definition for interventions is adequate for implementation of the rule.

Agency Response: Changing the requirement from scientific, research-based interventions under the current rule to evidence-based interventions under the proposed rule gives school districts more flexibility to meet student needs based on evidence. It does not force school districts to purchase interventions from a third party. A number of evidence-based interventions are available, many at no cost. It is important to note that a school district that creates their own research-based interventions would not meet the requirements around scientific, research-based interventions under the current rule. If that school district were implementing a strategy that is based on research that meets the ESSA definition of evidence-based interventions, they would likely be meeting the requirements

under the proposed rule. The use of evidence-based interventions allows school districts to find interventions or evidence-based practices for areas that do not have existing interventions that meet the definition of scientific, research-based as defined in the current rule, such as written expression, oral expression, listening comprehension, and math reasoning. No changes are necessary.

12. One respondent argues the proposed rules do not put a limit on how long interventions can be extended or implemented. Based on current and suggested guidelines, this can prevent a student from receiving timely and needed special education services because an evaluation for a specific learning disability delays eligibility in other areas. The respondent requests the addition of a maximum timeline for providing interventions to students with a specific learning disability.

Agency Response: Establishing a timeline which limits interventions for students with a specific learning disability may put the rule in conflict with IDEA. The determination of whether to extend a specific learning disability evaluation timeline is made on a case-by-case basis through written agreement between the IEP team and the child's parent. Establishing a firm maximum timeline would limit the IEP team's ability to be responsive to individual situations and could potentially violate a parent's due process rights. State and federal law do not limit the amount of time for which an evaluation may be extended. However, timeline extensions may not be used to unnecessarily delay special education determinations (Ryder 2011). If a timeline is extended through written agreement in order to implement interventions with fidelity and gather data, the IEP team must determine a timely manner in which the evaluation will be completed. Additionally, the proposed rule requires a determination that to be identified with a specific learning disability, learning problems cannot be primarily due to the presence of other areas of impairment under s. PI 11.36. Therefore, if an IEP team has conducted a comprehensive evaluation that identifies a student's learning problems are primarily due to the presence of another disability, extending the timeline for an evaluation would not be necessary. If the IEP team feels additional intervention and progress monitoring is necessary to determine whether the cause of the learning difficulties are due to a specific learning disability, then an extension would be appropriate. No changes are necessary.

13. One respondent requests additional clarification regarding the terms "well-developed" and "well-evidenced" practice as well as guidelines regarding where to obtain research that supports evidence-based interventions. Additionally, while the respondent supports the addition of an observation by a member of the IEP team with knowledge in first and second language instruction and second language acquisition if the child is an English Learner, the respondent questions if this type of service provider is trained to observe as part of an evaluation. Finally, the respondent believes "highest level of evidence base available" in s. PI 11.36 (6) (f) 4. is vague and could be interpreted differently within the context of a school and between school districts.

Agency Response: There are several well-regarded resources to support LEAs in identifying evidence-based interventions that align with their local multi-level systems of support (Evidence for ESSA 2021; Institute of Education Sciences 2020; National Center on Intensive Intervention 2021). Additionally, school psychologists who practice within the National Association of School Psychologists Practice Model are trained to "evaluate and apply research as a foundation for service delivery and, in collaboration with others, use various techniques and technology resources for data collection, measurement, and analysis to support effective practices at the individual, group, and/or systems levels." (National Association of School Psychologists 2020) All preparation programs for school psychologists in Wisconsin provide training within this model. Additional clarification, including guidelines on obtaining research that supports evidence-based interventions, and determining selection of evidence-based interventions based on the highest level of evidence base available will be addressed in best practice resources for educators. The purpose of the additional team member conducting an observation of an English Learner is to provide the IEP team with information related to the extent to which the student's English language skills are impacting their access, engagement and progress in general education. Thus, this additional team member is the likely the most qualified person to conduct that specific observation within the rule. It is the

IEP team's responsibility then, to use that information when making a team decision related to eligibility for special education as a student with a specific learning disability. The additional IEP team member's observation is limited to this role. Additional best practice resources on conducting observations are available and will be included in resources for educators specific to specific learning disabilities. No changes are necessary.

Some respondents made comments regarding the proposed rule as applied to children with a reading disability such as dyslexia:

14. One respondent argues the rule change must ensure students are being identified with a specific learning disability at school and qualifying for an appropriate intervention. The respondent argues school districts are not identifying every student with a specific learning disability, specifically dyslexia. In these situations, parents have to pay for a medical diagnosis, which health insurance often does not cover, resulting in an equity issue with only the students whose parents have the means to get their child tested are being identified. The respondent argues dyslexic students make some progress so they may not qualify for special education, and any progress that they make in the classroom without an intervention does not allow them to live up to their fullest potential. The respondent argues the rule change needs to be designed so that students with a specific learning disability are given the appropriate intervention in an equitable manner.

Agency Response: Dyslexia is specifically named in the rule as one potential area of a specific learning disability. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain all educationally relevant medical findings, including dyslexia. Medical diagnoses do not automatically make a student eligible for special education services under state and federal special education law (U.S. Department of Education, 2021). For instance, although specifically named as learning disabilities within the rule, diagnoses alone such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and perceptual disabilities are not a determination of special education eligibility (Yudin 2015). A comprehensive evaluation is still required to determine the presence of a specific learning disability and a need for special education. Some students with a medical diagnosis who are not eligible for special education services may still qualify for an accommodations plan under section 504 of the Rehabilitation Act of 1973. The criteria for diagnosing a reading disorder such as dyslexia is used during an outside evaluation and does not necessarily correspond with state and federal special education eligibility criteria, a student may be diagnosed with dyslexia, but may or may not be determined to be a student with a disability under the law. The rule is designed to allow teams to provide appropriate and individualized interventions in a manner that aligns with federal law and regulations. No changes are necessary.

15. A number of respondents requested a change to the rule which would require a reading specialist to complete assessments, oversee interventions, and provide recommendations in the case of a suspected reading disability. While the rule only requires a "licensed person," the respondents argue every school is required to employ a reading specialist and their expertise in assessment and interventions is valuable when making determinations.

Agency Response: Based on feedback from public comments and stakeholder focus groups, the department is revising the proposed rule to require a reading teacher or reading specialist be added to the evaluation team when considering reading fluency, basic reading skills, or reading comprehension as possible areas of a specific learning disability.

16. One respondent asked for clarification as to why dyslexia is not mentioned in the rule other than a condition of a possible specific learning disability and requested the use of a reading specialist trained in phonemic awareness and knowledgeable on dyslexia for the school evaluation. Additionally, the respondent requested rule changes that require no part of the assessment may be skipped due to the child's ability and standardize the screening form, so that there is no question of what was and was not screened.

Agency Response: As stated above, the department will incorporate rule changes to require a reading specialist to be a part of a student's evaluation team. Reading specialists have specific knowledge in phonemic awareness and dyslexia along with other foundational areas such as phonics, vocabulary, reading comprehension, and fluency. State and federal rules require comprehensive evaluation of students suspected of having a specific learning disability. Evaluations are individualized and require parent collaboration and consent and must take into account a student's age and development. The IEP team determines what assessments are appropriate and needed in order to determine eligibility and need for special education. Finally, the screening process described above is outside the scope of the proposed rule, so no further changes are necessary.

17. One respondent disagrees with the rule's absence of a requirement that a family history of reading difficulty be made part of the evaluation. The respondent points to the fact that dyslexia is heritable and family history provides important information. Further, the respondent is concerned that there is not enough guidance on how to select interventions or progress monitoring tools that truly are based in evidence and science. The respondent believes this could result in children with word recognition problems receiving interventions that will not improve those skills and assessments with progress monitoring tools that do not measure progress in the skills the child needs to improve.

Agency Response: Information provided by family, outside evaluations, and relevant medical findings are important and required as part of any comprehensive special education evaluation. These requirements are referenced throughout the rule as IEP teams are required to follow all requirements listed under s. 115.782, Stats., which provides, as part of an initial evaluation of a child and as part of any reevaluation of a child, the individualized education program team and other qualified professionals, as determined by the local educational agency, shall review existing evaluation data on the child, including evaluations and information provided by the child's parents; previous interventions and the effects of those interventions; current classroom-based, local, or state assessments; classroom-based observations; and observations by teachers and related services providers. Further, s. PI 11.36 (6) (f) 5. specifically requires IEP teams to document the educationally relevant medical findings, if any exist. Although IEP teams are required to consider all information provided by parents, medical providers, and independent evaluations, this does not mean a student will automatically qualify for special education under the category of specific learning disability. In order to be determined eligible, the student must meet the criteria for specific learning disability, and need special education as a result of the disability. Additional information is available regarding dyslexia and specific learning disabilities, and further best practices are being developed around evidence-based interventions. No changes are necessary.

Some respondents offered the following comments regarding individually administered academic achievement tests for children with specific learning disabilities:

18. One respondent requested the following changes to the proposed rule: 1) replacing standardized scores as eligibility criteria with criteria that utilize question-based approach employed by other states, including specific questions directly related to the needs of the student and relevant data to the student, as well as inclusion of assessments relating to curriculum-based materials, problem-solving plans, and continuing with observations of response to intervention and regular education classes; and 2) flexibility for schools to be able to use paraprofessionals that provide Tier 2 interventions, while Tier 3 interventions are implemented by a certified teacher.

Agency Response: The proposed rule states the IEP team shall base its decision of whether a child has a specific learning disability on a comprehensive evaluation using formal and informal assessment data regarding academic achievement and learning behavior. Formal and informal assessment data may be obtained from sources which may include, but are not limited to: standardized tests, error analysis, criterion referenced measures, curriculum-

based assessments, child's work samples, interviews, systematic observations, analysis of the child's response to previous interventions, analysis of classroom expectations, and the curriculum. The placement of this requirement is based on administrative rule writing style and does not impact the necessity of fulfilling this requirement for evaluation teams. With regard to the comment about paraprofessionals, the more intensive supports or intervention a student needs in a tiered system, the higher degree of training and expertise the interventionist should have. Thus, interventions must be provided by appropriately trained staff as a requirement of federal special education law, specifically 34 CFR § 300.156. Paraprofessional responsibilities include supporting the lesson plan of a properly licensed teacher, providing technical assistance to the teacher, and helping with classroom management. Paraprofessionals cannot be assigned teacher duties such as providing interventions under federal law. It is possible for a paraprofessional to support the skills taught during intervention, but a licensed teacher must be the one to deliver the intervention. However, school districts should ensure paraprofessionals are appropriately trained in appropriate reading, writing, math, and social and behavioral strategies so they are able to successfully support students with disabilities under the direct supervision of a licensed special education teacher. If tier 2 interventions are being implemented with students who are not being evaluated for a potential specific learning disability, school districts are free to choose who provides those interventions. If students are struggling with reading or other academic skills requiring intervention, school districts should provide the most highly-qualified staff providing interventions. No changes are necessary.

19. One respondent called for research to be made more evident throughout the rule in order to avoid the problems the respondent argues are incurred by the current rule, including the lack of and overgeneralization of existing research grounding the rule. Further, the respondent argues student achievement should not be defined as data from one or more standardized achievement assessments but should emphasize what 34 CFR § 300.304 states. Finally, the respondent believes language referencing equity would expand how LEAs provide high quality instruction and engage in assessment practices, and coordinating the language between the department's multilevel systems of support and the proposed rule would provide school districts with a more cohesive plan and collaboration when addressing student needs.

Agency Response: 34 CFR § 300.304 is the federal regulation that applies to all special education evaluations, including evaluations in which a specific learning disability is being considered. Further, student achievement is not defined in the rule as data from one or more standardized achievement assessments. Rather, that is one component a team uses to identify inadequate classroom achievement. Standardized achievement data must be considered along with comprehensive evaluation data that demonstrates “the child does not achieve adequately for the child's age, or meet state-approved grade-level standards in one or more area of potential specific learning disability when provided with learning experiences and instruction appropriate for the child's age or grade” as described in s. PI 11.36 (6) (c) 1. a. of the proposed rule. The rule states in PI 11.36 (6) (g) that the IEP team shall base its decision of whether a child has a specific learning disability on a comprehensive evaluation using formal and informal assessment data regarding academic achievement and learning behavior from sources such as standardized tests, error analysis, criterion referenced measures, curriculum-based assessments, pupil work samples, interviews, systematic observations, analysis of the child's response to previous interventions, and analysis of classroom expectations, and curriculum in accordance with s. 115.782, Stats. Finally, students identified as having a specific learning disability make up 2.97 percent of all students. The purpose of the IEP is to ensure all students have what they need to be successful in the general education curriculum. No changes are necessary.

Some respondents made comments about progress monitoring for specific learning disabilities under the proposed rule, including the following:

20. One respondent in favor of the rule requested clarification for the definition of progress monitoring to mean evidence-based practices used to assess the effectiveness of the intensive interventions in accordance with the

expectations at the intervention level being used. The respondent believes the tool should be suitable to the skill and intervention level in order to determine if the intervention is a) providing an accelerated rate of growth significant enough to close the gap; b) if a change in intervention strategies is needed; and c) in the final determination of a specific learning disability.

Agency Response: Grade-based progress monitoring is necessary in order to compare student progress to that of their peers. The tool used as part of an evaluation to determine if a student has a specific learning disability needs to allow for the IEP team to establish insufficient progress, which is defined in rule. Using a tool matched to the student's individual level of performance does not allow for a determination of insufficient progress in comparison to age or grade level peers. Progress monitoring specific to the child's individual level of performance and instruction is an important and beneficial part of a comprehensive special education evaluation, especially for determining the content of the child's IEP. However, matching the progress monitoring tool to the child's current performance level does not allow for comparison to the rate of progress of same-age peers for the purposes of identifying a specific learning disability. If exclusionary factors do not apply and progress monitoring at the level of the intervention being used is demonstrating an accelerated rate of growth, it is still highly unlikely that the child would reach the average range in comparison to peers in a reasonable period of time or without the resources of special education to maintain a rate of progress that would allow the child to reach the average range.

21. One respondent argues evidence-based interventions should use trend lines for decision making and not be based on a standard intervention timeline that is usually dictated by the intervention's publisher and less frequently based on research articles. Further, the respondent believes the current proposed rule change is vague and doesn't specify that progress monitoring and instructional data can be the primary tools to guide instruction or make instructional changes.

Agency Response: This comment assumes that the intervention being used would be a published or commercial product. There is no requirement in the rule to use a published product or follow such products' timelines. If the LEA does use a published or commercial product, it is their responsibility to determine if the publisher's evidence base meets the ESSA standard required by the rule. Interventions that are stopped or changed prior to the evidence base that demonstrates positive results are, by definition, not evidence based. The academic growth or progress of an individual student in any of the eight areas of specific learning disability do not follow a straight linear progression. Progress can accelerate, plateau, or regress for many reasons. Therefore, it would not be appropriate in the analysis of insufficient progress for the purpose of identifying specific learning disabilities without completing interventions with fidelity as defined in the rule. Additionally, interventions should be implemented long enough to determine if the intervention is effective. IEP teams should use their progress monitoring data to determine whether or not an intervention is working and is meeting student needs. The duration of the intervention must be long enough to allow for enough progress monitoring data points to be collected to establish a reliable trend line and provide the data the IEP team uses to reliably decide if the student's progress has been sufficient. No changes are necessary.

22. One respondent argues evaluation teams should evaluate the psychometric properties and usefulness of the progress monitoring tools in order to determine how often to progress monitor students. The respondent points to available literature and cites multiple viewpoints on how often progress monitoring should occur, arguing that teams and practitioners should be able to make the decisions of whether weekly or biweekly data is appropriate for intervention progress monitoring.

Agency Response: The language around progress monitoring was revised to give IEP teams the flexibility to progress monitor on a schedule that aligns with the design of the intervention. In some areas of specific learning disability, such as reading fluency, it is appropriate to progress monitor weekly. Other areas of specific learning disability, such as written expression, can be progress monitored on a less frequent basis. The proposed rule

provides that progress monitoring shall be conducted at regular intervals that accurately assess the rate of progress during the evidence-based interventions, therefore allowing for progress monitoring to occur at a frequency that aligns with research based on the skill area that is being assessed. No changes are necessary.

23. One respondent requested further clarity on the requirement that progress monitoring shall be conducted at regular intervals in the rule, including the minimum frequency of intervals. Further, the respondent requested that progress monitoring be made appropriate to the child's age, grade placement, and the skill area being monitored.

Agency Response: The progress monitoring tool used as part of an evaluation to determine if a student has a specific learning disability needs to allow for the IEP team to determine insufficient progress. As written, the proposed rule does require progress monitoring to be appropriate to the child's age, grade placement and skill being monitored. The proposed rule also provides progress monitoring shall be conducted at regular intervals that accurately assess the rate of progress during the evidence-based interventions, allowing for progress monitoring to occur at a frequency that aligns with research based on the skill area that is being assessed. No changes are necessary.

Some respondents offered the following comments about equity in the use of exclusionary factors in the proposed rule:

24. One respondent voiced concerns about the proposed s. PI 11.36 (6) (a), which does not account for learning problems that are primarily due to the presence of other impairment areas under ch. PI 11, cultural or linguistic factors, environmental, or economic factors. The respondent believes the proposed change appears to be discriminatory against minority students and English Learner students as it appears the burden is on the parent or teacher to prove that being an English Learner is not a reason for not achieving grade level achievement. The respondent argues if a student has a reading disability, this should be identified through the evaluation for a specific learning disability no matter the language spoken by the student.

Agency Response: The proposed rule requires additional expertise to be brought into the IEP team to determine the reason for insufficient progress. Furthermore, 34 CFR § 300.304, which describes required evaluation procedures for all special education evaluations, includes multiple requirements related to conducting non-discriminatory assessments, such as requiring that assessments and other evaluation materials be selected and administered so as not to be discriminatory on a racial or cultural basis and be provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally. The proposed rule requires additional individuals to participate in the evaluation team, including a speech-language pathologist if there are concerns in the areas of oral expression or listening comprehension, and an educator with foundational knowledge in first and second language instruction and second language acquisition if the student is identified as an English Learner under 20 USC 7801 (20). Exclusionary factors must be the primary reason for inadequate achievement or insufficient progress in order for the team to determine the student does not have a specific learning disability. Exclusionary factors are considered and a determination is made after all other criteria have been met. The team should have enough data gathered through a comprehensive evaluation to discuss and make a determination regarding the impact of cultural factors on the student's progress and achievement. In terms of identification and eligibility, the main potential cultural factor is likely to be language related. Thus, the addition of speech-language pathologists and teachers of English Learners is intended to ensure the proper identification of specific learning disabilities, as well as the implementation of culturally responsive interventions, supports and services. As with all special education evaluations, determining whether or not exclusionary factors apply is made by the IEP team as a whole, not by an individual team member. No changes are necessary.

25. One respondent questioned the rule's responsiveness to cultural factors, specifically in the possibility that cultural factors could be used as a reason for schools to deny services to students suspected of having a specific learning

disability. The respondent fears the amount of subjectivity used by schools to classify deficits due to cultural factors could be especially harmful to students if schools cannot definitively prove that the cultural factors are the primary reason for the documented achievement deficit before they deny services. The respondent warns unless there is unambiguous guidance in this area, cultural factors may be used to exacerbate achievement gaps in the state, especially when applied to immigrant, low income, and minority children.

Agency Response: Cultural factors as an exclusionary factor need to meet the same standard as all other exclusionary factors under the rule. As described above, inadequate achievement or inadequate progress must be due solely to an exclusionary factor to not qualify for special education. The determination of exclusionary factors is made after all other criteria has been met. The team should have enough data gathered through a comprehensive evaluation to discuss and make a determination regarding the impact of cultural factors on the student's insufficient progress and inadequate achievement. In terms of identifying a specific learning disability, the most relevant cultural factor is likely to be language related. Thus, the rule's addition of a speech-language pathologist and an individual with knowledge in first and second language instruction and second language acquisition on evaluation teams will ensure the proper identification of a specific learning disability, as well as the implementation of culturally responsive interventions, supports and services. The use of evidence-based interventions will also allow for more culturally responsive interventions relative to the current rule. No changes are necessary.

26. One respondent argues these proposed rules were developed without adequate input from stakeholders relative to when the current rule was developed, which they argued required extensive development and analysis of the impacts of the rule. Further, the respondent disagreed with several proposed changes, which the respondent argues is likely to result in an increase in the number of students who will be found eligible for special education under the disability category of specific learning disability. These changes include the removal of several elements of intervention and evaluation, including the 80 percent fidelity requirement for interventions, the definitions for progress monitoring probes and the rate of progress. Further, the respondent argues the changes to the progress monitoring requirement is problematic in that it allows for tools that have inadequate statistical properties for the purpose of disability assessment.

Agency Response: The department embarked upon extensive stakeholder engagement as a part of this rule revision. Once a scope statement was approved, the department held five stakeholder group sessions with 55 representatives from education stakeholder groups for feedback in drafting the proposed rule, including: the Wisconsin RTI Center, Wisconsin State Reading Association, Wisconsin Council of Administrators of Special Services, Wisconsin Association of School District Administrators, Association of Wisconsin School Administrators, Wisconsin Family Assistance Center for Education, Training & Support, Wisconsin School Psychologists Association, Wisconsin Chapter of The Council on Exceptional Children, CESA 2, CESA 9, Wisconsin International Dyslexia Association, Decoding Dyslexia Wisconsin, Wisconsin Reading Coalition, the Dyslexia Guidebook Advisory Committee, school districts including Wrightstown Community School District, Suring Public Schools, Verona Area School District, Prentice School District, Green Bay Area Public School District, Milwaukee Public Schools, Iowa-Grant School District, School District of Superior, Madison Metropolitan School District, Appleton Area School District, and institutions of higher education including UW-Madison, UW-La Crosse, UW-Stout, UW-Milwaukee, Carroll College, Alverno College, the State Superintendent's Special Education Advisory Council, among others. A survey to each stakeholder and stakeholder group listed above was also distributed and considered prior to receiving formal public comments. The department also met with former department staff involved in the creation of the current rule to solicit additional feedback. Public comments and testimony from preliminary public hearings on the statement of scope were also considered when revising this rule. In addition, the department, as noted in this report, received comment from a large number of individuals and organizations as a part of the rules promulgation process. The department made several changes to the rule based on the comments that were received.

The timeline around the development that resulted in the current rule and the proposed rule is different as no two rules are comparable. The process around rulemaking is governed by ch. 227 of the Wisconsin Statutes and has changed significantly relative to the process in promulgating the current rule. Further, there has been a decade of research and implementation of response to intervention as a method for identifying children with a specific learning disability, as opposed to during the time the current rule was developed.

The definition of adequate fidelity was revised so the intervention could be implemented in accordance with the design of the intervention while also allowing IEP teams to be responsive to student needs. Interventions must still be implemented with adequate fidelity. The proposed rule also requires the interventions implemented were at the highest level of evidence base available for the areas of specific learning disability being assessed under par. (c) 1. It is impossible to predict how this rule may increase or decrease the number of students identified with a specific learning disability. The purpose of the rule is to provide LEAs with the tools to accurately identify students with a specific learning disability, not to arbitrarily identify a specified number of students. Further, to identify a specified number of students would be in violation of federal law, as students are required to be identified for special education based on their individual identification.

The definition of probes was removed from s. PI 11.02 because it is a restrictive definition that does not apply to all of the eight areas of potential learning disabilities addressed under this rule. Probes, as defined in the current rule, mean brief, direct measures of specific academic skills, with multiple equal or nearly equal forms, that are sensitive to small changes in pupil performance, and that provide reliable and valid measures of pupil performance during interventions. Probes are not an appropriate or available measure for areas of specific learning disability such as reading comprehension or math reasoning because direct measures of these skills that meet this definition do not exist. Whereas, the revised definition of progress monitoring requires IEP teams to measure the rate of progress in a manner that aligns with current best practices. The definition of rate of progress was removed from s. PI 11.02 because insufficient rate of progress is already described clearly within the rule under the current and proposed rule in s. PI 11.36 (6) (c) 2. Additionally, as defined in the current rule, s. PI 11.02 requires the outmoded use of least squares regression statistical process to measure rate of progress. More recent research indicates that least squares regression should not be the sole and is not the optimal statistical procedure that can provide an accurate trend line that demonstrates a rate of progress (Christ & Desjardins 2018). Based on feedback submitted during public comment regarding progress monitoring, the proposed language on progress monitoring was revised to ensure progress monitoring tools have adequate statistical properties for the purposes of specific learning disability evaluation and eligibility determination.

Changes made as a result of oral or written testimony:

Amended s. PI 11.36 (6) (c) to clarify that progress monitoring shall be administered on a weekly or other schedule supported by empirical research that results in a reliable, valid and diagnostically accurate trend line of the rate of progress during the evidence-based interventions.

Amended s. PI 11.36 (6) (c) to provide how an IEP team may use a pattern of strengths and weaknesses method when evaluating a child in a parentally-placed private school or home-based private education program.

Amended s. PI 11.36 (6) (d) to additionally require the IEP team for children being evaluated for specific learning disabilities to include a reading teacher or reading specialist licensed under ch. PI 34 if inadequate classroom achievement in the areas of reading comprehension, basic reading or reading fluency are being considered.

Changes to the analysis or the fiscal estimate:

No changes were made.

Responses to Clearinghouse Report:

2. Form, Style and Placement in Administrative Code:

The changes are accepted.

4. Adequacy of References to Related Statutes, Rules and Forms:

The changes are accepted.

Changes deemed necessary by the Department to improve implementation of the rule:

See the addendum which is included with this report.

References

- Alfonso, V.C. & Flanagan, D.P. 2018. "Essentials for Specific Learning Disability Identification, 2nd Edition." p. 15. John Wiley and Sons, Inc.
- Christ, T. & Desjardins, C.D. 2018. "Curriculum-Based Measurement of Reading: An Evaluation of Frequentist and Bayesian Methods to Model Progress Monitoring Data." *Journal of Psychoeducational Assessment*, 36(1) pp 55-73.
- Evidence for ESSA. 2021. "Find Evidence-Based PK-12 Programs." Updated February 24, 2021. <https://www.evidenceforessa.org>.
- Institute of Education Sciences. 2020. "Using the What Works Clearinghouse to Find ESSA Tiers of Evidence." Updated October 16, 2020. <https://ies.ed.gov/ncee/wwc/essa>.
- Maki, K. & Adams, S. 2020. "Specific Learning Disabilities Identification: Do the Identification Methods and Data Matter?" *Learning Disability Quarterly*, 43(2) pp. 63-74.
- National Association of School Psychologists. (2020). "NASP 2020 Domains of Practice." Updated February 20, 2021. <https://www.nasponline.org/standards-and-certification/nasp-2020-professional-standards-adopted/nasp-2020-domains-of-practice>.
- National Center on Intensive Intervention. 2021. "Levels of Intervention and Evidence." Updated January 17, 2021. <https://intensiveintervention.org/tools-charts/levels-intervention-evidence>.
- Ryder, R. 2011. "A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)." United States Department of Education Office of Special Education and Rehabilitative Services. Updated January 21, 2011. www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.doc.
- U.S. Department of Education. 2021. "Protecting Students With Disabilities." United States Department of Education Office of Civil Rights. Updated March 16, 2021. <https://www2.ed.gov/about/offices/list/ocr/504faq.html>.
- Ysseldyke, J.D. 2005. "Assessment and Decision Making for Students with Learning Disabilities: What if This is as Good As it Gets?" *Learning Disability Quarterly*, 28(2) pp. 125-128.
- Yudin, M. 2015. "Dear Colleague Letter." United States Department of Education Office of Special Education and Rehabilitative Services. Updated October 23, 2015. <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf>.

**FINAL REPORT ADDENDUM
CLEARINGHOUSE RULE 21-011
CHAPTER PI 11
CHILDREN WITH DISABILITIES**

A public hearing on Clearinghouse Rule 21-011 was held by the Senate Education Committee on April 21, 2021. Additionally, a public hearing on Clearinghouse Rule 21-011 was held by the Assembly Education Committee on April 22, 2021.

The following persons testified or provided written testimony at the April 21, 2021 public hearing:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Katie Kasubaski	Decoding Dyslexia Wisconsin		X	
Sharon Schmeling*	Wisconsin Council of Religious and Independent Schools			X

Additionally, the following persons testified or provided written testimony at the April 22, 2021 public hearing:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Sharon Schmeling*	Wisconsin Council of Religious and Independent Schools		X	
Katie Kasubaski	Decoding Dyslexia Wisconsin		X	
John Humphries	Representing Self		X	

* *Provided written testimony.*

Summary of public comments relative to the rule and the agency's response to those comments:

1. S. Schmeling submitted written testimony to both committees on behalf of the Wisconsin Council of Religious and Independent Schools. She noted general support of the department's efforts to make state processes and procedures around special education and learning disabilities more current with evidence-based best practices. However, she questioned the elimination of language under s. PI 11.36 (6) (h) that says, "If a child with a specific learning disability performs to generally accepted expectations in the general education classroom without specially designated instruction, the IEP team shall determine whether the child is no longer a child with a disability." She notes that because eligibility for the state's Special Needs Scholarship Program is based on a student having an operative IEP, an unintended consequence of this change could result in a child's IEP becoming inoperative without the overt decision of the IEP team and eliminating the child's eligibility for the Special Needs Scholarship Program. While S. Schmeling indicated support for the proposed rule, she requested restoring the stricken language from s. PI 11.36 (6) (h).

Agency Response: As a result of concerns raised at the April 22, 2021 hearing, the department has recalled the rule pursuant to the procedures allowed under s. 227.19 (4) (b) 3m., Stats. The department agrees with the above

comments and will remove this change from the proposed rule as a part of its resubmission of the rule with germane modifications.

2. K. Kasubaski provided testimony to both committees in opposition to the proposed rule on behalf of Decoding Dyslexia. She cited the following concerns with the rule: 1) evaluations of parentally-placed private school and homeschool students in the first draft of the rule; 2) the impact of “essential components of reading instruction” on students who may have a specific learning disability in other academic areas, such as mathematics problem solving; 3) the department’s outdated guidance on specific learning disabilities, especially as applied to the use of the significant discrepancy model in identifying children with a specific learning disability, and the inconsistent application of the rule by school districts and IEP teams; 4) the timing of the proposed rule relative to the dyslexia guidebook; and 5) the level of stakeholder and public hearing input in the proposed rule.

Agency Response: The department met with representatives from Decoding Dyslexia on May 6, 2021 to discuss the concerns raised in the hearing on the proposed rule.

For evaluations for any disability category, s. 115.782 (3), Stats., provides the IEP team “may not determine that a child is a child with a disability if the determinant factor for the determination is lack of appropriate instruction in reading, including in the essential components of reading instruction, as defined in 20 USC 6368 (3), or lack of instruction in math, or because the child has limited proficiency in English.” This is intended to ensure the appropriate and accurate identification of students with disabilities from specific populations who may not have access to high-quality instruction. The proposed rule represents a method of evaluation that allows teams to accurately identify whether or not a student has a learning disability.

The first draft of the proposed rule did not contain a method to evaluate parentally-placed private school and homeschool students. The department believed that with the proposed changes to the intervention and progress monitoring requirements in the rule, it would be easier to implement a response to intervention method within parentally-placed private school and homeschool environments. Due to public feedback, prior to submission of the proposed rule to the legislature, the department recognized that even with the proposed changes, the response to intervention method would continue to be challenging to implement in these environments. As a result, the department added provisions to the proposed rule to provide how an IEP team may use a pattern of strengths and weaknesses method when evaluating a child in a parentally-placed private school or home-based private education program. It is documented on the department’s report to the legislature that these changes were made as a result of oral or written testimony from the public hearing on February 19, 2021.

In response to a concern that a pattern of strengths and weaknesses method is essentially the significant discrepancy model under a new name, it is not. There is a general consensus that the significant discrepancy model has little empirical evidence and many conceptual and psychometric flaws for identifying specific learning disabilities (Maki & Adams 2020; Ysseldyke 2005). The department recognizes that the significant discrepancy model is outdated and much time and research went into evaluating alternate research-based methods for appropriately identifying specific learning disabilities. Research supports that using a pattern of strengths and weaknesses is a more effective method of identifying a specific learning disability than the significant discrepancy model (Alfonso & Flanagan 2018).

The essential components of reading instruction are listed within the rule. They are: reading comprehension; writing; vocabulary development; speaking; listening; reading foundational skills, including phonemic awareness and phonics through explicit, systematic instruction; and reading fluency, including oral reading skills. Components of the other areas of potential specific learning disabilities are not included as specific learning disabilities. The areas of basic reading, reading fluency, and reading comprehension represent the vast majority of identifications (Alfonso & Flanagan 2018). Further, the “essential components of reading instruction” is a term

defined in 20 U.S.C. § 6368(3).5. Those components are included within the seven areas outlined in the proposed rule. Whereas, “essential components of instruction” are not outlined for other areas of potential specific learning disability as they do not exist in federal statute.

With respect to the comments regarding guidance provided by the department, the department agrees that aspects of the guidance are unclear and outdated because the rule is outdated. When the rule is updated to reflect a more effective approach, technical assistance and best practice with respect to implementing the rule will be updated to reflect this more effective and implementable approach.

In regards to the timing of the proposed rule relative to the development of the dyslexia guidebook, the department believes the guidebook will be a valuable resource. The guidebook, however, is distinct from the IEP evaluation process.

Questions were raised about the timing of the revisions to the proposed rule as well as stakeholder input. The department followed all required processes for soliciting public comment on the proposed rule in accordance with ch. 227 of the Wisconsin Statutes and provided additional opportunities for stakeholder input in the development of the rule, as described in this report. It should be noted that Decoding Dyslexia both participated in these additional opportunities as well as the agency hearing on the proposed rule, which was used to inform the development of the final proposed rule.

The ultimate goals behind the revision are to ensure that students are being identified appropriately, interventions with proven efficacy are matched to student need, and the rule can be implemented in public, private, and homeschool settings.

3. J. Humphries provided testimony to the Assembly Education Committee in opposition to the proposed rule. He cited the following in opposition to the rule: 1) a lack of stakeholder input and a rushed process in developing the proposed rule without fully recognizing the rule’s impact on children; 2) a lack of guidance, training, and technical assistance to implement the current rule; 3) a recommendation for a statewide approach to teaching reading; and 4) a belief that intervention and progress monitoring as written in the current rule requires no updates.

Agency Response: When it comes to the comments made regarding the process for creating this rule, the department embarked on an extensive stakeholder engagement process, going beyond statutory requirements governing administrative rulemaking. These revisions follow ten years of implementation and research, along with technical assistance calls and emails, IDEA complaints, and federal and state case law related to response to intervention and specific learning disability identification, that demonstrated the need for changes. The proposed rule was created through a comprehensive process in which stakeholders provided feedback on the proposal, which directly informed the proposed revisions to the rule. The stakeholder process and public input were detailed previously in this report. Additionally, the department reached out to numerous groups who did not attend the legislative hearings to address questions regarding support for the rule. Those statements are attached at the end of this report and represent disability rights groups, higher education, school psychologists, school administrators, school boards, private schools, and CESAs.

As for the impact on children, it is not possible to implement the current rule and effectively meet student needs. The current rule has likely resulted in disproportionate identification of certain groups of students. Since the implementation of the rule, the identification of white students with a specific learning disability has decreased while identification of students of color has stayed the same. This, by default, raises the risk ratio for students of color being identified as having a specific learning disability. It is expected the proposed rule will not result in over-identification, but will result in more appropriate identifications to meet student needs.

Further, under federal and state law, school districts must meet Child Find requirements to identify, locate and evaluate all children with disabilities, regardless of the severity of their disabilities. Public comment to the department emphasized that the prescriptive nature of the current rule makes it difficult for schools to meet these requirements and is detrimental to students who attend private schools or are homeschooled. The proposed changes address these issues by allowing schools to use a pattern of strengths and weaknesses method when evaluating a child in a parentally-placed private school or home-based private education program. These changes address frustrations experienced by educators and families across the state in properly identifying students who have a specific learning disability that attend private or home-based education programs. The proposed changes respect the autonomy of private school and homeschool instructors while helping schools implement Child Find under the law.

Additionally, the ability to implement the current rule at the secondary level in public schools is also of concern to educators trying to meet its requirements. Because most response to intervention research is conducted at the elementary school level, scientific, research-based interventions in the current rule do not exist for some of the eight areas of potential specific learning disability for students at the secondary level. Additionally, the progress monitoring probes in the current rule only have normative data up to the 6th and sometimes 8th grade level. Aligning the rule to evidence-based interventions, as laid out in federal law, allows teams a wider array of interventions with an evidence base and demonstrated results.

With regard to comments about strategies for teaching reading, this rule is not about English language arts or the broader curriculum districts use in general education, but rather the identification of students with a specific learning disability and the services they are entitled to under the law. Three percent of students in Wisconsin are identified as having a specific learning disability. This rule is designed to set the floor or minimum requirements for the evaluation and identification of a specific learning disability at the individual student level. As with the current rule, it would not have a wider impact on universal reading instruction in the general education curriculum.

State law cannot dictate interventions to an IEP team. This rule aligns to the evidence-based interventions in federal law, which could include the science of reading, depending on the needs of the student as determined by the IEP team. Determinations of reading interventions must be evidence-based under the proposed rule and are determined by the IEP team. Evidence-based interventions are defined in federal law and are the interventions the federal government requires states to use under the Elementary and Secondary Education Act. An explanation of these interventions are provided in this report.

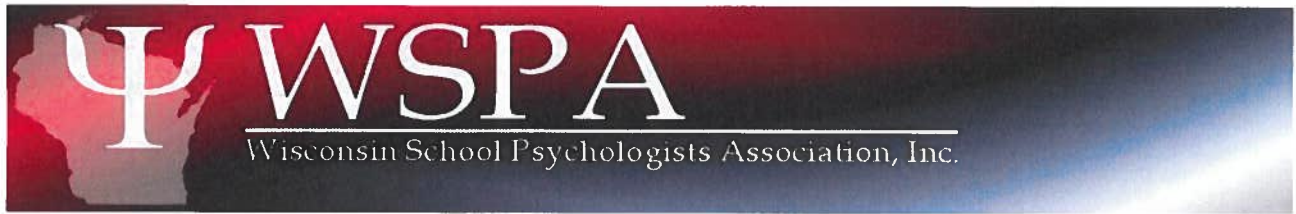
In regards to the comments about guidance and technical assistance, the current rule has extensive guidance and technical assistance behind it, including a 98-page technical assistance guide, a 30-page frequently asked questions document, and several supplemental documents. The rule is not lacking in technical support or guidance, but rather is unworkable in its current form and needs to be updated. The proposed rule aims to reduce the complexity surrounding the current rule and create flexibility across educational settings while ensuring the appropriate identification of students with a disability.

Finally, in response to the comments about interventions and progress monitoring, the term scientific, research-based interventions, used in the current rule, is no longer valid. It comes from a cross-reference to No Child Left Behind. This law is no longer in effect. No Child Left Behind has been replaced with the Every Student Succeeds Act (ESSA). ESSA uses different terminology, referring instead to evidence-based interventions. Evidence-based interventions are defined under federal law as an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on evidence from at least one well-designed and well-implemented experimental study. The use of evidence-based interventions is not only

aligned to current law, but provides additional flexibility to meet student needs. For instance, they will allow educators to use interventions or practices in areas of specific learning disabilities in which scientific, research-based interventions were difficult to locate or did not exist, such as oral expression, listening comprehension, written expression, and mathematics problem solving.

Additionally, the language around progress monitoring was revised to give IEP teams the flexibility to progress monitor on a schedule that aligns with the design of the intervention. In some areas of specific learning disability, such as reading fluency, it would be appropriate to progress monitor weekly. Other areas of specific learning disability, such as written expression, could be progress monitored on a less frequent basis. The proposed rule provides that progress monitoring shall be conducted at regular intervals that accurately assess the rate of progress during the evidence-based interventions, therefore allowing for progress monitoring to occur at a frequency that aligns with research based on the skill area that is being assessed.

As proposed, this rule creates consistency in identifying specific learning disabilities across educational sectors in Wisconsin and provides for the flexibility to provide evidence-based interventions, and align progress monitoring, to meet student needs.



President:
Tonya Klem
WSPApresident@gmail.com
W: 715-529-5374

Past President:
Rene Staskal
restaskal@madison.k12.wi.us

Member at Large:
Ann Reyes
Amreyes2@madison.k12.wi.us

Secretary:
Brooke Soupenne
brooke.fails@gmail.com

Treasurer:
Kathryn Bush
klbush@tds.net
2105 Aspen Rd.
Madison, WI 53711
H: 608-233-8108
C: 608-628-2854

Association Manager:
Don Juve
wspamanager@gmail.com
C: 608-317-3920

Attn: Julia Hartwig, Director, Special Education Team:

The Wisconsin School Psychologists Association (WSPA) would like to offer our full support for the proposed update to ch. PI 11 of the Wisconsin Administrative Code with respect to eligibility criteria for children with specific learning disabilities. We believe that the Response-to-Intervention methodology embedded within the code represents evidence-based practice in the identification of specific learning disabilities, and is superior to other potential practices (i.e., discrepancy model, pattern of strengths and weaknesses). While we raised specific questions in our previous document, those have been satisfactorily answered in the analysis provided by the Department or we believe will be resolved through forthcoming guidance documents.

Our association believes that the current rule used for identifying specific learning disabilities has positively impacted reading instructional and assessment practices in the State and the new rule seeks to further strengthen those practices. For example, the process of schools using universal academic screening has improved universal instruction and early identification of students not meeting benchmarks. This early opportunity to intervene has resulted in students making significant progress through intensive interventions delivered with fidelity in the general education setting thus not requiring special education assistance.

WSPA notes that the language (e.g., evidence-based interventions) has been updated in the SLD rule to reflect ESSA and to increase the options to positively impact academic growth in students. This language is also reflected in sites that have peer reviewed and classified interventions (e.g., What Works Clearinghouse). Bringing these into alignment may help practitioners to design quality programming for students.

Furthermore, the addition of flexibility in the implementation of progress monitoring tools reflects increased and expanded options to track student growth. The previous system appeared to be based more on the measurement of specific skills in areas such as basic reading skills or reading fluency, while the new language considers different subject areas (e.g., writing, math computation) which have been more difficult to quantify through weekly curriculum based measurement designed to monitor growth.

WSPA acknowledges that no procedure for identifying specific learning disabilities is perfect and there will always be room to examine and improve our practices. We feel, however, that this proposed code change represents current best practices in the field, and we lend our support.

Respectfully submitted,

Tonya Klem

Tonya Klem, EdS, NCSP

President, Wisconsin School Psychologists Association

The Wisconsin School Psychologists Association executive board established a workgroup composed of executive board members, practitioners and trainers of school psychologists to review. Members of that team included:

Katie Johnson, EdS, NCSP – School Psychology Practitioner

Hannah Jorgenson, EdS, NCSP – School Psychology Practitioner

Kisten Gillespie, MSE – School Psychology Practitioner

Robert Dixon, PhD, NCSP – Trainer of School Psychologists

Tonya Klem, EdS, NCSP – WSPA President

Date: May 5, 2021
To: Carl Bryan, DPI Administrative Rules Coordinator
From: Joanne Juhnke, Advocacy Specialist – Special Education
Re: DRW Support for C.R. 21-011
Cc: Julia Hartwig, Director, Special Education Team

Disability Rights Wisconsin appreciates the opportunity to comment in support of DPI’s proposed revision to Clearinghouse Rule 21-011, regarding eligibility criteria for children with specific learning disabilities. DRW had no objections to the rule as proposed in February 2021, and subsequent proposed changes have made the rule stronger still.

Families have contacted Disability Rights Wisconsin with two issues in particular that the most recent revision of the rule will improve:

- 1) Delays in identification due to drawn-out Response to Intervention (RtI) processes (aka “languishing”)
- 2) A concern that the current rule does not speak to identification for private school and homeschool students, since DPI lacks authority to require private and home schools to do RtI interventions.

The revision adjusts language in definitions of “adequate fidelity” and redefines the establishment of a baseline for progress monitoring, creating timeline flexibility that removes barriers to completing the required evidence-based interventions in a timely manner. The revision now also includes the option for using a “pattern of strengths and weaknesses” as an alternate means of establishing eligibility for private school and home-based students.

Disability Rights Wisconsin will continue to encourage families to assert their right to a timely evaluation process for specific learning disability, and we look forward to directing districts to the revised rule provisions.

MADISON

131 W. Wilson St.
Suite 700
Madison, WI 53703

608 267-0214
608 267-0368 FAX

MILWAUKEE

6737 West Washington St.
Suite 3230
Milwaukee, WI 53214

414 773-4646
414 773-4647 FAX

RICE LAKE

217 West Knapp St.
Rice Lake, WI 54868

715 736-1232
715 736-1252 FAX

disabilityrightswi.org

800 928-8778 consumers & family



600 W. Virginia Street, Ste. 501
Milwaukee, WI 53204

Toll Free 877-374-0511
Fax 414-374-4655

www.wifacets.org

May 3, 2021

Julia Hartwig
Director, Special Education Team
Wisconsin Department of Public Instruction
125 S. Webster St.
Madison, WI 53703

Dear Julia,

I am writing this letter to demonstrate WI FACETS' support for the 2021 updates being proposed by DPI to PI 11. We believe that the changes are necessary to help the rule be implemented more effectively. We are particularly supportive of the changes designed to minimize students having to spend an inordinate amount of time in the evaluation period, as many currently do.

Wisconsin FACETS is the OSEP-funded Parent Training & Information Center for the state. We provide training, information, resources, and individual support to nearly 30,000 families of children with disabilities in Wisconsin, nearly 50% of whom are economically disadvantaged and culturally diverse. WI FACETS has a long history of working with people with disabilities to improve their quality of life. We work routinely with families who have children with specific learning disabilities. Any effort to make the SLD eligibility criteria less burdensome for families as well as educators has our full support.

Respectfully,

Courtney Salzer, J.D.
Executive Director

Superintendent Carolyn Stanford Taylor
Department of Public Instruction
125 S. Webster Street
Madison, WI 53703

May 12, 2021

Dear Superintendent Stanford Taylor,

I write to wish you well as you prepare to depart the DPI, and to thank you and your staff for working with us on improving the Clearing House Rule on detecting a child's learning disabilities in the state's process for executing the federal Individuals with Disabilities Education Act (IDEA).

As you are well-aware, the IDEA is terribly outdated, and for that reason creates many difficulties in helping children with special education needs. We are supportive of your agency's efforts to improve the process for serving these children.

Our concern with CR 21-011 as outlined in our April 22, 2021, testimony to the state Assembly Committee, and our April 21 testimony to the Senate Education Committee are being effectively addressed by your staff.


As you know, we suggested a simple fix, which involved retaining a portion of the rule's language so that a child couldn't inadvertently be excluded from the Special Needs Scholarship Program. By retaining the existing language around a team's determination of an IEP, our concerns are resolved.

More importantly, we thank you for your vision, which facilitates such cooperation. We have enjoyed working with you and are grateful for your inclusive leadership, which has helped ensure that private school students have been treated fairly and equitably in state and federal programs, which they are entitled to by law.

You leave a collaborative and constructive framework in place as you depart DPI. For that, we are sincerely grateful.

On behalf of the WCRIS Board of Directors, I wish you every good thing from the One above as you transition to the next phase of your life's work. Godspeed!

Best wishes,


Sharon L. Schmeling
Executive Director

Cc electronically: Jennifer Kammerud, Senior Policy Advisor

Archdiocese of Milwaukee

Association of Christian
Schools International

Christian Schools
International

Diocese of Green Bay

Diocese of LaCrosse

Diocese of Madison

Diocese of Superior

Lutheran Church
Missouri Synod
North Wisconsin District

Lutheran Church
Missouri Synod
South Wisconsin District

Wisconsin Association
of Independent Schools

Wisconsin Conference
of Seventh Day Adventists

Wisconsin Evangelical
Lutheran Synod
Northern Wisconsin District

Wisconsin Evangelical
Lutheran Synod
Western Wisconsin District

Wisconsin Evangelical
Lutheran Synod
Southeastern Wisconsin
District

Associate Members

PHONE
(608) 287-1224

E-MAIL
wcris.staff@wcris.org

WEBSITE
www.wcris.org

ADDRESS
110 East Main Street
Suite 802
Madison, WI 53703



WISCONSIN CATHOLIC CONFERENCE

The Honorable Carolyn Stanford Taylor
State Superintendent
Wisconsin Department of Public Instruction
125 S. Webster Street
Madison, WI 53703

May 14, 2021

Dear Superintendent Stanford Taylor:

I write on behalf of the Wisconsin Catholic Conference (WCC), the public policy voice for the bishops of Wisconsin. In advocating for the over 52,000 students served in over 270 Catholic schools, the work of the WCC is guided by a commitment to affirming and protecting the dignity of every human person, especially those who are disadvantaged or marginalized.

Respect for the human person demands that all have the opportunity to lead dignified lives and participate as fully as possible in the life of the community, including those who have special learning needs. In developing and revising CR 21-011, the Wisconsin Department of Public Instruction (DPI) updates and improves upon the process for assessing whether a student with specific learning disabilities is eligible for services under the federal Individuals with Disabilities Education Act (IDEA).

Recent revisions to CR 21-011 sufficiently address concerns raised by private school advocates regarding the possible exclusion of families from the Special Needs Scholarship Program (SNSP). We appreciate efforts by you and your staff to quickly address these concerns and to restore the requisite administrative code language to CR 21-011.

We are grateful to you, not only for your willingness to work with private school leaders to resolve this issue, but for the ongoing communication and collaboration that we have enjoyed with your administration through the years. Your leadership has been instrumental in further developing a constructive environment where individuals of goodwill, in both public and private education, can work together to improve the lives of Wisconsin's students. Thank you.

My prayers and best wishes for you during the coming transition and in your future endeavors.

With much appreciation for your service,

Kim Vercauteren
Executive Director



122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 • TOLL-FREE: 877-705-4422
FAX: 608-257-8386 • WEBSITE: WWW.WASB.ORG

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

May 13, 2021

The Honorable Carolyn Stanford Taylor, State Superintendent
Wisconsin Department of Public Instruction
125 S. Webster Street
Madison, WI 53703

Dear State Superintendent Stanford Taylor,

I write to inform you that the Wisconsin Association of School Boards (WASB) has neither concerns with nor objections to the provisions of Clearinghouse Rule 21-011, which revises Chapter PI 11, Wis. Administrative Code, and makes changes to criteria relating to specific learning disabilities. We believe the rule should be allowed to move forward.

The WASB supports periodically modifying state special education laws and rules to bring them into alignment with changes in federal special education law. Clearinghouse Rule 21-011 does this, updating the existing rule in a way that serves students with special needs and provides school districts with additional flexibility. We support those goals advanced by this rule.

The WASB does not, as a matter of course, register a position on all proposed rules. The fact that the WASB has not registered a position on a given proposed rule—for example, that we have not previously registered in support of this particular proposed rule—should not be taken as a sign that we oppose the proposed rule.

I hope this clarifies our position with respect to Clearinghouse Rule 21-011. Please feel free to contact me if you have any questions or if you need additional information.

Respectfully submitted,

Dan Rossmiller, Director of Government Relations
Wisconsin Association of School Boards



School Administrators Alliance

Representing the Interests of Wisconsin School Children

May 11, 2021

Ms. Julia Hartwig
Director of Special Education
WI Dept. of Public Instruction
PO Box 7841
125 S. Webster Street
Madison, WI 53707-7841

RE: Proposed Rules Modification for Specific Learning Disabilities

Dear Ms. Hartwig:

The DPI's Clearinghouse Rule 21-011, related to changes to criteria relating to specific learning disabilities (SLD), received a public hearing before the Assembly Committee on Education on April 22, 2021. I was unable to attend this hearing as I was helping to facilitate member testimony at the Joint Finance Committee's budget hearing in Menomonie. Curiously, it is my understanding that the absence of the School Administrators Alliance (SAA) from the hearing was construed as opposition to the proposed SLD rule changes.

The SAA is an alliance of five professional associations of public school administrators, including the Wisconsin Association of School District Administrators (WASDA) and the Wisconsin Council of Administrators of Special Services (WCASS). Representatives from both WASDA and WCASS participated in the DPI stakeholder group sessions.

In short, we support the proposed rule changes related to specific learning disabilities. We believe the proposed PI 11 modifications appropriately update our procedures for identification of specific learning disabilities. We also support aligning our state procedures with current federal regulations.

If you should have any questions or require additional information regarding the SAA's position on this issue, please contact me.

Sincerely,

John D. Forester
Executive Director

An Alliance of:



The Wisconsin Council of Administrators of Special Services

May 11, 2021

Ms. Julia Hartwig
Director of Special Education
WI Dept. of Public Instruction
PO Box 7841
125 S. Webster Street
Madison, WI 53707-7841

RE: Proposed Rules Modification for Specific Learning Disabilities

Dear Ms. Hartwig:

It has come to my attention that the Wisconsin Legislature has temporarily suspended the process to approve the WDPI proposed rule changes for Specific Learning Disabilities. This occurred after the initial hearings where the Assembly and Senate Education Committees heard testimony. It is my understanding that the testimony heard from Mr. John Humphries caused concern due to his extensive opposition to the rule change. Further it is my understanding that he mentioned that other educational organizations were in opposition, and as evidenced by their absence from the hearings. It is my understanding that he mentioned the School Administrators Alliance (SAA) and the Wisconsin Council of Administrators of Special Services (WCASS). To be clear this was false information.

Please feel free to share this letter as the official WCASS testimony in favor of the proposed PI 11 changes related to specific learning disabilities:

We have reviewed the proposed changes prepared by WDPI and applaud the effort to align Wisconsin regulations with the most current federal regulations. When the current Wisconsin regulations related to the identification of specific learning disabilities were written, WDPI convened an extensive stakeholders' group that met several times to design the procedures for identification. Mr. John Humphries co-lead the process which resulted in what we thought was the state of the art for proper identification procedures.

Since that time, the field of learning disabilities has evolved on the national level. At the same time, educators in Wisconsin and WDPI have realized we needed to tweak our current procedures to improve the process. The proposed updates to PI 11 related to specific learning disabilities improves the procedures for the identification of learning disabilities and conforms to the most current federal procedures focus on *evidence-based interventions*.

Members of WCASS were included in the WDPI stakeholder group sessions, which included representatives from education stakeholder groups across the state including general and special educators, higher education, disability rights groups. Our members provided feedback regarding the revisions to the criteria for identifying students with a specific learning disability. We believe the proposed changes reduce the current rule's prescriptive nature and incorporates best practices. Further we believe the proposed rule properly addresses the student's needs, while maintaining or increasing rigorous standards for intervention and progress monitoring

In addition, WCASS appreciates clarification of procedures to follow for evaluating students who are in parentally-placed private school and homeschool settings. Under current federal law, school districts are required to conduct child find,



The Wisconsin Council of Administrators of Special Services

which is initiated based on a referral regardless of the student's educational setting. The current Wisconsin PI 11 rule is difficult to implement in home school and private school settings.

The proposed rule addresses the issue by allowing the use of evidence-based interventions through the response to intervention (RtI) process for evaluating home-schooled and private school students yet does not require it. As an alternative, the proposed rule allows the use of an approach referred to as a pattern of strengths and weaknesses. This approach is an acceptable "alternative research based procedure" which is recommended under federal regulations.

In conclusion, WCASS has had members involved in the stakeholder process. Further we recognize the need to update our procedures for improved methods of identification of specific learning disabilities. WCASS also supports aligning our state procedures with the current federal regulations. In the area of special education, it is best to conform to federal regulations to improve programming for students as they move from state to state with their families.

WCASS supports the proposed PI 11 rule changes related to specific learning disabilities. The absence of WCASS at the hearings is not to be misconstrued as a lack of support. If Mr. Humphries stated this during his testimony, he is not a representative of WCASS and has no basis for making this statement.

If there are any further questions or concerns by anyone at WDPI or within the state legislature, please feel free to have them contact me at their convenience.

Sincerely,

Gary E. Myrah
Executive Director
Wisconsin Council of Special Services
4797 Hays Rd. Suite 101
Madison, WI 53704

Kim Kaukl
Executive Director
1755 Oakwood Circle
Plain, WI 53577
Cell Phone: (608) 553-0689
kimkaukl@wirsa.org



President, Cheryl Gullicksrud
President-Elect, Mike Haynes
Secretary, Jennifer Collins
Treasurer, Robert Smudde
Past President, Chuck Keller

May 11, 2021

State Superintendent Carolyn Stanford Taylor
Office of the State Superintendent
Wisconsin Department of Public Instruction
125 S Webster Street
Madison, WI 53707-7841

Dear State Superintendent Taylor:

As Executive Director of the Wisconsin Rural Schools Alliance (WiRSA), I am writing to let you know that our organization is in support of the Department's proposed changes to Clearinghouse Rule 21-011 regarding updating Ch. PI 11 of the Wisconsin Administrative Code with respect to eligibility criteria for children with specific learning disabilities. The language in the current rule is not reflective or in line with present research and ESSA. The revised language proposed is more responsive to individual student needs and allows for more alignment to each area of specific learning disabilities.

WiRSA is an organization that supports Wisconsin's rural schools and provides a voice at the Capital. The organization has over 166 rural school districts and 230+ total members.

If we can be of further assistance, please feel free to contact me,

Sincerely,

Kim Kaukl

Kim Kaukl
Executive Director of WiRSA
608-553-0689
kimkaukl@wirsa.org

Strong Schools, Strong Communities



May 12, 2021

Ms. Carolyn Stanford Taylor
WI Department of Public Instruction
PO Box 7841
125 S. Webster St.
Madison, WI 53707-7841

Dear Ms. Stanford Taylor,

My name is Terri Phillips and I am the Executive Director for the Southeastern Wisconsin Schools Alliance, also known as the SWSA. I represent 31 public school districts in Southeastern Wisconsin who educate roughly 25% of the public school students in Wisconsin.

I am writing on behalf of these school districts to support the Department of Public Instruction's (DPI's) Clearinghouse Rule 21-011 which is seeking to update criteria in Wisconsin Administrative Code section PI 11 in identifying children that have specific learning disabilities.

This rule has been designed to recognize current knowledge and best practice in this area, and to properly address student needs. The SWSA supports the changes that DPI has proposed and believes these changes appropriately update our identification of specific learning disabilities.

We greatly appreciate you taking the time to review our correspondence in support of this rule. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Theresa A. Phillips'.

Terri Phillips, SWSA Executive Director
262-442-0047



VIROQUA AREA SCHOOLS

115 N. Education Avenue, Viroqua, WI 54665 www.viroquaareaschools.com 608-637-1182

May 5, 2021

To: Julia Hartwig
Department of Public Instruction

From: Cathleen Reed
Director of Student Services
Viroqua Area Schools

RE: Proposed SLD rule changes

To whom it may concern;

I am writing to convey my support for the proposed SLD rule changes. Over the past few years I have seen how restrictive the current SLD rule is for schools. While I believe we must be very careful when we evaluate a student for Special Education services, I have found that the current law has made it very difficult and time consuming to evaluate and qualify students who are struggling in school due to learning difficulties.

I believe that a change to the criteria is warranted. Thank you for your consideration in this matter.

Sincerely:

Cathleen Reed

Cathleen Reed
Student Services Director
Viroqua Area School District.



Innovative Thinking. Tailored Delivery.

May 4, 2021

Julia Hartwig
Director, Special Education
Wisconsin Department of Public Instruction
125 S. Webster Street • Madison, WI 53703

Dear Ms. Hartwig,

Subject: Proposed Administrative Rule for Specific Learning Disability

This letter is submitted to the Wisconsin Department of Public Instruction in support of the proposed administrative rule seeking to update Wisconsin Administrative Code sec. Ch. PI 11 with respect to eligibility criteria for children with specific learning disabilities. The proposed rule will provide flexibility for LEAs to provide interventions that are more closely matched to student need. We believe that the proposed rule will better meet the needs of our CESA 2 districts and the students they serve.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Elger".

Tracy Elger
Executive Director of Integrated Programs
Director,
and Services

A handwritten signature in cursive script that reads "Julie Preman".

Julie Preman
Regional Special Education Network

CESA 2

Certificate Of Completion

Envelope Id: BC00C07742B24A99B19F093EFCE14545	Status: Completed
Subject: Letter in support of rule change sig.pdf	
Source Envelope:	
Document Pages: 1	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Disabled	Tracy Elger
Time Zone: (UTC-06:00) Central Time (US & Canada)	tracy.elger@cesa2.org
	IP Address: 64.207.219.136

Record Tracking

Status: Original	Holder: Tracy Elger	Location: DocuSign
5/5/2021 11:41:59 AM	tracy.elger@cesa2.org	

Signer Events

Tracy Elger
tracy.elger@cesa2.org
Executive Director of Integrated Programs and
Services
CESA 2
Security Level: Email, Account Authentication
(None)

Signature



Signature Adoption: Pre-selected Style
Using IP Address: 184.100.146.205

Timestamp

Sent: 5/5/2021 11:41:59 AM
Viewed: 5/5/2021 11:42:05 AM
Signed: 5/5/2021 11:42:16 AM
Freeform Signing

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent	Hashed/Encrypted	5/5/2021 11:41:59 AM
Certified Delivered	Security Checked	5/5/2021 11:42:05 AM
Signing Complete	Security Checked	5/5/2021 11:42:16 AM
Completed	Security Checked	5/5/2021 11:42:16 AM

Payment Events

Status

Timestamps

Cooperative Educational Service Agency 8

223 West Park Street - Gillett, WI 54124
920.855.2114 - 920.855.2299 (fax)
www.cesa8.org
David Honish, Administrator



Everyone Engaged in Educational Excellence

May 11, 2021

Dear DPI Special Education Leadership:

Directors in the CESA 8 Region reviewed the SLD rule and would like to inform you of their support for the process and new revisions to the SLD proposed rule changes.

Per email exchanges and information shared with our regional leadership from the department at recent RSN Director meetings, the general consensus of the Director and School Psychologist networking groups is that the proposed rule changes are supported in CESA 8.

Districts that have specifically reached out to me in support of this proposal include:

Crandon	Heather Ostrowski, Director
Bowler	Val Brooks, CESA 8 Director
Gresham	Val Brooks, CESA 8 Director
Wausaukee	Katey Ambrose, Director
Menominee Indian	Stacey Roe, Program Support Teacher

Sincerely,

Brenda Jozwiak-Boldig	Lisa Misco
CESA 8 RSN Director	CESA 8 Executive Director



UNIVERSITY OF WISCONSIN-WHITewater
COLLEGE OF EDUCATION

May 10, 2021

To Whom It May Concern:

Please accept this letter as my support of the proposed changes to the language of PI 11, related to criteria relating to specific learning disabilities. Having worked as a special educator in both the P-12 public school system and in higher education for the past thirty years, I have the perspective, experience and expertise to understand the importance of these changes.

The way the current rules are written are inflexible for school staff attempting to qualify a child with a specific learning disability (SLD). What is required by the current rule does not match the measurement tools currently available to school districts. Specifically, the current SLD criteria specifies eight areas for identification as well as requiring scientific, research-based interventions. Scientific, research-based interventions for all eight areas specified in the rule do not currently exist. In addition, the current rules require an individualized education plan to determine if a student is making insufficient progress in one or more areas following intensive interventions. This is problematic, both in terms of the time spent on potentially unhelpful intensive interventions (and thus, not on effective interventions), as well as simply identifying what might be considered research-based interventions to begin with. The current eligibility criteria are difficult for school staff to implement with fidelity across various educational settings. The proposed rule will update criteria identifying children that have specific learning disabilities by making the rule less prescriptive while creating flexibility across educational settings. The rule change is designed to recognize current knowledge and best practices and to properly address student needs in a timely manner.

As such, I strongly support these changes as I believe they will enable our valuable school staff to use their time more effectively to better identify and more quickly support students with specific learning disabilities.

Thank you for your time,

Lana Collet-Klingenberg

Lana Collet-Klingenberg, Ph.D., BCBA
Professor and Interim Associate Dean
colletkl@uw.edu
262.472.5380





College of Health Sciences
Department of Communication Sciences and Disorders

Enderis Hall
PO Box 413
Milwaukee, WI
53201-0413
414 229-4263 phone
414 229-2620 fax
www.uwm.edu/CHS

May 10, 2021

To whom it may concern:

I am writing today in support of the proposed changes to the Wisconsin Administrative Code with respect to eligibility criteria for children with specific learning disabilities. I have reviewed the proposed changes and compared these changes to the current eligibility criteria. I participated in a focus group with other Wisconsin education stakeholders. When reviewing these changes, I bring my perspective as an associate professor in speech-language pathology, who specializes in assessment and practice-based research. My personal line of research examines best-practices in assessing children's spoken language and empowering school professionals to implement evidence-based practices. My engagement in this line of research has allowed me to thoroughly review the literature and think deeply about issues of assessment in school-based practice. With all this in mind, I fully support the proposed changes. I will describe a few of my reasons below.

To date, there has been considerable progress made in the evidence-base supporting assessment for children with learning disabilities. One of the most prominent lines of research focuses on Curriculum-based Measurement. Curriculum-based measures (CBMs) are short probes that can be used for screening and progress monitoring across a range of academic areas. The robust literature on CBMs has helped to identify assessment probes that can be collected quickly and generally have good reliability and validity. This research has demonstrated that some measures can generate stable data with just a single probe. When considering probes, school professionals must weigh the feasibility of data collection with the richness of data that is collected. For example, reading probes can, in general, be collected quickly and could reasonable be collected on a regular basis (e.g., weekly). Writing probes, on the other hand, require more time to elicit if the educator wishes to collect an accurate representation of a student's writing and would be more difficult to collect on a weekly basis. The revised rule allows for greater flexibility in establishing baseline performance and also gives the educator flexibility in choosing monitoring frequency, which is consistent with the knowledge base in the literature.

The revised rule also empowers school professionals to use greater precision when choosing evidence-based interventions. The evidence-base supporting interventions for children with specific learning disabilities has expanded considerably in the past decade. There are also better tools to assist educators with making the transition from research to practice, such as the What Works Clearinghouse published by the Institute of Education Sciences. These tools make it possible for school professionals to choose interventions with strong empirical support. There is also a recognition that this evidence base is not equally robust across disorder types

and curricular content. For example, a search on the Education Resource Information Center (ERIC) for “reading disorder or reading disability” AND “intervention or treatment or therapy” had 4,141 results. A search for “intellectual disability or mental retardation” AND “intervention or treatment or therapy” AND mathematics had 107 results. The revised criteria empower school professionals to use the highest level of evidence when it is available (and it is available for many areas), while acknowledging that certain aspects of school practice have less empirical support and may need to rely on a lower tier of evidence.

In summary, I fully endorse the proposed eligibility criteria for children with specific learning disabilities in Wisconsin. The changes are consistent with the current evidence base and will better serve students in Wisconsin. If you have any questions or require any further information, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John Heilmann". The signature is written in a cursive style with a large initial "J" and "H".

John Heilmann, PhD
Associate Professor
University of Wisconsin-Milwaukee
heilmanj@uwm.edu
414-229-4625