



# Other Factors Contributing to Learning Failure

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Field Guides to RtI Prepared by  
Wayne County RtI/LD Committee

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## Exclusionary Clause

Making an entitlement decision is a process that requires evaluating the effects of current and past interventions to determine whether an appropriate instructional plan has been developed for the student and whether the student remains significantly discrepant from peers. If the student is making progress with the instructional plan and interventions, then it is not necessary to continue through the referral process. Should the student's performance be such that the team recommends a referral for a special education evaluation, the team must consider exclusionary factors as part of the evaluation process.

The federal law under IDEA states that school teams must consider exclusionary factors when identifying students as eligible under specific learning disability. These include identifying that the learning problem is not the result of other disabilities. The statutory language at 20 U.S.C. 1401 (29) (c) indicates the following.

### DISORDERS NOT INCLUDED

The learning problem cannot be primarily the result of:

- visual, hearing, or motor disability
- mental retardation
- emotional disturbance
- cultural, environmental, or economic disadvantage.

The law states that the disability should not be the result of:

- lack of instruction in reading, including the essential components of reading instruction (phonemic awareness, phonics, vocabulary, fluency, and comprehension)
- lack of instruction in math
- limited English proficiency

(20 U.S.C.1414(b)(5)(A-C))

## Articulated Guidance

The team must determine that the learning problems are not the result of other disabilities:

### **A visual, hearing, or motor disability**

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The MET team must determine that the primary cause of the learning problem is not due to a visual, hearing, or motor handicap. The determination may require an evaluation by an ophthalmologist, optometrist, otolaryngologist, audiologist, occupational therapist, neurologist, and/or other medical doctor.

### **Mental retardation (cognitively impaired)**

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A child should not be determined eligible as learning disabled if he has been identified as having a cognitive impairment.

### **Emotional disturbance**

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A child is not determined as eligible as learning disabled if an emotional impairment is the primary cause of the child's problems.

### **Cultural, environmental, or economic disadvantage**

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The MET team must determine that the primary cause of the learning problems is not due to cultural, environmental, or economic disadvantage. Situations to consider include:

### **Poor school attendance**

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A student with poor attendance should not be referred for a special education evaluation until his attendance has improved over a considerable period of time. Interventions should continue through general education supports. Appropriate actions (i.e., attendance officer, truancy office) to encourage regular attendance should be taken.

### **Numerous school changes**

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A student experiencing numerous school changes will likely lack consistent instruction and have gaps in his/her learning. Prior to a special education referral, the student should be provided with regular education intervention with progress monitoring to document growth.

### **Chaotic family dynamics**

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A student with troubled/chaotic family situations may experience academic challenges. These students may require services (social work services, counseling) to assist him/her to address family problems. If it appears that the student's primary learning problems are the result of family stressors, then a special education referral is not warranted.

### **Different cultural values**

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A student whose cultural and/or ethnic background is different from the norm (majority) group should be considered with caution when determining eligibility under learning disabilities. The team should consider whether the student's deficit is a function of his/her cultural background or a learning problem.

### **Lack of instruction**

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Students should be provided with consistent high quality, research based instruction, matched to student need, in the areas of reading and math. Students who have not been provided with quality instruction or have lacked access to quality instruction should not be referred for a special education evaluation.

## Articulated Guidance—continued

### English language learners

English language learners who do not achieve commensurate with other children their age despite research based interventions through the tier process may be referred for a special education evaluation. The following should be considered when conducting an assessment.

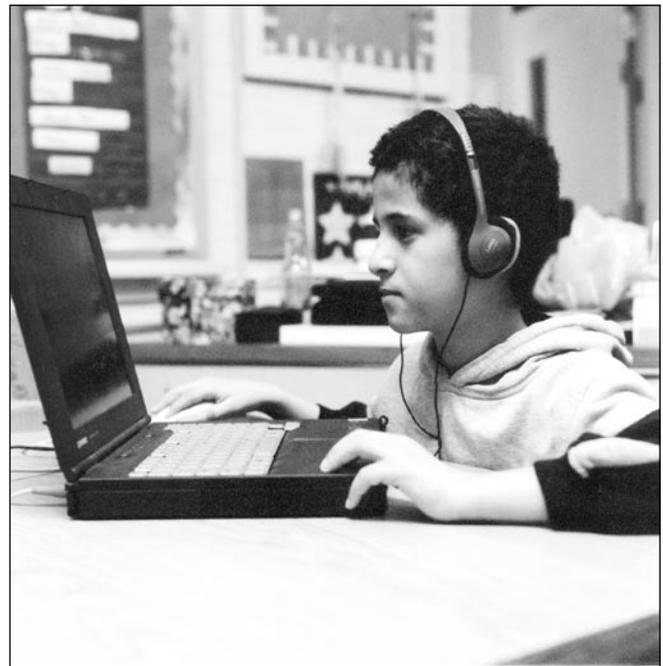
Teams who assess English language learners for special education eligibility need to consider the child's cultural and language differences in determining assessment measures. The assessment measures selected and administered should be non-discriminatory with respect to race and culture. The tests administered should be in the child's native language or in the form (i.e., non verbal assessment) that will provide the best estimate of the child's abilities. The assessments need to be: valid and reliable, administered by trained and knowledgeable personnel, and administered with fidelity.

English language learners typically can obtain basic interpersonal conversational skills (BIC) in approximately two years. In comparison, cognitive-academic language proficiency (CALP) may take five to seven (or more years) to develop. These students will require sufficient time and interventions to develop language skills and make progress. Thus, referrals for ELL students should be made with care and consideration.

Teams should contemplate the following questions to examine learning difficulties:

- Has the child's problem persisted over time and across different settings?
- Has the child had explicit instruction in the problem area(s)?
- Does the problem interfere with the child's academic progress?
- Does the child show a clear pattern of strengths and weaknesses?

- Do teachers and parents share consistent perceptions of the problem?
- Does the child's classroom work reflect evidence of the learning problem?
- Does the child's teacher value and accept the child including his language and culture?
- Has the child established proficiency and dominance in either L1 (native language) or L2 (English) language? Proficiency refers to the level of CALP that has been developed. Dominance refers to the language the child is most capable of using.



## Co-morbid conditions

The presence of existing co-morbid conditions, medical diagnoses, or clinical impressions does not necessarily indicate the need for special education support services. These conditions may not exist to the extent that they are educationally relevant and that special education services are warranted. Such conditions may include:

- Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder
- Gifted and talented
- Other conditions (i.e., dyslexia, dysgraphia)

Students who might be identified as having attention deficit hyperactivity disorder (ADHD), attention deficit disorder, gifted and talented, or other conditions will be determined eligible for special education as learning disabled if they meet eligibility criteria as outlined in this document.

## Health Conditions

Student who demonstrate learning problems as a result of conditions such as diabetes, asthma, ADHD, epilepsy, or arthritis that adversely affects their educational achievement may be deemed eligible for services under Otherwise Health Impaired.

## Other Handicapping Conditions

Other conditions exist that may negatively impact students' educational functioning. Should the student meet the criteria for eligibility, the team should consider identifying the student for special education supports under the classifications of:

- speech and language impaired
- visually impaired
- hearing impaired
- deaf and blind
- autism spectrum disorder
- emotionally impaired
- cognitively impaired
- early childhood developmental delay
- otherwise health impaired
- physically health impaired
- severely multiply impaired
- traumatic brain injury.

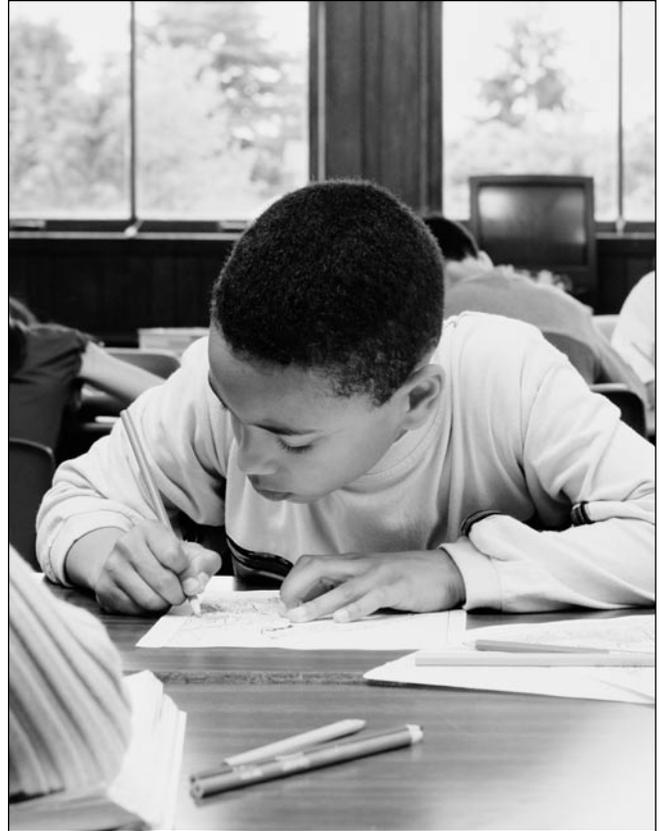
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The presence of existing co-morbid conditions, medical diagnoses, or clinical impressions does not necessarily indicate the need for special education support services.

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## IQ as Exclusion

States must establish criteria for determining whether a child has a specific learning disability. Criteria adopted by the state may prohibit the use of severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability. States must permit the use of a process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures or the child exhibits a pattern of strengths and weaknesses that the team determines is relevant to the identification of specific learning disabilities. The pattern of strengths and weaknesses may be in performance, achievement, or both or may be in performance, achievement, or both relative to intellectual development. States may permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability.



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