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Office of the Superintendent of Public Instruction
Tania May, M.Ed.
Director of Special Education
Office of Superintendent of Public Instruction (OSPI)
PO Box 47200
600 Washington Street SE
Olympia, Washington 98504-7200

Dear Ms. May:

AFER is a non-profit organization of attorneys who represent parents of students with disabilities. AFER members seek to improve educational outcomes for children in Washington State through legal advocacy and by contributing to development of effective educational policies. We understand the Office of Superintendent of Public Instruction is soliciting feedback from parent advocacy groups about methodology for identification of students with a specific learning disability (SLD). AFER supports removing the antiquated severe discrepancy model from Washington regulations.

There are eight areas in which a student may be found to have an SLD: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving. While current Washington regulations actually provide for different methods of identifying an SLD, it has been our experience as legal practitioners that many school districts exclusively use the severe discrepancy model, which applies a formula tied to a student's intellectual ability score to determine if a student has an SLD.

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Both federal and state regulations prohibit school districts from *requiring* use of the severe discrepancy model. 20 USC §1414(b)(6)(A), P.L. 108-446 §614 (b)(6)(A), and 34 CFR §300.307(a)(1)(2010). The Senate report considering the 2004 amendments to the Individuals with Disabilities Education Act explained the rationale for this prohibition:

The committee believes that the IQ-achievement discrepancy formula, which considers whether a child has a severe discrepancy between achievement and intellectual ability, should not be a requirement for determining eligibility under the IDEA. There is no evidence that the IQ-achievement discrepancy formula can be applied in a consistent and educationally meaningful (i.e., reliable and valid) manner. In addition, this approach has been found to be particularly problematic for students living in poverty or culturally and linguistically different backgrounds, who may be erroneously viewed as having intrinsic intellectual limitations when their difficulties on such tests really reflect lack of experience or educational opportunity.

S.Rept. 108-185, 108th Cong., 2nd Sess. 26 (2003).

While legally school districts in Washington must permit use of a process based on the child's response to scientific, research-based intervention and may permit the use of other alternative, research-based procedures for determining whether a child has an SLD, in practice the use of the severe discrepancy model in Washington school districts is widespread and so entrenched it is often difficult to find school psychologists and special education directors willing to support any other identification method.

AFER applauds the effort of the Office of Superintendent of Public Instruction to update the language in the state regulations by eliminating reference to the severe discrepancy tables. It is AFER's hope that appropriate funding and training will be devoted to transitioning school districts to using more meaningful and less discriminatory methods of identifying students struggling with SLD.

Sincerely,

Board of Directors



Charlotte D. Cassady, Board President
Attorneys For Education Rights

Encl.

cc: Superintendent Chris Reykdal