

Re: H.716

Mack and Cynthia Gardner-Morse
8197 County Road
Calais, VT 05648-7517
15 March 2022

Dear Chair Brian Campion and Committee members,

Due to the pandemic and remote learning, many teachers are understandably feeling stress. Even more unfortunately, many children with disabilities have been receiving [little to no special services](#) for the past two years due to remote learning and staff shortages. Before the pandemic (2019), 87% of Vermont third graders with disabilities are below proficient in English Language Arts (SBAC). Now is not the time to delay improvements in Vermont's special education rules. Yet delaying the removal of the "wait-to-fail" rules is proposed in H.716.

The new special education rules eliminate the subjective adverse effect eligibility gate for special education for children with specific learning disabilities (SLD). Under current Vermont law, this gate requires a child to demonstrate a significant struggle to learn "*over a period of time*" before special education services are provided ("wait-to-fail"). This requisite period of failing delays intensive interventions that are most effective in kindergarten and first grade. The [AOE's training website](#) on the adverse effect rule change notes, "*Rather than wait until students fall into the lowest 15th percentile ..., earlier identification can be made, resulting in the provision of more timely and appropriate supports and services for students in need.*"

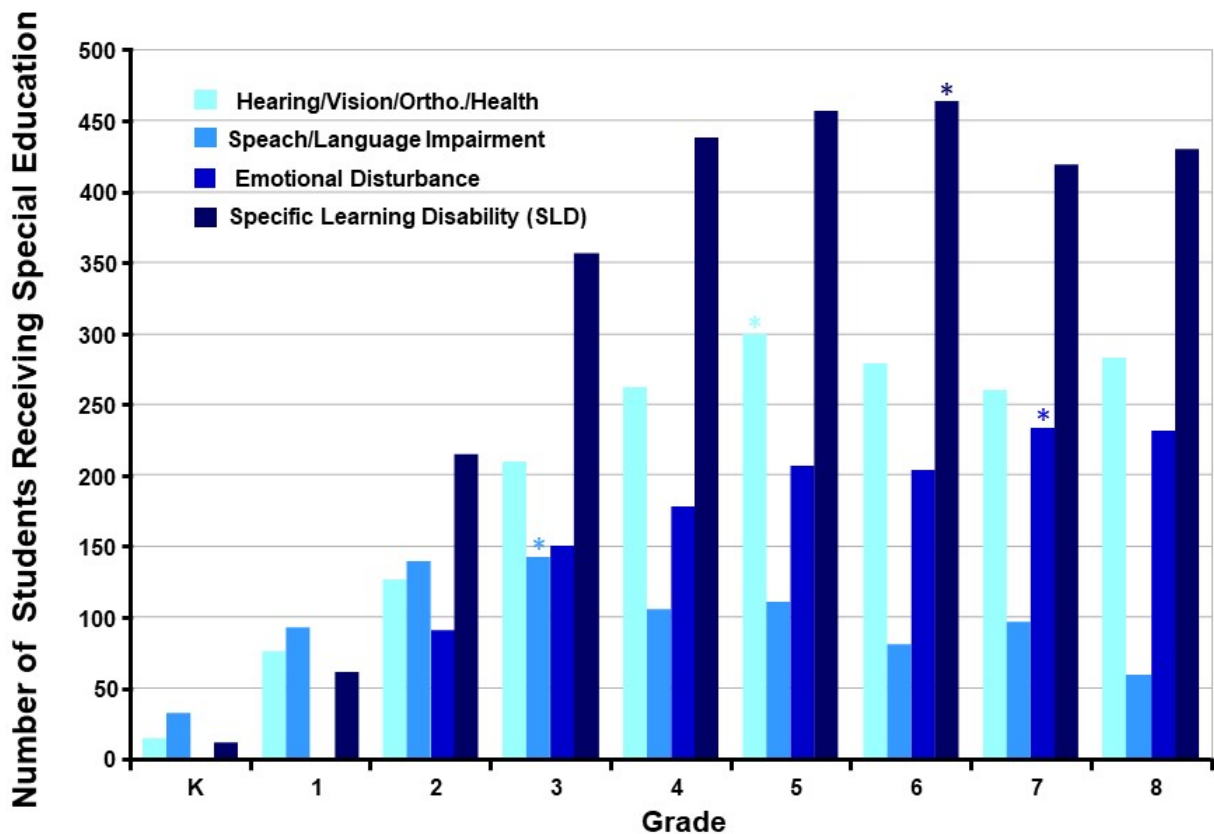
The new special education rules also eliminate one of the two methods for the identification of a specific learning disability (SLD). The new rules remove the discrepancy model which requires a student to have a discrepancy of 1.5 standard deviations (SD) (bottom 6.7%) or greater between ability and expected levels of performance in one or more basic skill areas. In practice, the discrepancy model only applies to children in the 3rd grade and older because few young readers could demonstrate a 1.5 SD discrepancy between performance and ability, by virtue of their early years, and cannot be held accountable for information they had not yet been taught.

The second method for the identification of a SLD in the current rules relies on a child's response to intervention (RtI) as part of a multi-tiered system of support (MTSS) which remains in the new rules. Using response to intervention has been best practice for almost 17 years. The question for professional educators is, "Why continue to use the discrepancy model when MTSS is best practice?"

The largest disability group receiving special education is specific learning disability (SLD). Approximately 80% of children with SLD have a specific learning disability in reading. For these children, intensive interventions are most effective in kindergarten and first grade.

The [National Reading Panel \(2000\) reported](#), "*Phonics instruction taught early proved much more effective than phonics instruction introduced after first grade. ... These results indicate clearly that systematic phonics instruction in kindergarten and 1st grade is highly beneficial...*"

Yet if we look at the number of special education students by grade for different disabilities, most children with SLD do not receive services until after first grade.



Source: Vermont Agency of Education, 2019

Dr. G. Reid Lyon, former Chief of the Child Development and Behavior Branch within the National Institute of Child Health and Human Development (NICHD), notes, “Typically, from first through third grades there is a lot of oral reading, and there are interactions where the kids are expected to read out loud, orally or in round robin. **When kids are hesitant, disfluent, inaccurate, slow, and labored in reading, that is very visible to their peers and remember the peers, the other kids, again look at reading as a proxy for intelligence.** It doesn’t matter if this kid is already a genius and can do algebra in the second grade, reading produces particular perceptions. Better said, **lousy reading produces a perception of stupidity and dumbness to peers and clearly to the youngster who is struggling. That is the shame.** There are very visible differences between kids who are doing well with print and youngsters who are struggling with print. They feel like they’re failures; they tell us that.” Children, like all of us, tend to move away from what brings about shame. Moving away from print, which is associated with trying to read, is simply moving away from feeling shame.

In Middlebury College Professor [Lida Winfield](#)’s performance [In Search of Air: Growing Up Dyslexic](#) she states, “I would rather be angry, sad, heart broken or anxious than feel the isolation and hopeless of feeling dumb.” This frustration from struggling to read often

leads to poor self-esteem and acting out. Late diagnosis of struggling readers is behind Vermont's nation-leading rates of children identified as Emotionally Disturbed (ED). This is linked to our failure to help children learn to read in the earliest grades.

When we know better, we can do better. Delaying these changes to the ‘wait-to-fail’ special education rules leaves children with a specific learning disability in reading to endure another year of shame. Another group of first grade children struggling with reading moves into second grade without getting remediation when it is most effective.

Please remove the delay in the special education rules from H.716.

Sincerely,

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