



April 12, 2023

The Honorable Bill Cassidy  
520 Hart Senate Office Building  
Washington, DC 20510

RE: Response to the 21st Century Dyslexia Act Introduction

Dear Senator Cassidy,

The Consortium for Constituents with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society, free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. In support of CCD's overall mission, the Education Task Force advocates for federal legislation, regulations, and guidance that protect civil rights, ensure high expectations, and address the educational, as well as the social and emotional needs of infants, children and youth with disabilities and their families. In this work, we focus on the *Individuals with Disabilities Education Act (IDEA)*, the *Every Student Succeeds Act (ESSA)*, *Section 504 of the Rehabilitation Act*, the *Americans with Disabilities Act (ADA)*, and other applicable laws.

Our organizations appreciate the efforts you continue to make to raise the awareness of students with dyslexia and the important need to support them. Most recently, you introduced the *21<sup>st</sup> Century Dyslexia Act* last Congress. Our organizations share the objective of ensuring effective early screening to identify students with learning disabilities and efficiently providing evidence-based instructional support to accelerate learning. We also agree that there are opportunities to help practitioners and educators improve the identification process, interventions and educational support for students with disabilities, including for students impacted by their ability to read.

While our organizations support differential diagnosis of learning disabilities within the IDEA Specific Learning Disability (SLD) category, we have three concerns with the legislation as introduced and offer the following recommendations to be considered if you should reintroduce the bill. We worry that if our concerns are left unaddressed, this legislation will not achieve the goals we share in improving the evaluation, early and effective identification, and learning for students with dyslexia and other specific learning disabilities. To that end, we offer the following:

**1. Do not add dyslexia as a new category under IDEA:**

Dyslexia is already named as a subtype within the Specific Learning Disability (SLD) category (20 U.S.C. §1401(30) and 34 CFR §300.8(c)(10)).<sup>1,2</sup> Dyslexia does not account for all reading disability subtypes. Dyslexia is the most common reading disability, associated with persistent difficulties with decoding and word recognition. Some students, however, can read the words well but can't comprehend what they've read (and do not have dyslexia). Adding dyslexia as a distinct disability category distinguishes itself from reading comprehension deficits that are not primarily word-reading deficits.

Often, distinguishing between these two types of reading struggles is challenging in practice and does not help educators develop actionable steps to address the issue. Furthermore, learning disabilities tend to co-occur (e.g., a student may have dyslexia and dyscalculia). Interventions and supports can be strategically chosen to address pervasive learning challenges. Separating the specific learning disability category into subtypes could potentially delay services and complicate funding for service delivery.

The category in which a student is identified – by law – provides guidance, but should not have a direct bearing on *which* interventions and services are chosen. Interventions and services are determined on an individual basis based on student need (codified with an Individualized Education Program (IEP) developed by the students' IEP team). Based on a student's outlined IEP goals, educators track student growth to ensure instruction and services match a student's needs. Data-based decision making drives instructional choices, not a diagnosis or eligibility category. An identified disability is a starting point for action, not a recipe for specific interventions or services. Identification does not tell educators *which* approaches will improve academic performance. For these reasons, we believe dyslexia should not be added as a separate category under IDEA.

**2. Do not use the proposed definition of dyslexia:**

The *21st Century Dyslexia Act* defines dyslexia as “an unexpected difficulty in reading for an individual who has the intelligence to be a much better reader.” Using this definition in federal law raises *major* concerns. Firstly, this definition does not include actionable means of measuring whether a student has dyslexia versus another type of learning disability (e.g., dyscalculia, dysgraphia, etc.).

Secondly, this definition specifies the IQ-discrepancy diagnostic or “severe discrepancy” model which IDEA already allows.<sup>3</sup> However, due to years of research and practice –showing that this

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<sup>1</sup> Ryder, R. E. (2016). Letter to Decoding Dyslexia Missouri on evaluation of a Specific Learning Disability. *U.S. Department of Education: Office of Special Education and Rehabilitation Services*. Retrieved from: <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf>

<sup>2</sup> Yudin, M.K. (2015). Dear colleague letter regarding dyslexia guidance. *U.S. Department of Education: Office of Special Education and Rehabilitative Services*. Retrieved from <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf>

<sup>3</sup> P.L. 108-446, Sec. 614 (b)(6)

model lacked both validity and reliability in determining the existence of an SLD including dyslexia— and, with bipartisan agreement in 2004, Congress eliminated the sole requirement to use this model when evaluating a student suspected of having an SLD.<sup>4</sup> As such, the National Association of School Psychologists recently recommended that the IQ discrepancy approach not be used to identify a student as having an SLD – including dyslexia.<sup>5</sup> While it still remains challenging for school personnel and other experts to determine whether a student has dyslexia or another SLD, the amendment to the IDEA updated the law to help ensure that students suspected of having an SLD may be provided early intervention services and supports upon recognition of a learning challenge, rather than waiting for a student to fall significantly behind.<sup>6,7</sup>

### 3. Maintain current exclusionary factors

The definition of SLD in the reauthorization of IDEA in 2004 states that “Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disabilities<sup>8</sup>, of emotional disturbance, or of environmental, cultural, or economic disadvantage.” Pursuant to federal law, these factors must be ruled out as the primary cause of a learning challenge before a child may be determined eligible for services under the SLD category. A major reason for including the terms “environmental, cultural, or economic disadvantage” is to protect students from being incorrectly identified as having a disability. The inclusion of these terms is critical given the history of disproportionate identification and placement of students of color, English Learners, and students impacted by poverty as eligible under IDEA. Studies have shown that even when controlling for income, racial and ethnic disparities in the identification of students with disabilities persisted in high incidence disability categories such as specific learning disabilities.<sup>9</sup> Other studies have found that the demographics of the school impact identification. Therefore, these exclusionary factors must be maintained for a child to be determined eligible for IDEA services under the SLD category.

While we know a lot about how students learn, no student presents with the same learning challenges or symptoms. Decades of research, practice and individual experiences bear this out as it relates to dyslexia. The International Dyslexia Association and the Learning Disabilities Association of America both categorize dyslexia as a specific learning disability subtype just like IDEA.<sup>10</sup> The U.S. Department of

<sup>4</sup> The Honorable Tim Murphy (R-PA) said: Let me draw upon my first hand experience as a psychologist who has participated in many of these discussions regarding learning disabled children...I am particularly pleased with the bill's provisions to improve the definition of `specific learning disabilities...that children [can now] receive scientifically based instruction as soon as possible instead of relying on the outdated IQ-achievement discrepancy model as the sole measure of a student's IDEA eligibility." U.S. House of Representatives, (November 19, 2004) at: <https://www.govinfo.gov/content/pkg/CREC-2004-11-20/html/CREC-2004-11-20-pt1-PgE2129.htm>

<sup>5</sup> National Association of School Psychologists. (2022). Identification of Students With Specific Learning Disabilities. [Position Statement]. Retrieved from: <https://www.nasponline.org/x59975.xml>

<sup>6</sup> Stuebing, K. K., Barth, A. E., Molfese, P. J., Weiss, B., & Fletcher, J. M. (2009). IQ is not strongly related to response to reading instruction: A meta-analytic interpretation. *Exceptional children*, 76(1), 31-51.

<sup>7</sup> Fletcher, J. M., Lyon, G. R., Fuchs, L. S., & Barnes, M. A. (2019). *Learning disabilities: From identification to intervention* (2nd ed.). New York, NY: Guilford Press.

<sup>8</sup> Students with intellectual disabilities, such as those with Down syndrome, can also have co-occurring specific learning disabilities. However, in practice this can be very difficult to determine. IEP teams should consider all areas of academic, social, and emotional difficulty and develop a comprehensive plan designed to improve the student's academic achievement and overall success.

<sup>9</sup> Grindal, T., Schifter, L. A., Schwartz, G., & Hehir, T. (2019). Racial differences in special education identification and placement: Evidence across three states. *Harvard Educational Review*, 89(4), 525–553.

<sup>10</sup> IDA & LDA. (2018) White Paper: How Myths About Learning Disabilities Rob Many of Their Potential to Succeed and Contribute in School and in the Workplace. Retrieved from: <https://dyslexiaida.org/ida-lda-whitepaper/>

Education's Office of Special Education and Rehabilitation Services also recognized and reiterated that dyslexia is a type of specific learning disability in 2015.<sup>11</sup> Given that CCD and many of its member organizations have persistently worked to assure that dyslexia is known and better supported through federal policy, we welcome any further opportunities to assure more is done to identify, support, and improve the educational opportunities for individuals with dyslexia and other reading disabilities.

We appreciate any effort that seeks to better meet the needs of children and adults with disabilities and those with other learning challenges. While we have concerns about the specifics of this bill, we hope that we work with you to find viable policy solutions to ensure all students, regardless of their disability status, have access to a high-quality education. If you have any questions, please do not hesitate to reach out to one of the co-chairs of the CCD Education Taskforce listed below. We look forward to your continued partnership in the 118<sup>th</sup> Congress.

Sincerely,

The Advocacy Institute

The Arc of the United States

American Occupational Therapy Association

Autism Society of America

Autistic People of Color Fund

Autistic Women & Nonbinary Network

Center for Learner Equity

Council for Exceptional Children

Council for Learning Disabilities

Council of Administrators of Special Education

Council of Parent Attorneys and Advocates (COPAA)

Disability Rights Education & Defense Fund

Division of Learning Disabilities, Council for Exceptional Children

Higher Education Consortium for Special Education (HECSE)

Learning Disabilities Association of America

National Association of Councils on Developmental Disabilities

National Association of School Psychologists

National Center for Learning Disabilities

National Disability Rights Network (NDRN)

National Down Syndrome Congress

RespectAbility

TASH

Teacher Education Division of the Council for Exceptional Children (TED)

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<sup>11</sup>Yudin, M.K. (2015). Dear colleague letter regarding dyslexia guidance. *U.S. Department of Education: Office of Special Education and Rehabilitative Services*. Retrieved from <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf>

**CC:**

Sen. Bernie Sanders (I-VT)  
Sen. John Kennedy (R-LA)  
Sen. Tim Scott, Tim (R-SC)  
Sen. Lindsey Graham (R-SC)  
Sen. Mike Braun (R-IN)  
Sen. John W. Hickenlooper (D-CO)  
Rep. Virginia Foxx (R-NC)  
Rep. Bobby Scott (D-VA)  
Rep. Bruce Westerman (R-AR)  
Rep. Julia Brownley (D-CA)  
Rep. Larry Bucshon (R-IN)  
Rep. James P. McGovern (D-MA)  
Rep. Steven Palazzo (R-MS)  
Rep. Jared F. Golden (D-ME)  
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