

Use of Preponderance of Evidence in Determining Specific Learning Disability (SLD) Eligibility

Guidance Document

The Idaho Department of Education establishes criteria for eligibility determination but recognizes special considerations exist in using these criteria for decision-making. The Department cautions that the implementation of these criteria must always be guided by the preponderance of evidence. The criteria offered are not intended to be isolated from the complete picture of the student's functioning or to become rigid gatekeepers in the evaluation process. They are simply one aspect of the information that must be considered within the context of the entire body of evidence collected by the evaluation team. The data provided by assessments must be contextualized within the student's complete history and interpreted by the professionals administering the assessments. Factors to consider include contextual issues such as the age of the child, the validity of the assessment itself, and issues that occur during the administration of the assessment, etc. In the case of SLD eligibility using the pattern of strengths and weaknesses option, the team should look for evidence of performance on psychological processing assessments that corresponds with areas of academic weakness.

Eligibility determinations under the category of SLD inherently require the evaluation team to examine and document the preponderance of evidence in the eligibility process.

Definition of Preponderance of Evidence:

The preponderance of evidence allows teams to use best practices in determining eligibility. It is defined as evidence, consisting of accurate data, that is more convincing and of greater weight that a student meets the SLD eligibility criteria than not. In other words, it is more likely true than not true that a student meets the SLD eligibility criteria based on the results of a comprehensive evaluation.

Use of Preponderance of Evidence:

The components of a comprehensive evaluation must be administered, reviewed, and/or gathered by personnel certified by the State of Idaho to administer and interpret such assessments. Using the preponderance of evidence standard in determining eligibility is rooted in a high level of professional expertise and experience; it emerges directly from examination and review of extensive data. It is based on the professionals' training, experience, and knowledge of the student and the student's environment. It is based on these specific strategies:

1. conducting a thorough investigation of the identified problem,
2. aligning data and its collection to the critical question(s) at hand,
3. applying broad-based assessment strategies,
4. implementing intervention best practices, and
5. reflecting cultural competence and diversity.

A decision-making process based on preponderance of evidence is characterized by being: systematic (i.e., organized, sequential, and logical), formal (i.e., explicit and reasoned), and transparent (i.e., apparent and communicated clearly).

Preponderance of Evidence Example:

Based on current SLD criteria, evidence of low achievement is a required component. This evidence must indicate performance that is significantly below the mean on a norm-referenced, standardized academic achievement assessment in each area of concern. *Significantly below the mean* is defined as 1.5 standard deviations (SD) below the mean, with a standard score (SS) of 78 or lower. When other evidence gathered indicates the likely presence of SLD (for example, a strong pattern of psychological processing strengths and weaknesses), a more lenient threshold of 1.0 standard deviations below the mean or a standard score of 85 or lower may be used. In this example, the use of the more lenient threshold is based on preponderance of evidence (it is more likely true than not true that the student has a Specific Learning Disability).

The team must document their use of preponderance of evidence in such a way that anyone who reads the report can clearly understand why the determination was made. For example, someone who is not familiar with Idaho's SLD eligibility criteria could understand the basis for determination (stranger test).

Guiding questions for the preponderance of evidence:

When the evaluation team employs the examination of the preponderance of evidence in the eligibility process, the following questions should be considered:

- What is known about the student's learning during instruction, intervention, and problem-solving?
- What interventions have been tried to date? Were they implemented with fidelity? Did the student attend intervention regularly? Were the frequency, duration, and intensity of interventions sufficient to meet the needs of the student?
- What in the student's profile leads the team to suspect a disability and the need for special education and related services?

Contraindications of the Use of Preponderance of Evidence in Determining Eligibility:

The use of preponderance of evidence in eligibility decision-making should not be considered a justification for abbreviated evaluations, a vehicle for stereotypes or prejudices, a substitute for insufficiently explored questions, an excuse for incomplete or missing data, or a way to solve interpersonal issues. The team must follow IDEA (2004) regulations and apply professional judgement within the context of the evaluation findings.

SOURCE: ADAPTED IN PART FROM THE NEW MEXICO TECHNICAL EVALUATION AND ASSESSMENT MANUAL, 2017.