What a Specific Learning Disability Is Not

Examining Exclusionary Factors

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Table of Contents

Executive Summary

To ensure that presenting academic difficulties stem from a Specific Learning Disability (SLD) rather than external influences, the Individuals with Disabilities Education Act (IDEA) requires that exclusionary factors be systematically ruled out. These factors—including inadequate instruction, limited English proficiency, cultural and environmental influences, and other disabilities—help ensure that learning challenges are not misattributed to an SLD. When exclusionary factors are misapplied or not adequately considered, students from historically marginalized groups may be disproportionately identified, raising equity concerns and leading to increased costs and services that may not effectively address their needs. Examining exclusionary factors requires a data-driven, multidisciplinary evaluation process that carefully documents and analyzes each factor to support accurate, fair, and legally compliant SLD determinations. Thorough analysis of exclusionary factors is crucial in ensuring that students with an SLD receive appropriate special education services while reducing the number of disproportionate adverse outcomes for students from marginalized communities.

This paper presents the exclusionary factors listed in the federal law and regulations, as well as:

- **An overview of the federal law**
- **The process to rule out exclusionary factors**
- **Considerations for analyzing exclusionary factors**
- **The relationship between exclusionary factors and disproportionality**

Overview of Exclusionary Factors

Exclusionary Factor	Overview
Lack of Appropriate Instruction	A child does not have a learning disability if the underachievement is due to inadequate instruction.
Limited English Proficiency	English learners may experience academic and language difficulties due to language differences, rather than a learning disability.
Cultural Factors	Differences in behavior or learning may have their roots in cultural background, rather than a learning disability.
Environmental or Economic Disadvantage	Poverty-related and familial factors impact students' learning and academic outcomes, but are not the primary cause of a learning disability.
Other Impairments	Other medical or psychological conditions can contribute to learning difficulties and must be ruled out when identifying learning disabilities.

Key Takeaways

- Exclusionary factors play a foundational role in identifying Specific Learning Disabilities (SLDs). It is essential to differentiate SLDs from academic difficulties that may originate from factors unrelated to a disability.
- Educational professionals should screen for exclusionary factors to reduce the over- or under-identification of learning disabilities, ensuring students receive appropriate services and supports, while also addressing inequities.
- Each exclusionary factor must be carefully documented and analyzed through a data-driven evaluation process to determine the primary cause of a student's learning difficulties.
- Disproportionality, implicit bias, and the interaction between disabilities and exclusionary factors require thorough and careful consideration throughout the learning disability identification process.

The definition of the term "specific learning disabilities" (SLD) under the Individuals with Disabilities Education Act (IDEA) includes a set of exclusionary factors. These factors must be ruled out as the primary cause of a learning challenge before a child can be eligible for special education under the SLD category. Among others, these factors include "environmental, cultural, or economic disadvantage." A major reason for including such terms in the list of exclusionary factors is the disproportionate identification, placement, and discipline rates of students of color in special education. Indeed, disproportionality remains a top concern for parents, educators, school professionals, policymakers, and advocates. The evaluation process must be free from bias and discrimination.

There is no shortage of trends and data indicating an excellent need to include these exclusionary factors in the definition of SLD. For example, children living in poverty are more likely to have adverse childhood experiences (ACEs).[1,2,3] Students who experience four or more ACEs are more likely to be identified with learning or behavior challenges.[4,5] Additionally, in 2022–2023, Black students made up nearly 15 percent[6] of public school students nationwide, but 18% percent of students identified with an SLD.[7] Similarly, English learners (ELs) made up 11 percent of all public school students but 16 percent of students with disabilities.[8,9]

1 Child Trends (2013, July). *Adverse experiences: Indicators on children and youth*. Retrieved from http://www.childtrends.org/indicators/adverse-experiences/

2 Hunt, T. K. A., Slack, K. S., & Berger, L. M. (2017). Adverse childhood experiences and behavioral problems in middle childhood. *Child Abuse & Neglect,* 67, 391–402. https://doi.org/10.1016/j.chiabu.2016.11.005

3 QuickStats: Percentage of Children and Adolescents Aged 0–17 Years Who Have Experienced a Specified Stressful Life Event, by Type of Event and Poverty Status — National Health Interview Survey, United States, 2019. (2021). *Morbidity and Mortality Weekly Report,* 70(34), 1181. https://www.jstor.org/stable/27081166

4 Burke, N. J., Hellman, J. L., Scott, B. G., Weems, C. F., & Carrion, V. G. (2011). The impact of adverse childhood experiences on an urban pediatric population. *Child Abuse & Neglect,* 35(6), 408–413. doi:10.1016/j.chiabu.2011.02.006

5 Zarei, K., Xu, G., Zimmerman, B., Giannotti, M., & Strathearn, L. (2021). Adverse Childhood Experiences Predict Common Neurodevelopmental and Behavioral Health Conditions among U.S. Children. *Children (Basel)*, 8(9), 761. https://doi.org/10.3390/children8090761

6 National Center for Education Statistics. (2024). Racial/Ethnic Enrollment in Public Schools. *Condition of Education*. U.S. Department of Education, Institute of Education Sciences. Retrieved from https://nces.ed.gov/programs/coe/indicator/cge.

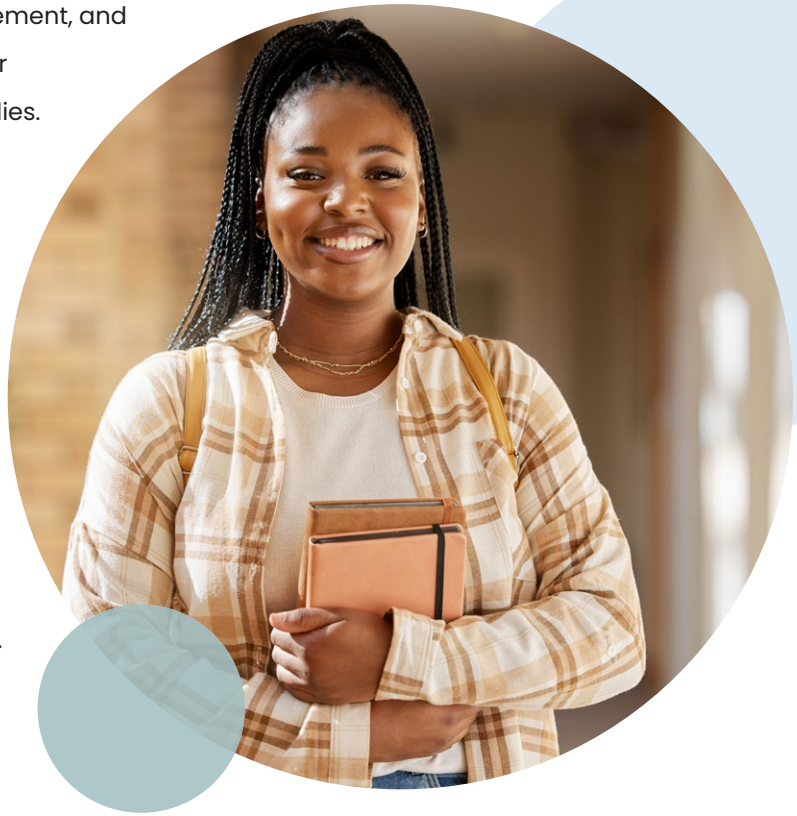
7 National Center for Education Statistics. (2025). IDEA Section 618 Data Products: Static Tables; National Center for Education Statistics. Common Core of Data.

8 Office of English Language Acquisition. (2021). *English Learners with Disabilities.* Retrieved from: https://ncela.ed.gov/sites/default/files/2023-03/20201216-Del4.4-ELsDisabilities-508-OELA%20%281%29.pdf

9 U.S. Department of Education. (2024). *Equal Access to Elementary and Secondary Education for Students Who Are English Learners with Disabilities.* Retrieved from: https://www.ed.gov/media/document/ocr-el-disability-factsheet-108406.pdf

Concerning trends in disproportionality, they are also seen for *all* students with disabilities—not just for students with learning disabilities—particularly in the area of discipline. Students with disabilities served under both IDEA and Section 504 represent 17% of all K-12 students, but comprise 27% of students who received one or more in-school suspensions, 29% of students who received one or more out-of-school suspensions, and 24% of students who received expulsions.[10] Moreover, students of color are identified with disabilities and placed outside the general education classroom more often than their white peers with disabilities.[11] This means students of color with disabilities have fewer opportunities to access the general curriculum. Many of them spend more time out of school than their peers, hindering their academic success.[12]

Disproportionality in the identification, placement, and discipline of students with an SLD (and other disabilities) continues to be a crisis for families. The exclusionary factors in the definition of SLD aim to mitigate disproportionality in the identification process. However, the application of the exclusionary factors is not without challenges. This paper seeks to explain the critical intended function of the exclusionary factors, highlight the implementation challenges currently facing the field, and clarify how exclusionary factors may be evaluated and considered in the decision-making process.



10 U.S. Department of Education, Office of Civil Rights. (2025). *2021-2022 data collection. A first look: Student Access to Educational Opportunities in U.S. Public Schools.*Retrieved from: https://www.ed.gov/media/document/2021-22-crdc-first-look-report-109194.pdf

11 U.S. Department of Education, Office of Special Education and Rehabilitative Services. *Racial and ethnic disparities in special education: A multi-year analysis by state, analysis category, and race/ethnicity.* Retrieved from: https://www.ed.gov/sites/ed/files/programs/osepidea/618-data/LEA-racial-ethnic-disparities-tables/disproportionality-analysis-by-state-analysis-category.pdf

12 Losen, D. J. (2108). *Disabling punishment: The need for remedies to the disparate loss of instruction experienced by black students with disabilities.* Retrieved from The Center for Civil Rights Remedies at the Civil Rights Project, Harvard University: https://today.law.harvard.edu/wp-content/uploads/2018/04/disabling-punishment-report-.pdf

Introduction

The term "learning disability" was first used and defined by Samuel Kirk in 1962.[13] "Specific learning disability" (SLD) was later codified in 1975 in the Education of Handicapped Children Act, currently known as the Individuals with Disabilities Education Act (IDEA), and further clarified in the Code of Federal Regulations in 1977. Both Kirk's[14] and IDEA's definitions included exclusionary factors, or factors related to the student's background and/or experience that might explain or influence the student's performance. The factors help clarify what a learning disability is, primarily by exclusion—that is, by explaining what it is *not*.

The authors use the term "learning disability" to describe heterogeneous disorders, such as dyslexia, dysgraphia, and dyscalculia, that impact skill acquisition and performance in reading, writing, and mathematics. The U.S. government uses "specific learning disability" to name one of the eligible disability categories under IDEA.[15]

The definition of SLD within the 1975 IDEA regulations was an attempt to operationalize the construct of SLD as unexpected underachievement. The rationale was not only to define who should be eligible for special education services due to SLD but also to differentiate them from students who should be served by other federal programs, such as Title I of the Elementary and Secondary Education Act, now known as the Every Student Succeeds Act.

The federal definition includes a list of exclusionary factors. This has evolved over time and plays an important role in determining whether students meet the criteria for SLD under federal law. The application of exclusionary factors is required by law. In effect, to determine that a child is eligible for special education services due to SLD, local education agencies (LEAs) must first identify the primary cause(s) of a student's low achievement and confirm that one or more of the exclusionary factors are not the primary cause of the student's learning challenges.

13 Kirk, S. A., Gallagher, J. J., & Coleman, M. R. (2015). *Educating exceptional children.* Stamford, CT: Cengage Learning.

14 Zumeta, R. O., Zirkel, P. A., & Danielson, L. (2014). Identifying specific learning disabilities: Legislation, regulation, and court decisions. *Topics in Language Disorders,* 34(1), 8–24. doi:10.1097/TLD.0000000000000006

15 Individuals with Disabilities Education Act, 20 U.S.C. § 602 (2004)

The exclusionary factors serve an essential purpose, particularly for historically underserved groups of students. These factors were intended to prevent schools and LEAs from disproportionately identifying students of color and students impacted by poverty. For instance, while the field agrees that no race or ethnicity is more likely to have a learning disability,[16] certain subgroups of students, specifically Black and Hispanic students, are overrepresented among students receiving special education services within the SLD category.[17,18] The exclusionary factors require that education professionals consider whether, in comparison with their peers, a student's lack of success can be primarily attributed to cultural or environmental factors. For instance, did the child lack appropriate reading and math instruction? Is the child new to the United States, with a lack of language proficiency and/or cultural factors preventing them from fully accessing the curriculum?

This paper describes the exclusionary factors contained in federal law and regulation, their importance, and highlights the challenges associated with applying these factors during the evaluation process.

16 Shifrer, D., Muller, C., & Callahan, R. (2011). Disproportionality and Learning Disabilities: Parsing Apart Race, Socioeconomic Status, and Language. *Journal of Learning Disabilities, 44*(3), 246–257. https://doi.org/10.1177/0022219410374236

17 U.S. Department of Education, National Center for Education Statistics. (2025, July). IDEA Section 618 Data Products: Static Tables Part B Child Count & Educational Environments Table 11. Retrieved from: https://data.ed.gov/dataset/idea-section-618-data-products-static-tables-part-b-count-environ-tables11/resources

18 National Center for Education Statistics. (2024). Racial/Ethnic Enrollment in Public Schools. *Condition of Education*. U.S. Department of Education, Institute of Education Sciences. Retrieved from https://nces.ed.gov/programs/coe/indicator/cge

1 An Overview of Federal Law

A comprehensive evaluation for special education must consider any areas of suspected disability. For all disability categories in federal law, LEAs must ensure that (1) lack of appropriate instruction in reading and math, and (2) limited English proficiency are not the "determinant factor for the determination" of special education under any disability category.[19] This is an important issue, as it highlights that IDEA is intended to serve the needs of students with disabilities, not those for whom the provided educational program has not yielded expected grade-level performance due to other situational factors.

Current federal definition of SLD

The federal definition of SLD includes a general description of the term, a list of certain disorders that are included in the definition, and additional exclusionary criteria that LEAs must rule out to determine if a child is eligible for special education under the SLD category.[20]

Specifically, the definition of SLD in 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, of emotional disturbance, or of environmental, cultural, or economic disadvantage."[21]

Subsequent clarification by the U.S. Department of Education in regulations now includes "limited English proficiency" as an additional consideration and clarifies that cultural differences are not a disadvantage but an important consideration.[22]

19 U.S. Department of Education. (2023). Assistance to states for the education of children with disabilities and the Early Intervention Program for Infants and Toddlers with Disabilities, 34 C.F.R. § 300.306(b)(1). https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/subpart-D/section-300.306

20 Individuals with Disabilities Education Act, 20 U.S.C. § 602 (2004); Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 34 CFR § 300.311(a)(6) (2006)

21 Individuals with Disabilities Education Act, 20 U.S.C. § 602 (2004)

22 Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 34 CFR § 300.311(a)(6) (2006)

Sec. 300.8 (c) (10)

(10) Specific learning disability—

(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

2 The Process to Rule Out Exclusionary Factors in an Evaluation for Special Education

To adequately meet the definition and its exclusionary criteria, LEAs first have to identify the primary cause(s) of a student's low achievement. For instance, if a child has limited English language proficiency, and it influences behavior and learning, it could appear as though the child has an SLD. During an evaluation, it would be incumbent upon the school to determine whether the behavior or learning issues are ***primarily*** caused by one or more of these exclusionary factors. In the example above, the process of ruling out exclusionary factors would likely result in the determination of the child needing linguistic interventions and/or instructional support based on their limited English proficiency. Thus, the appropriateness of considering an SLD will have been "ruled out" for this child, and disability identification would not be appropriate.

Importantly, however, SLDs can coexist with other disabilities, including sensory impairments, motor difficulties, emotional problems, etc. Any such factors may be considered ***contributory*** to the observed learning problems in the classroom and do not rule out a learning disability as long as they are not the ***primary*** reason for such difficulties.

Specific assessments provide a definitive answer for certain exclusionary factors, including intellectual and visual disabilities. For instance, education professionals can request that an evaluator administer a cognitive battery to determine if a child has an intellectual disability. They can also request that a health professional administer vision or hearing screenings.

However, it can be more challenging to determine if a student's low achievement is primarily the result of one of the other factors, such as a lack of access to appropriate instruction, limited English proficiency, or cultural, environmental, or economic differences. Currently, the ability to definitively rule out these factors relative to learning problems, particularly with tests, is minimal and requires consideration and integration of a wide range of research and pedagogical knowledge.

State policies and guidance on exclusionary criteria

Policies and procedures to help school teams rule out exclusionary factors vary across states and LEAs.

Many states have a checklist or worksheet that education professionals must use to rule out exclusionary factors. The document helps education professionals determine when an exclusionary factor is the determining factor resulting in low achievement. While this method provides considerable efficiency in making determinations, it lacks guidance on the nature and types of data that might be considered when deciding between "yes" and "no."

Here is an example of the checklist created by the Idaho Department of Education.[23]

Questions to Consider	Y/N	Describe the Dregree of Impact
Do attendance patterns show that the student has changed schools so often, or has attended school so sporadically, that normal achievement gains were not possible?		
Have there been any significant or traumatic events in the student's life that contribute to the current learning problems?		
Are there any factors in the student's school history that may be related to the current difficulty?		
Are there any variables related to family history that may have affected school performance (lifestyle, length of residence in the U.S., poverty, stress, lack of emotional support, the student is under the guardianship of another person or agency)?		
Are there any variables related to the student's medical history that may have affected school performance (e.g., illness, nutrition, trauma, or injury)?		

Credit: Idaho Department of Education

23 Idaho State Department of Education. (2024). Considerations for Exclusionary Factors Guidance Document. In *Special Education Manual* (pps. 7-8). Retrieved from https://idahotc.com/Portals/0/Resources/2313/Consideration_of_Exclusionary_Factors_Guidance_Document.pdf

Some states, like Tennessee, also provide a list of sources that education professionals should consider when evaluating for exclusionary factors to help complete the worksheet.[24]

Exclusionary Factor	Source of Evidence
Visual, Motor or Hearing	Sensory screening, medical records, observation
Intellectual Disability	Classroom performance, academic skills, language development, adaptive functioning (if necessary), IQ (if necessary)
Emotional Disturbance	Classroom observation, student records, family history, medical information, emotional/behavioral screenings (if necessary)
Cultural Factors	Level of performance and rate of progress compared to students from same ethnicity with similar backgrounds
Enviornmental or Economic Factors	Level of performance and rate of progress compared to students from similar economic backgrounds, situational factors that are student specific
Limited English Proficiency	Measures of language acquisition and proficiency (i.e., BICs and CALPs), level of performance and rate of progress compared to other EL students with similar exposure to language and instruction
Excessive Absenteeism	Attendance records, number of schools attended within a 3 year period, tardies, absent for 23% of instruction and/or intervention

Credit: Tennessee Department of Education

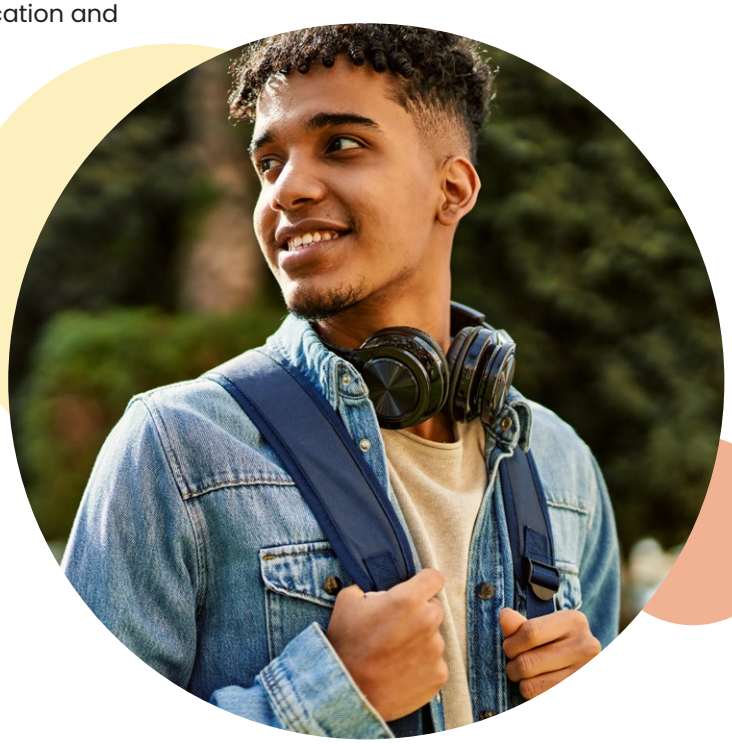
This resource helps clarify the type of data or information that can be used to examine a particular exclusionary factor. Still, it does not define or clarify what constitutes such factors or how to evaluate their impact. Regardless of state or district guidance, education professionals may lack the knowledge and skills needed to apply the rule-out process in practice effectively. As a result, essential factors may be minimized or overlooked, and eligibility decisions may be made without sufficient data to accurately assess the degree to which these factors influence a student's lack of progress.

24 Tennessee Department of Education. (2023). *Response to Instruction and Intervention Manual*. Retrieved from https://www.tn.gov/content/dam/tn/education/special-education/rti/Updated_RTI2_Manual.pdf

3 Exclusionary Factors Requiring Careful Consideration and Additional Guidance

While vital to ensure appropriate resource allocation and avoid disproportionate outcomes for historically marginalized communities, some exclusionary factors are more complex and require careful consideration and intentionality. It is particularly challenging to assess the impact of environmental factors, poverty, and English language proficiency due to the presence of mixed research and the scarcity of reliable, valid assessments. The process of evaluating students from low socioeconomic backgrounds and English learners (ELs) is inherently more complex. Exclusionary factors and academic performance are often intertwined, making it challenging to determine how each influences the other. This nuance can potentially result in the misidentification of a disability or failing to identify a disability, underscoring the need for culturally and linguistically responsive practices. Furthermore, it is important to continue tracking data on special education identification to address over-identification or under-identification, while also ensuring appropriate resource allocation and effective interventions for academic progress.

This section overviews the environmental and economic disadvantages, English proficiency, and cultural differences, while providing considerations for what additional guidance may be needed.



Environmental and economic disadvantage

There is general agreement that specific learning disabilities are brain-based and result from a range of disparate neurological factors.[25,26] Both "differences" in development (often with familial and genetic components) and external factors can have a dramatic influence on brain structure and function, each contributing to increased risk for children to be identified as having an SLD.

For instance, exposure to lead can have a profound impact on health and well-being, including its effects on brain function and learning. A National Bureau of Economic Research study found that even low levels of lead in blood may have a lasting impact on student achievement.[27] Other research demonstrates that exposure to lead can increase the likelihood of an SLD identification, with students specifically demonstrating difficulties in skill acquisition in math, reading, and writing.[28] The literature on the impact of low levels of lead is controversial. These studies cannot control for other environmental factors.[29]

More controversially, brain imaging studies have demonstrated that poverty can impact brain development, including neurological processes that contribute to learning.[30] Studies have shown that cortisol and other stress markers are elevated among children in poverty, resulting in problems with the regulation of emotion and attention.[31] Martha Farah, the founding director of the Center for Cognitive Neuroscience at the University of Pennsylvania, found that certain cognitive functions, specifically those needed for language development, working memory, and

25 Learning Disabilities Association of America. (2018). *Core principles: What are learning disabilities?* Retrieved from https://ldaamerica.org/core-principles-what-are-learning-disabilities/

26 National Joint Committee on Learning Disabilities. (2018). *What are learning disabilities?* Retrieved from https://njcld.org/ld-topics/

27 Aizer, A., Currie, J., Simon, P., & Vivier, P. (2016). Do low levels of blood lead reduce children's future test scores? *American Economic Journal: Applied Economics, 10*(1), 307–341. doi:10.3386/w22558

28 Geier, D. A., Kern, J. K., & Geier, M. R. (2017). Blood lead levels and learning disabilities: A cross-sectional study of the 2003–2004 National Health and Nutrition Examination Survey (NHANES). *International Journal of Environmental Research and Public Health, 14*(10), 1202. doi:10.3390/ijerph14101202

29 Personal correspondence with Jack Fletcher, June 2019.

30 Qiu, S., Zuo, C., Zhang, Y., Deng, Y., Zhang, J., & Huang, S. (2025). The ecology of poverty and children's brain development: A systematic review and quantitative meta-analysis of brain imaging studies. *Neuroscience and Biobehavioral Reviews, 169,* Article 105970. https://doi.org/10.1016/j.neubiorev.2024.105970

31 Blair, C., & Raver, C. C. (2016). Poverty, stress, and brain Development: New directions for prevention and intervention. *Academic Pediatrics, 16*(3 Suppl), S30–S36. doi:10.1016/j.acap.2016.01.010; Cantor, P., Osher, D., Berg, J., Steyer, L., & Rose, T. (2018). Malleability, plasticity, and individuality: How children learn and develop in context. *Applied Developmental Science.* doi:10.1080/10888691.2017.1398649.

executive function, were slightly depressed in individuals of low socioeconomic status. The findings are limited, but clearly suggest that poverty may influence the brain in ways that explain or contribute to poor learning and behavior outcomes and could contribute to SLD determination.[32]

Certainly, neither poverty nor low-level lead poisoning is a reliable predictor of an SLD for any child. However, exposure to adverse childhood experiences and other risk factors can impact the likelihood of a child having an SLD. Thus, it can be argued that the existence of these factors should not disqualify a child from receiving special education services.

To put it simply, although poverty may contribute to brain development and the presence of SLD, it does not cause or predict SLD.

English proficiency and cultural differences

According to educators and researchers, it can be challenging to isolate the influence of English proficiency (or English language development, see more below) and cultural differences when determining eligibility for special education.

The intersection of language, culture, and specific learning disability

Currently, data show that English learners are first underidentified in early grades (i.e., grades K–3) and subsequently overidentified in later grades (i.e., grades 6–12).[33] This pattern likely reflects educators' caution in recognizing that limited English proficiency may influence performance in the early elementary school years, when foundational literacy and math skills are being taught. As the curriculum shifts toward conceptual development and begins to rely heavily on solid foundational skills, English learners, even after acquiring sufficient English proficiency to pass state-mandated tests, begin to fall further behind their grade school peers. Bilingual students may appear to possess strong conversational English skills, thereby reducing the extent to which educators consider the impact of their English language development on overall achievement. It

32 Ryan, J. E. (2013). Poverty as disability and the future of special education law. *Georgetown Law Journal, 101*(6), 1455. Retrieved from https://georgetownlawjournal.org/articles/116/poverty-as-disability-future/pdf

33 Hanna, T. (2017, June 9). Contours of the field: Equitable representation of English learners in special education. [Blog post]. Retrieved from https://www.newamerica.org/education-policy/edcentral/el-special-ed/

is important to consider that the removal of the limited English proficiency (LEP) designation for ELs who pass state requirements is not sufficient evidence with which to automatically exclude language as a factor affecting current and future academic achievement.

English proficiency generally refers to a child's ability to use English for conversational purposes, which Jim Cummins, a professor at the University of Toronto who studies language development, defined as "Basic Interpersonal Communication Skills" (BICS). A child who has a native language other than English may pass an English proficiency exam but still have less familiarity and struggle more with the English language compared to peers who speak English as their native language. As a result, when considering exclusionary criteria, it is more accurate to think of a child's English language development as a continuum and as different from that of a monolingual speaker, rather than as an all-or-nothing conceptual construct. Even after a child is no longer considered "limited English proficient" by law, English language development remains relevant, as it continues to be a decisive factor in educational performance.

"Cultural difference," the term used in connection with the exclusionary factors in federal law, is inherently nebulous. When defined in its broadest sense, educators struggle to understand how differences in attitudes, beliefs, and customs directly affect learning in the classroom. Likewise, acculturation in the sense of personal identity is also complex to directly connect with traditional markers of learning difficulty, as reflected, for example, in grades, work samples, progress monitoring, and other traditional measures of achievement.

While the term "cultural difference" is not explicitly defined in IDEA, it generally refers to a child's familiarity with the predominant school culture and with that of the community.[34] Children who have recently moved from another country, even if they speak English, may struggle to progress academically at the same rate as their peers because they lack exposure to key information and cultural concepts referred to in school, much of which is acquired incidentally and outside of school. Monolingual English-speaking children who are raised in homes where the milieu is not strictly based on mainstream U.S. culture will necessarily have far less experience with and exposure to acculturative knowledge that schools expect them to possess. Conceptualizing

34 Ortiz, S. O., & Seymour, K. L. (2017). The culturally competent school psychologist. In M. Thielking and M. T. Terjesen (Eds.), *Australian Handbook of School Psychology* (pp. 81–110). New York, NY: Springer Books.

"cultural difference" as the extent to which a child has had opportunities to acquire the age- or grade-level cultural knowledge expected in the classroom emphasizes its developmental nature, similar to language difference, where exposure to English shapes expected proficiency.

Determining the impact of language and cultural differences on struggling students

Requiring educational professionals to rule out English proficiency and cultural difference before referring children to special education is an important step in ensuring fairness in evaluation—even though there is no easy way to determine if one of those factors is the primary cause of low achievement.[35] The manifestations of normal second-language acquisition, especially within the context of ESL-only programs, mimic characteristics and signs of learning disability, particularly in the areas of reading and writing.[36] Thus, careful attention to this exclusionary factor ensures that education professionals consider the child's development and experience, and potentially examine any unintended cultural and methodological biases, prior to referral for evaluation of a learning disability.

Just as with the other exclusionary factors, English learners or students who are less familiar with American culture may still require interventions for struggling learners or specialized special education instruction, but it can be challenging to decipher whether the child may also have an SLD.

Regulations for IDEA specify different allowable methods for practitioners to determine if a child has an SLD, including instructional response, patterns of strengths and weaknesses, and the IQ discrepancy model. [See NCLD White Paper: Evaluation for Specific Learning Disabilities: Allowable Methods of Identification & Their Implications]. These frameworks have inherent flaws in evaluating English learners.

Chief among the concerns with identifying students using these frameworks is the assumption regarding comparability in language development and cultural differences as a function of age or grade. Because each model relies on a measurement that derives meaning from comparison to a peer group, the failure to account for differences in language development in English, or in the native language, renders the comparison group inappropriate and not reflective of *true*

35 Attributed to Dr. Samuel Ortiz, a psychologist and professor at St. John's University.

36 Ortiz, S. O. (2019). On the measurement of cognitive abilities in English learners. *Contemporary School Psychology*, 23(1), 68–86. doi:10.1007/s40688-018-0208-8

peers. Bilingual students vary widely in terms of the current levels of English and native language proficiency and cannot be viewed as a monolithic group in which age controls for linguistic development and corresponding rates of progress, growth, and attainment. English learners will necessarily have a different expected learning curve than that of peers who have been in the U.S. and speaking English since birth. But they will also vary widely among themselves as a function of their experience with and exposure to English and their native language.[37] Therefore, any method that seeks to evaluate the development, acquisition, rate of progress, or growth of any ability or skill in whatever language should compare students with true peers who have similar levels of exposure to and experience with the language culture of the test.[38]

In addition, IDEA asserts that for children who are limited English proficient, "assessments and other evaluation materials used to assess a child under this part … are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer."[39] This specification is often interpreted to mean that English learners can only be evaluated fairly in their native language or that the evaluation should be conducted entirely in the native language. Neither conception is accurate, and the attention to ensuring reliable and valid information is more important than the manner or form in which it is gathered.

However, because of the limited availability of tools and instruments, it may not always be feasible to evaluate English learners in their native language. A 2019 Government Accountability Report on Child Find and IDEA identification rates reported that in every state examined, challenges to administer tests in every English learner's native language were reported, partly due to the sheer number of native languages within their student populations. For instance, New York reported that there are 200 languages spoken by their students.[40]

37 Ortiz, S. O. (2016). The assessment of culturally and linguistically diverse populations: A fifty year dilemma: What progress has been made, what issues remain? Lecture presented at WSASP Webinar Series. Retrieved from https://www.wsasp.org/resources/Documents/Spring%20Lecture%20Series/2016/History%20of%20Eval%20of%20ELLs%20-%20Ortiz.pdf

38 Ortiz, S. O. (2018). *Fairness and English learners: Toward true peer group measurement.* Buros Center for Testing. Retrieved from http://ulearn.unl.edu/a/8/89

39 Individuals with Disabilities Education Act, 20 U.S.C. § 300.304(c)(1)(ii) (2004)

40 U.S. Government Accountability Office (2019). *Varied state criteria may contribute to differences in percentage of children served.* Retrieved from https://www.gao.gov/assets/700/698430.pdf

While there are a relatively large number of tests in Spanish, there are far fewer available for other languages. And because of norm sample issues involving differential language development among bilingual students, it cannot be assumed that native-language tests will provide the most reliable, accurate, and valid information as specified in IDEA.[41]

The consensus among researchers in the field is that identification of a learning disability requires evidence of impairment in *both* languages, not just one. However, evidence of learning difficulties in both languages is not sufficient, by itself, to constitute a learning disability determination—especially in cases in which the child was not afforded native-language instruction. Of course, evidence that an individual does not display learning difficulties in one language means they cannot have a learning disability. This would preclude the need for evaluation in the other language.

More research is needed

Current advancements in research are beginning to lead to the advent of new assessments and tools that respond to the developmental differences between and among English speakers and English learners.[42] Such tools may offer greater promise than traditional native-language methodologies in how differences in language development and acculturative knowledge acquisition affect learning rates, progress, growth, and achievement. However, it remains the responsibility of educators to determine, with as much fairness as possible, the extent to which low achievement stems from English language development or cultural difference.

41 Individuals with Disabilities Education Act, 20 U.S.C. § 300.304(c)(1)(ii) (2004)

42 Ortiz, S. O., & Cehelyk, S. K. (2024). The Bilingual Is Not Two Monolinguals of Same Age: Normative Testing Implications for Multilinguals. *Journal of Intelligence, 12*(1), 3. https://doi.org/10.3390/jintelligence12010003

4 Exclusionary Factors and Preventing Disproportionality through Appropriate SLD Identification

It is crucial that education professionals conduct a targeted and comprehensive evaluation that considers the various intrinsic and extrinsic factors influencing a student's academic performance and behavior. Such evaluations must not only carefully examine exclusionary criteria but also be free from personal and institutional biases and methodological and measurement flaws that might confound or invalidate the assessment.

While race and ethnicity alone do not make a learning disability identification more likely—as explained in relation to the exclusionary factors of English language development and cultural difference—bias may play a role in racial disproportionality.[43] Specifically, cultural bias may account, in some part, to the increased incidence of Black and Hispanic students found eligible for special education services. Some studies have also suggested that students of color who are eligible for special education are held to lower expectations and placed in more restrictive environments than their peers.[44,45] It is especially important that education professionals consider bias and exclusionary criteria before making special education determinations. This can ensure that only students who truly need special education services receive them, while potentially increasing resource allocation effectiveness and reducing unnecessary disproportionality in restrictive environments and discipline.

43 Morgan, H. (2020). Misunderstood and mistreated: Students of color in special education. Voices of Reform, 3(2), 71-81. Retrieved from https://www.voicesofreform.com/article/18595-misunderstood-and-mistreated-students-of-color-in-special-education

44 De Valenzuela, J. S., Copeland, S. R., Qi, C. H., & Park, M. (2006). Examining educational equity: Revisiting the disproportionate representation of minority students in special education. *Exceptional Children,* 72(4), 425–441.

45 Murphy, H., Cole, C., & Bolte, H. (2025). Race Placed: Special Education Identification and Placement of Black Students. *Educational Policy (Los Altos, Calif.)*, 39(4), 854–877. https://doi.org/10.1177/08959048241268017

On the other hand, some research contests reports of overidentification in this population, stating that while some racial groups may be identified at a higher rate, Black and Hispanic students are less likely to be identified for special education than white students performing at similar levels.[46] These findings argue that overrepresentation of some racial groups in certain special education categories may not necessarily be the result of bias but rather of need. This body of work suggests that schools may be placing too much weight on numerical targets and, as a result, are not appropriately identifying students in need of special education.[47] However, a primary endeavor in examining racial disproportionality data is to balance equitable access to services through appropriate identification while also mitigating bias. Both national-level data, as well as more localized data such as district-level data, should be examined in an effort to look beyond race to consider student need thoroughly.

Considerations for the Field

It is important for the exclusionary factors in federal law to be applied in a way that protects students from bias in the identification process and accurately assesses the primary cause of a student's academic challenges. However, there are also barriers preventing the field from consistently and effectively implementing these factors. To make meaningful progress in this area to ensure the appropriate allocation of special education resources and prevent disproportionality, while also providing timely interventions, the field should consider:

- **Types of data that can help evaluate exclusionary criteria.**

  Education professionals would benefit from having more information and access to accurate, reliable, and valid methods for evaluating the influence of exclusionary factors. Clear operational definitions for each exclusionary factor and data-focused decision trees could help increase clarity regarding implementation.

46 Morgan, P. L., Farkas, G., Hillemeier, M. M., & Maczuga, S. (2017). Replicated evidence of racial and ethnic disparities in disability identification in U.S. schools. *Educational Researcher,* 46(6), 305–322. doi:10.3102/0013189X17726282

47 Barnum, M. (2017, August 27). *Many worry that students of color are too often identified as disabled. Is the real problem the opposite?* Retrieved from https://www.chalkbeat.org/posts/us/2017/08/27/many-worry-that-students-of-color-are-too-often-identified-as-disabled-is-the-real-problem-the-opposite/

- **Ways to help educators determine if an exclusionary factor plays a role in a child's performance and should preclude a child from qualifying for special education services.**

  Evidence-based approaches can be developed to help teachers use data to rule out exclusionary factors. Additionally, the greater dissemination of existing, research-based information can help teachers understand how culture, language, environment, and socioeconomic factors affect rates of learning and academic progress. Professional development focused on screening for exclusionary factors when identifying students with SLD would be beneficial to ensure implementation fidelity.

- **Ways to support emerging research that can identify valid methods to rule out exclusionary factors, especially English language development.**

  Current federally allowable methods to identify the existence of a specific learning disability focus on low achievement as measured by standardized assessments and informed by input from parents and professionals. Reliable and valid approaches are emerging and have the potential to demonstrate better whether a child is making progress similar to that of their peers who share similar backgrounds, especially methods to help identify the influence of varying levels of English language development.

- **Continue to enforce state report requirements while streamlining data systems. Make tracking disproportionality trends accessible while reducing ambiguity and paperwork.**

  Disproportionality data is a vital signal on how schools are performing when it comes to inequitable identification, placement, or disciplinary action of historically marginalized students. Racial disparity data is essential for visibility into systemic inequities, ensuring accountability for states and school districts, and preventing the potential weakening of civil rights protections. Implementing a centralized and standardized reporting process and database with user-friendly templates and automation would alleviate the administrative burden, while also maintaining transparency.

- **Communication to families that is culturally responsive and explains the risk factors and considerations the school team is taking into account during the SLD evaluation process.**

  The special education identification process is complex and challenging for many families to navigate. A "label" for special education may also carry a complex and potentially negative or emotional weight; therefore, for some families, there is an opportunity to improve communication and inform them of their rights and responsibilities during the identification process.

Conclusion

The exclusionary criteria in the federal definition of SLD serve an important purpose. Education professionals must rule out other factors as being the primary cause of educational difficulties before determining that a child is eligible for special education due to SLD. Identifying and addressing the primary and contributory factors that create obstacles to learning, affect rates of progress and growth, and cause low achievement helps education professionals design targeted interventions, provide high-quality instruction, and develop appropriate expectations—all of which are necessary to reduce over- and underidentification of children for special education services. While more research and additional tools are needed to assist educators in determining how one or all of the factors are contributing to learning challenges, the intent of the exclusionary factors is to promote fairness and equity, and they must be maintained.