



Washington State Association
of School Psychologists

**Washington State Association of School Psychologists
Professional Practice Standards Guidelines in
the use of *Professional Judgment* in
Determining Eligibility for Special Education**

Background

The purpose of this paper is to discuss the usage of the term *Professional Judgment* within the regulations, to examine the text within which the term is used, and to define the parameters for the application of *Professional Judgment* within regulations. This paper is not intended to explain the use of *Professional Judgment* outside of the areas defined within special education regulation.

The Washington Administrative Code references to "*Professional Judgment*"

There are three distinct references to *Professional Judgment* in the WACs. The first, in reference to ESY services eligibility, asks the evaluation group to use its *Professional Judgment* in considering data from multiple sources, including severity of disability and rate of progress. A second reference is in regard to the validity of assessment tools and the case where such validity cannot be established. The third example of the use of *Professional Judgment* refers to the situation where the evaluation group, attempting to establish the existence of a Specific Learning Disability (SLD), is faced with the situation where the criterion score of the LD regression table is not congruent with other data collected by the team.

WAC 392-172A-02020 Extended school year services.

School districts must develop criteria for determining the need for extended school year services that include regression and recoupment time based on documented evidence, or on the determinations of the IEP team, based upon the Professional Judgment of the team and consideration of factors including the nature and severity of the student's disability, rate of progress, and emerging skills, with evidence to support the need.

While this citation is in reference to a specific decision (offering of ESY), *Professional Judgment* is defined as the team's consideration of other factors. This gains importance when the use of *Professional Judgment* is debated in cases where discrepancy table criteria are not in congruence with data from other sources.

The Washington Administrative Code cited immediately below is referred to as the "Evaluation Procedures WAC," the second is listed under the "Method for Documenting Severe Discrepancy WAC." The title provided for each Washington Administrative Code is of critical importance when attempting to understand and apply the provisions of the regulations to school psychological activities. It is clear from the titles of the two citations that these regulations pertain only to evaluation procedures and to the determination of a severe discrepancy. Although this is a statement of the obvious, it is critical to realize that there is no discussion regarding eligibility, services, or other major points of contention. The word eligibility is underlined to highlight the fact that confusion exists around the context in which the word eligibility is used, which will be discussed in

the paragraph following the citation.

WAC 392-172A-03020 Evaluation procedures.

(3)(a)(iii) Are used for the purposes for which the assessments or measures are valid and reliable. If properly validated tests are unavailable, each member of the group shall use Professional Judgment to determine eligibility based on other evidence of the existence of a disability and need for special education. Use of Professional Judgment shall be documented in the evaluation report.

As stated above, the evaluation procedure specifies that only "if properly validated tests are unavailable" then use of Professional Judgment is provided for within a given set of parameters. The first critical point is that the use of Professional Judgment, in this case, is only allowed when "properly validated tests are unavailable."

Best practice would dictate that an assessment battery be designed with a specific student's needs in mind. The purpose of assessment is to: 1. Establish eligibility for services and 2. Lead to recommendations for the IEP team. If during assessment, the validity of a specific test's results is called into question, a second assessment tool should be utilized. For example, assessments with lower age equivalent baseline levels, with reduced verbal loading, or with limited fine motor demands are acceptable alternatives. This particular evaluation WAC pertains only to the psychometric properties of the assessment tool.

It goes on to further define the parameters by stating that "other evidence" must be "documented in the evaluation report." Therefore, the evaluation team must determine what evidence or assessments it is going to use to take the place of the unavailable "properly validated" test. The final sentence further clarifies that any deviation from "standard conditions" must be documented in the evaluation report. Therefore, the use of the word "eligibility" is referring to the categorical portion of determining eligibility. The term or concept of eligibility in general requires the further documentation of "need for specially designed instruction" and "adverse impact."

Additional Procedures for Identifying Students with Specific Learning Disabilities

WAC 392-172A-03070 Method for documenting severe discrepancy.

(2) Where the evaluation results do not appear to accurately represent the student's intellectual ability or where the discrepancy between the student's intellectual ability and academic achievement does not appear to be accurate upon application of the discrepancy tables, the evaluation group, described in WAC 392-172A-03050, may apply Professional Judgment in order to determine the presence of a specific learning disability.

Data obtained from formal assessments, review of existing data, assessments of student progress, observation of the student, and information gathered from all other evaluation processes for students being identified for a specific learning disability must be used when applying *Professional Judgment* to determine if a severe discrepancy exists. When applying *Professional Judgment*, the group shall document in a written narrative an

explanation as to why the student has a severe discrepancy, including a description of all data used to make the determination through the use of *Professional Judgment*.

As stated in the section on severe discrepancy, the use of *Professional Judgment* is intended to provide the professionals the ability to determine that a child has a learning disability even though it is not documented via the method provided within WAC 392-172A-03070 (Discrepancy Table for Determining Severe Discrepancy WAC). Identification of disability is only one component of qualification (i.e., disability, need for specially designed instruction, and adverse impact must all be considered and documented). Often the data that represent an inconsistency with regression tables is the same data that will be cited as representative of the adverse impact of the learning disability (e.g. state assessments, common core assessments, classroom performance, observation). The language of this section is specific in stating that "the evaluation group... shall apply *Professional Judgment* in order to determine the presence of a severe discrepancy." As noted, this procedure is only to be utilized after the team has applied the standard within WAC 392-172A-03070 (Discrepancy Tables). **The evaluation team must provide, in writing, the rationale for *Professional Judgment* and the "supportive evidence" used by the evaluation team.**

WSASP has encouraged Washington psychologists to engage in the practice of conducting a comprehensive evaluation (see guidance paper: Revised Professional Practice Guidelines in the Evaluation of Students Suspected of Having a Specific Learning Disability). As part of this process, it is anticipated that data from multiple sources will be analyzed from referral to eligibility decision. As sources of data increase, so does the likelihood of contradictory or non-supportive data. Teams will be faced with using their best *Professional Judgment* to reconcile the data, and for that reason we have underscored the need for the evaluation team to provide a narrative describing the evidence to support the use of *Professional Judgment* in LD identification.

The case for incorporating data from multiple sources in the diagnosis of LD is neither new nor limited in scope (Bateman, 1992; National Joint Committee on Learning Disabilities, 1997; Gregg & Scott, 2000; Dombrowski et al., 2004; Mather & Gregg, 2006). The NJCLD for example, called on psychologists to use their best clinical judgment incorporating both quantitative and qualitative data accumulated from such sources as informal measures; classroom portfolios, student, teacher, and parent reports, along with feedback from the multidisciplinary team. Fletcher & Reschly (2005) pointed out that norm-referenced tests results should not be a substitute for developmental and instructional history, medical and psychological history, family and environmental factors, and test scores. Evaluators require expertise to compare, contrast, and interpret the obtained assessment results.

Historically the use of *Professional Judgment* has been inappropriately applied to any and all categories of eligibility determination¹. However, the previous paragraphs are intended to help in clarifying the three occasions where *Professional Judgment* is allowed within the regulations. *Professional Judgment*, as defined in the regulations, may appear as a component of any evaluation in which any category of disability is being considered.

Professional Judgment, though, is not the basis of the determination of eligibility but rather one component that may be necessary. The necessity can arise when there is consideration for Extended School year, a lack of appropriately validated tests or the tests utilized do not (by *Professional Judgment*) measure the student's ability accurately and are impacting the team's effective and appropriate evaluation and definition of the needs of a student.

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¹ It has been an often-used practice by Washington psychologists to declare a full scale IQ invalid if inter-test scatter was significantly variable. While the full scale IQ is indeed rendered inaccurate by such variability, our recommendation is that a Pattern of Strengths and Weaknesses (PSW) be pursued using a cross-battery approach once the complete cognitive battery has been administered. As the full scale IQ is inaccurate, the LD-regression table criteria should also be viewed as inaccurate and *Professional Judgment* be applied utilizing data from a multitude of sources per WAC 392-172A-03070.