

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D. C. 20202

TECHNICAL ASSISTANCE CIRCULAR

RSA-TAC-05-01

Date: January 10, 2005

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
STATE REHABILITATION COUNCILS
CLIENT ASSISTANCE PROGRAMS
REGIONAL REHABILITATION CONTINUING EDUCATION
PROGRAMS
AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES
PROJECTS
DIRECTORS, PROJECTS WITH INDUSTRY
CONSUMER ADVOCACY ORGANIZATIONS
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Guidelines for Assessing the Functional Capacities of an Individual with
Specific Learning Disabilities to Determine Significance of Disability for
Order of Selection Purposes

BACKGROUND: A recent study on welfare reform indicates that fully one-third of
individuals receiving employment-related services from other programs,
such as Temporary Assistance to Needy Families, have specific learning
disabilities (SLD) or other cognitive disabilities. (U.S. General Accounting
Office, "Welfare Reform -- More Coordinated Federal Effort Could Help
States and Localities Move TANF Recipients With Impairments Toward
Employment" October, 2001. This document is available on the internet
at <http://www.gao.gov>)

As State vocational rehabilitation (VR) agencies partner more extensively
with these other programs, the number of individuals with such disabilities
served by the VR program is expected to increase. Because SLD and
other cognitive disabilities are often "invisible" disabilities with
manifestations that are subtle or appear as other types of problems, such as
lack of motivation or emotional disorders, assessment of an individual's
functional capacities can be a difficult task.

This circular provides guidance on assessing the functional capacities of individuals with SLD and other cognitive disabilities to determine the level of significance of an individual's disability and the individual's assignment to a priority category when a State VR agency is operating under an order of selection for services. Assigning individuals to a priority category follows the eligibility determination. The information obtained during the functional assessment should be used in developing the individualized plan for employment.

Because this guidance focuses on determining the level of significance of the individual's disability, it does not discuss all possible manifestations of SLD; all aspects of assessing SLD, including an individual's abilities and capacities; or effective strategies, including assistive technology, for assisting individuals with SLD to achieve employment outcomes. Any one individual with SLD will not exhibit all of the deficits and functional limitations described in this document.

This circular replaces retired RSA-PAC-90-7: *Guidelines for Determining Whether a Person with Specific Learning Disabilities Has a Severe Handicap for Vocational Rehabilitation Program Purposes*, originally distributed in 1990.

GUIDANCE

Defining SLD

“Specific learning disability” refers to a number of conditions identified in the diagnostic manuals of the American Psychiatric Association and the World Health Organization. A key concept in making a diagnosis of SLD is the discrepancy between intellectual potential and academic performance. Other cognitive, behavioral, and emotional deficits are also frequently associated with SLD. According to the *Diagnostic and Statistical Manual of Mental Disorders – Fourth Edition*, developmental delays in language and a higher rate of Developmental Coordination Disorder may occur in association with the SLD; specific learning disabilities may also be associated with problems with cognitive processing, such as visual perception, linguistic processes, attention, memory, or combinations of these; and adults with SLD may have significant difficulties in employment or social adjustment.

Research and evaluation activities regarding the rehabilitation of persons with SLD indicate that the “non-academic” characteristics – deficits in attention, reasoning, processing, memory, communication, coordination, social competency and emotional maturity – may have a greater adverse impact on achieving and maintaining employment than those associated with poor academic performance (*Evaluation of Services Provided for Individuals with Specific Learning Disabilities*, Berkeley Planning Associates, 1989).

Significance of Disability

Section 7(21)(A) of the Rehabilitation Act of 1973, as amended, (the Act) defines an “individual with a significant disability” as an individual with a disability –

- who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- who has one or more physical or mental disabilities (including “specific learning disability”) listed in section 7(21)(A)(iii) of the Act or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

A State VR agency develops criteria for determining an “individual with a most significant disability” by refining criteria in the definition of “individual with a significant disability” (Section 101(a)(5)(C) of the Act; 34 CFR 361.5(b)(30) and 361.36(d)). The criteria to be refined are the number and degree of functional limitations, the amount of time needed for VR services, and the number of VR services needed (Federal Register, Vol. 61, No. 94, May 14, 1996, page 24395). Individuals with the most significant disabilities are given first priority for receiving VR services if a State VR agency must implement an order of selection because it does not have enough fiscal or personnel resources to serve all eligible persons (Section 101(a)(5)(C) of the Act).

The VR counselor determines the significance of the individual’s disability based on a review of the data developed to make the eligibility determination and, to the extent necessary, an assessment of additional data (34 CFR 361.42(g)). Education records and information used by education officials are included in the data to be reviewed (34 CFR 361.42(d)(1)(i)). Central to the task of determining the significance of an individual’s SLD is obtaining a clear understanding of how the disability affects or impacts vocational functioning. To obtain such an understanding, the VR counselor needs to analyze assessment data within the context of the seven functional capacities in the definition of an “individual with a significant disability” in order to identify the individual’s functional limitations.

Assessment of SLD

For purposes of determining eligibility, assessment of an individual with SLD should provide the clinical information needed to establish a learning disability diagnosis, i.e., the discrepancy between intellectual potential and academic

performance. To determine significance of disability, the assessment should identify any central nervous system deficits of attention, reasoning, processing, memory, communication, and coordination. Neuropsychological assessments may be needed to determine the existence and extent of such deficits. The VR counselor may need to consult with an appropriate clinician or specialist on the use of such neuropsychological information in assessing functional limitations.

In addition, the assessment process must also include other measures of the individual's ability to function in daily life environments that provide practical information about any limitations in the functional capacities used to determine significance of disability. For this, the VR counselor can use a variety of approaches, including standardized tests, work trials and situational assessments, role play, individual self-report, interviews with the individual, the individual's family, teachers, and employers, and a review of the individual's history. Also important are the VR counselor's own observations of how the individual functions during the VR application, assessment, and planning processes and any limitations revealed during these processes. Screening tools that list deficits typically seen in individuals with SLD are helpful, but should be used in conjunction with other assessment methods or to provide direction for additional assessments.

For an individual with SLD who is or recently was in the school system, school personnel, such as teachers and guidance counselors, and school records may be good sources of information. School records provide data on academic performance and the results of any assessments. School records and personnel may also provide specific information on inappropriate behaviors; interpersonal relationships with peers and teachers; problems with attention, memory, and organization; how the individual functions in the classroom and in social situations; and whether the individual has developed age-appropriate self-care skills.

Determining Significance of Disability: Assessing Functional Capacities

The first step in determining significance of disability is to determine whether the perceptual and cognitive deficits resulting from SLD seriously limit an individual's functional capacities, in terms of an employment outcome. The definition of "individual with a significant disability" identifies functional capacities such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills. State VR agencies use this definition in their policies related to determining significance of disability and assigning individuals to priority categories. State VR agencies may consider other or additional functional capacities beyond those cited in the definition.

Typically, functional limitations are often identified as an activity or behavior that an individual cannot perform or performs with difficulty. For individuals with SLD, serious functional limitations may also result from behaviors that the

individual can perform, but fails to perform with sufficient frequency, adequate intensity, in the appropriate manner, or under socially expected conditions. Serious functional limitations may result from behaviors that occur too frequently, too intensely, last too long, or occur when and where they should not normally occur.

Each of the following sections describes one of the functional capacities listed in the definition of “individual with a significant disability,” identifies possible assessment strategies for verifying functional limitations, and describes the possible impact of various SLD-related deficits on the individual’s ability to perform in an employment setting. The following information may be useful to State agencies in developing policies, procedures, and training materials to assist VR counselors in identifying functional limitations or may be useful to counselors in using State agency materials.

Mobility

Mobility, as used in this guidance, refers to the capability of moving efficiently from place to place. SLD does not typically cause motor disorders that interfere with the physical aspects of mobility, such as climbing stairs or accessing public transportation. Nevertheless, SLD may cause a variety of significant limitations to mobility, particularly with transportation to and from the worksite.

Assessment of mobility limitations is most effectively done through direct observation of the individual in the environment. Obtaining information from the individual, the individual's family, teachers, previous employers or supervisors may also be helpful. Additionally, specialty evaluations such as driver evaluations or assessment by a travel trainer in the community may be required. Mobility limitations may also be revealed during inquiries about other deficits. For example, the individual may reveal that he or she becomes lost on the way to the VR counselor’s office if the counselor asks the individual why he or she is consistently late for appointments.

There are many ways that SLD can limit an individual's mobility. Among the most obvious are academic deficits. Reading problems may interfere with the ability to read a bus or train schedule, to determine how to transfer, or to read road signs and maps. Calculation and number concept problems may interfere with the ability to pay for public transportation or budget for transportation.

Spatial orientation and perceptual problems influencing directional sense may result in frequently getting lost and an inability to navigate within the environment, be it travelling within the community or finding one's way around the inside of a building, plant or complex. Time sense deficits may result in chronic lateness or serious problems in planning and/or comprehending public transportation schedules. Directional confusion may also pose significant safety problems because of the individual's difficulties in the integration of visual information.

Limitations in organization, sequencing, and planning resulting from deficits in attention and higher level conceptual deficits may preclude an individual's ability to make arrangements for transportation, particularly if these involve modification of simple routines, one or more transfers, or coordination of connections. Also, problems with comprehension or attention may result in errors such as taking the wrong bus or getting off at the wrong stop, consistently taking wrong turns while driving and/or accident proneness. Memory difficulties may interfere with the individual's ability to navigate due to the inability to recall landmarks and directions. In addition, language deficits related to SLD may interfere with the ability to understand spoken directions.

Limitations in balance and gross motor coordination may result in physical clumsiness or accident proneness in driving and walking and may cause marked difficulties when using escalators, elevators, and people movers.

Communication

For purposes of this guidance, communication refers to accurate and efficient transmission and/or reception of information, either verbally (spoken or written) or non-verbally. Communication problems caused by SLD are often manifested by serious difficulties in the acquisition and/or the mastery of language; in the understanding and/or articulation of moderately complex ideas and sentences; and in the development of appropriate grammatical constructions to express ideas in a clear and intelligible manner. Such limitations may be the result of perceptual, language and higher-level conceptual deficits caused by the SLD. Particularly troublesome are subtle communication problems, such as receptive language deficits, which are not easily detected, even by a thorough psychoeducational assessment. Better assessment strategies may be standardized tests of receptive and expressive language, role-plays and interviews with the individual and persons who know the individual well, vocational evaluations, and situational assessments.

Some examples of receptive communication problems in work-related environments are difficulties with respect to: following oral and written instructions; interpreting written materials, particularly job manuals, work orders, diagrams and signs; understanding complex sentences and/or language subtleties in work-related items; completing job applications; learning new tasks or procedures from written materials or verbal instructions; remembering information, especially multi-step directions; and differentiating important information from unimportant information.

Some examples of expressive communication problems are: the tendency to transpose words or to delete less concrete parts of language such as prepositions, articles and connectors; illegible handwriting; inability to prepare a written report or letter due to spelling, grammatical or organizational difficulties; lack of organized development and focus in describing a topic; inadequately describing skills, work and educational experiences on a job application or during

employment interviews; difficulties in using the telephone; and the inability to repeat or relay instructions to co-workers and others.

Self-Care

For purposes of this guidance, the term “self-care” refers to the skills necessary to fulfill basic needs such as those related to health, safety, food preparation and nutrition, hygiene and grooming, and money management. For most individuals, self-care competencies are mastered throughout the various developmental stages in their lives. However, an individual with SLD may not learn experientially, and thus may show signs of developmental delays and/or deficiencies in the mastery of self-care competencies, even by the time the individual is about to leave home and seek employment.

The most effective way to assess the individual's self-care limitations is through interviews with the individual, the individual's family, teachers and employers, and by review of the individual's history. The VR counselor may also identify self-care deficits while interviewing and working with the individual. In this regard, it may be helpful to use a checklist and/or a questionnaire designed to identify self-care deficits that are typically found in individuals with SLD.

Deficits in attention, reasoning, memory, academics, communications and coordination caused by SLD can affect the individual's ability to perform self-care activities at home, in the community, and at the work site. Examples of self-care activities related to employment caused by SLD include:

- problems with reasoning, processing and cognition that may cause the individual to repeatedly make poor decisions about basic necessities of life (health, safety, grooming, dressing, nutrition, etc.) and frequently engage in dangerous activities without considering their possible consequences;
- academic deficits, particularly reading, writing and arithmetic, that may severely limit an individual in the management of finances and in self-care activities that require following written directions;
- language deficits that may cause the individual serious difficulties in carrying out basic everyday functions such as shopping and banking that involve communication with others;
- memory deficits that may lead to forgetting to observe job-related safety precautions or to take prescribed medications at the designated intervals;
- motor deficits that may cause clumsiness, balance problems and reduced response times resulting in accident proneness; and

- attention deficits that heighten distractibility, as well as behavioral deficits such as impulsive and/or explosive behaviors or the apparent disregard for rules and safety procedures that may result in accidents.

Self-Direction

Within the context of this guidance, the term "self-direction" describes the capacity to organize, structure and manage activities in a manner that best serves the objectives of the individual. Adequate self-direction requires that an individual be able to plan, initiate and monitor behavior with respect to an identified outcome. Such functions require the mobilization of cognitive and physical resources, including the abilities to organize, structure and plan appropriate approaches to achieve necessary tasks and to do problem solving. These executive functions are frequently seriously limited by SLD-related deficits in cognition and reasoning.

Problems in executive functioning can be inferred from performance on specific neuropsychological tests. The impact of such problems on self-direction capacities can be confirmed by interviews with the individual and informed respondents, such as family members, teachers or employers. VR counselors may also observe the impact of deficits in self-direction as they begin to work on vocational planning tasks with individuals who have SLD.

Individuals with SLD are often impaired by lack of insight, i.e., inadequate awareness of their strengths and weaknesses, an inability to monitor their performance to detect if it is meeting the demands of the environment, and inability to adjust behaviors and activities if the current performance is not adequate. The impact of these difficulties can affect the individual's ability to participate in the rehabilitation process; to select and plan appropriate educational and vocational objectives and identify suitable strategies to achieve the objectives; and to adequately respond to work or educational demands. Some examples of limitations in self-direction include shifting from one activity to another without purpose; failing to follow through with and complete assignments; inability to set up and implement a study schedule or job search; and requiring a higher degree of supervision than typically provided to other workers doing the same tasks.

Limitations in self-direction are often evident in problems related to time management, such as underestimating the time (and energy) needed to complete work assignments, causing other responsibilities not to be addressed; missing or being late for appointments and meetings; and making decisions impulsively without considering previous plans or experiences.

Adequate self-direction requires cognitive flexibility or the ability to adapt and shift quickly, accurately and appropriately in response to changing work requirements. Individuals with SLD who have serious limitations in gathering, organizing and analyzing information may experience cognitive disorganization and a lack of focus, often misinterpreted by others as lack of motivation or

laziness or may experience a cognitive rigidity caused by trying to overcompensate for cognitive deficits. Difficulties in adapting to new circumstances pose problems when there are changes in work requirements or conditions, particularly in settings that require job sharing or teamwork.

Interpersonal Skills

As used in this guidance, the term "interpersonal skills" refers to the ability of the individual to interact in a socially acceptable and mature manner with co-workers, supervisors, and others to facilitate the normal flow of work activities. For an individual with SLD, interpersonal skill limitations are often key factors contributing to the degree of difficulty or lack of success in educational and/or employment situations, particularly with respect to job retention.

The assessment of interpersonal skill functioning can be carried out in a variety of ways. Useful sources of information are interviews with reliable informers such as family members, teachers and employers, or observation in situational assessments or work trials, particularly those involving interaction with others and teamwork. In many instances, the VR counselor may observe interpersonal skill deficits during the initial and subsequent interviews. Various behavior assessment instruments may be found useful by the VR counselor as clinical tools in the identification and assessment of behaviors that may adversely impact the vocational functioning of the individual with SLD.

Interpersonal skill limitations may be the direct and immediate result of the SLD, or connected with other SLD related deficits. Often, communication deficits create serious problems for the individual in interpreting and responding appropriately to the behavior and communications of others. Particularly, the individual with the SLD may not be able to correctly interpret subtle, non-verbal cues, such as body language, facial expressions, or tone of voice that provide feedback on work performance. Such deficits may result in job loss if an individual with SLD does not understand the improvements needed in his/her work performance. Also, the SLD may cause the individual to make literal interpretations of events and dialogue even when the social context of the interaction would dictate otherwise. This is particularly true for interactions where "kidding" is taking place. Such an inability to correctly read the social context may create the potential for disruption of normal work relationships and problems on the job.

In addition, interpersonal skill limitations may be caused by SLD deficits related to social competency and emotional maturity. These deficits may manifest themselves as inappropriate behaviors and language, lack of inhibitions, explosiveness, withdrawal, sudden shifts in mood and attitudes, low frustration tolerance, task avoidance, and unpredictability. Frequently, these types of limitations are the most devastating in their impact on successful work adjustment. In many instances an individual with SLD can learn the specific task requirements of a job but cannot demonstrate job-related interpersonal skills, such

as appropriate interactions with peers and supervisors, working collaboratively with others, accepting supervisory monitoring and criticism, and understanding acceptable types and levels of personal interaction.

Work Tolerance

For purposes of this guidance, work tolerance refers to the ability to carry out required physical and cognitive work tasks in an efficient and effective manner over a sustained period of time.

Assessment of an individual's work tolerance can best be carried out by gathering information through work trials or interviews with persons such as family members, teachers or employers who have observed the individual's capacity to sustain physical or cognitive activities over a protracted period of time. When assessing the work tolerance capacities of the individual with SLD, it is suggested that special attention be placed on the individual's ability to sustain cognitive work-related activities as well as attention to tasks. The capacity to sustain cognitive functioning may also be evaluated during the administration of standardized tests.

Work tolerance may be seriously impaired by deficits in attention, reasoning and cognition cause by SLD. These deficits may be evident in a variety of ways including: difficulties in concentrating and focusing on the task at hand; frequent shifting from one uncompleted activity to another; or the inability to physically remain in the same location for an extended period of time without fidgeting, feeling restless, or even fleeing the site. The individual with SLD-related attention problems may be unable to "tune out" normal background noise and general conversation present in most workplaces, and as a result, may become distracted, even agitated, and unable to work effectively.

Persons with SLD-related motor coordination and balance deficits or problems in processing sensory stimuli that must be coordinated with motor functions may experience serious limitations in the physical endurance and stamina requirements for many jobs. Similarly, individuals with SLD who have deficits in processing, attention, memory, reasoning, or communication may experience a serious degree of cognitive fatigue as a result of expending additional effort and energy to compensate for these deficits. Physical and cognitive fatigue may result in a general decline in overall functioning as the work period progresses, demonstrated by lower productivity, increased mistakes and an increased injury rate. Also, depending on their ability to successfully handle and compensate for these SLD deficits, job performance of individuals with SLD may vary significantly from day to day.

The capacity to sustain an adequate level of work performance in pressure situations such as increased production schedules, shortened time lines, or unexpected changes in job duties may be significantly impaired in an individual with SLD, since such circumstances may require greater organization, increased

speed, faster processing of information and more focused attention. Such increased demands on already existing limitations may cause additional problems with frustration, anxiety and consistency and thus further limit the ability to carry out the task at hand.

Work Skills

For purposes of this guidance, the term "work skills" refers to the specific job skills required to carry out work functions as well as the capacity for an individual to benefit from training in these work functions. In assessing the type and degree of the work skill limitations caused by SLD-related deficits, it is important to determine whether the deficits impact a major or critical function of a specific job and/or the individual's general capacity to learn and carry out any work task. Useful assessment strategies to gather this information are paper and pencil tests, vocational tests, vocational evaluations, work trials, individual self-report and interviews with persons who have seen the individual perform tasks in school, at home or at work.

Academic deficits in reading, writing, spelling or arithmetic can seriously impair an individual's ability to perform job tasks that primarily depend on skills such as legible handwriting; accurate handling of information; filling out forms and applications; calculating and manipulating numbers or money; and writing, preparing and proofreading documents that are error free. In addition, these SLD-related deficits will also probably adversely impact the individual's capacity to benefit from training and/or to perform job tasks that rely on written instructions, procedures, or policies.

Motor coordination deficits can pose serious limitations for job tasks that depend primarily on motor functions that require control, efficiency and speed. Depending on the type of motor deficits, the individual with SLD may have serious limitations in performing jobs that require fine motor skills or the operation of machines and tools, in handling multiple items as in an assembly line, or in doing jobs that require manual labor, physical agility and balance, or the operation of heavy equipment.

Deficits in processing, reasoning, communication and memory may seriously limit an individual's ability to organize, plan and problem solve, resulting in difficulties in learning new job tasks or adapting to changes in work requirements, particularly if they involve changes in task sequence, procedures, tools or working environments. Memory deficits caused by the SLD can seriously impair the individual's ability to recall instructions or the appropriate task sequence, and can also contribute to the loss or misplacement of tools, papers or other essential work related items.

Problems with spoken or written language may adversely affect performance of specific work tasks such as taking orders or messages by phone, developing written reports, or performance of any work task that relies on oral instructions or printed materials.

Determining Significance of Disability: Assessing Service Needs

Determining the extent of an individual's functional limitations is the first step in determining significance of disability. As described above, it is essential that the VR counselor determine an individual's service needs based on assessment of all the functional capacities and all limitations within those capacities, not just limitations related to academic deficits.

The second step is determining the need for services based on the assessment of the individual's functional limitations. Determining the need for services establishes whether the individual meets the other criterion within the definition of "individual with a significant disability" – the criterion that the individual's vocational rehabilitation can be "expected to require multiple VR services over an extended period of time." State VR agencies may develop definitions for "multiple VR services" and for "extended period of time" or may provide guidelines to help counselors make these decisions.

Once the VR counselor has assessed the individual's limitations in the functional capacity areas and identified the VR services needed to address the functional limitations and the time period over which services will need to be provided, the counselor will then have the information necessary to determine the level of significance of the individual's disability.

SUMMARY

GUIDANCE: The determination that a person with SLD has a significant disability for VR program purposes must be made within the context of the statutory definition of an "individual with a significant disability." In making such a determination, the VR counselor needs to gather, analyze, and interpret a broad range of assessment data in order to identify the SLD-related deficits, to assess their impact on the functional capacities identified in the definition of an "individual with a significant disability," and to determine the resulting need for VR services and the time required for service provision.

CITATIONS: Sections 7(21)(A) and 101(a)(5)(C) of the Act; 34 CFR 361.5(b)(30) and (31), 361.36(d), and 361.42(g).

INQUIRIES: Regional Commissioners

Joanne M. Wilson
Commissioner

cc: Council of State Administrators of Vocational Rehabilitation
Consortia of Administrators of Native American Rehabilitation
National Association of Protection and Advocacy Systems
National Council on Independent Living
Learning Disability Association of America