


APPENDIX D

AGENCY RESPONSE TO DRAFT REPORT

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



September 30, 2005

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: EMILY STOVER DeROCCO *Emily Stover DeRocco*
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SUBJECT: Agency Response to OIG Draft Audit Report:
Strengthening Efforts to Assess and Account for Students with
Cognitive Disabilities Would Help Job Corps Achieve Its Mission
(Draft Audit Report No. 09-05-003-03-370)

Attached is the response of the Employment and Training Administration to the subject report. Our major responses include:

- Job Corps declines to accept the recommendation of the Office of the Inspector General (OIG) to screen all students for unknown and undisclosed cognitive disabilities in the way in which the OIG is recommending.
- It is cost prohibitive to assess all students positively identified through the cognitive disabilities screening process recommended by the OIG.
- While Job Corps does have a process in place to identify center high schools, it does not find it necessary to have a formal process in place to notify and inform all centers about their responsibilities under the Individuals with Disabilities Education Act (IDEA) and Section 504 and ensure compliance.
- Job Corps has procedures to ensure that its cognitive disabilities data is reliable.

These conclusions are grounded in a thoughtful consideration and review of OIG's audit, and an in-depth review of recent research and data pertaining to learning disabilities. Just as public school systems are struggling with how to ensure that adopted policies, procedures and practices related to the identification and assessment of students with cognitive disabilities are continually updated to reflect the most current scientific research and implemented with fidelity at the site level, Job Corps too must seek better ways.

While Job Corps declines to accept the recommendation of the OIG to screen all students for cognitive disabilities in the way in which the OIG is recommending, it is open to other recommendations made in the report. Job Corps has and will continue to improve data collecting and reporting on cognitive disabilities and continues to increase its understanding of how Federal education laws pertain to the status of center schools which have been developed under Job Corps' *High School Diploma Initiative*. The following summary explains in more detail how these recommendations will be addressed and provides a synopsis of the agency's full response.

Objective 1—Should Job Corps strengthen efforts to identify students with unknown or undisclosed cognitive disabilities?

OIG Recommendations:

1. Conduct a pilot program to develop appropriate screening and formal evaluation methodology and assess the impact of performance on costs before implementing national policies and procedures.
2. Based on the pilot program's results, develop and implement national policies and procedures as needed to screen all students for cognitive disabilities and obtain formal evaluations when screening indicates a potential cognitive disability.
3. Monitor compliance with any new policies and procedures.

Job Corps' Response:

The review conducted by Job Corps revealed that there is evidence to indicate that the assumptions and recommendations of the OIG are not based on the current literature regarding the identification and assessment of cognitive disabilities. Furthermore, it appears that without an understanding of the literature, the OIG was unable to recognize that Job Corps is currently identifying and assessing students with cognitive disabilities using a process that is comparable to the process used in public school systems and that is philosophically in line with the Response to Intervention model currently embraced by a consensus majority of the cognitive disability research community.

For the following reasons, Job Corps does not accept the recommendations to screen all students for cognitive disabilities in the way in which the OIG is recommending:

- Neither IDEA nor Section 504 of the Rehabilitation Act of 1973 require the screening/assessment of all students specifically for cognitive disabilities in the manner suggested by the OIG, either for those in public school systems or those in alternative education and training programs such as Job Corps.
- The screening tool referenced by the OIG has no scientific research base, is designed to be used on a voluntary basis with a different population than Job Corps' population, and does not further Job Corps' mission.

- Screening all students in the manner suggested by the OIG program has no solid basis in the current scientific research, and may in fact cause litigation and be harmful to students, and would utilize resources which may be more purposefully applied to identification strategies that are research-based and in line with Job Corps' mission.

At this point in time, the cognitive disability research community is at a crossroads in rejecting a current identification and evaluation model and conducting research on new models. Job Corps joins the rest of the educational community in awaiting the findings of this scientific research. Until such time Job Corps will:

- Continue to follow its established process for identification of cognitive disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 as currently documented in the Job Corps *Policy and Requirements Handbook* and in the Job Corps *Technical Assistance Guide on Learning Disabilities and Attention Deficit Hyperactive Disorder (TAG G)*. This process is comparable to the process used in most public school systems and is philosophically in line with the Response to Intervention model currently embraced by a consensus majority of the cognitive disability research community.
- Continue to follow the research, confer with national experts in the field, and convene expert and practitioner panels to study new proposed models and strategies that are supported by scientific research.
- Strengthen site-level systems such as staff training, technical guidance and monitoring to ensure that students with cognitive disabilities are identified and assessed.
- Continue to provide Job Corps staff with continuous professional development opportunities that strengthen the use of key instructional strategies that have been scientifically shown to work with cognitively disabled students as well as with other low achieving students.

Objective 2—What impact would an improved assessment process have on student outcomes and program costs?

OIG Recommendations:

None.

Although the OIG makes no specific recommendations under Objective 2, it does make the following statements:

- Student outcomes will improve by screening all students for cognitive disabilities. The OIG uses the Weber Basin Job Corps Center as an example of improved outcomes that result from screening.
- Job Corps would have to expend between \$1.2 million and \$3.5 million annually for screening and formal assessment. The OIG uses a figure of \$600 for a formal assessment from one center to make this assertion.

Job Corps' Response:

The OIG points out that it would increase program costs to assess all students positively identified through the cognitive disabilities screen process recommended by the OIG. In fact, it would increase costs much more significantly than the OIG estimates and it is not clear that there would be any benefit to justify the costs.

- The OIG assumed that the Weber Basin Job Corps Center improved overall program outcomes because all students were screened specifically for cognitive disabilities. These assumptions are incorrect, as there are no data to support this. A follow-up discussion with the Weber Basin special education teacher, a school district employee, revealed that:
 - Students at Weber Basin JCC are identified for cognitive disabilities using Job Corps' current process outlined in TAG G.
 - The performance cited by the OIG was likely due to the type of instructional strategies and targeted assistance provided by the teachers, not because the Center used a more comprehensive assessment process.
- The OIG based its estimated formal assessment cost of \$600 per student on costs from one center where specific community connections help to offset the cost. The majority of Job Corps centers would not be able to obtain services at such a low rate. Rates of \$1,000 to \$1,500 per student are more realistic. Using the OIG's formula, the cost at these rates would result in annual expenditures between \$2 million and \$5.9 million.

Objective 3—Does Federal law require Job Corps to assess students for cognitive disabilities? If so, does Job Corps have an effective process to ensure compliance?

OIG Recommendations:

4. Identify center schools subject to the student assessment provisions of IDEA or Section 504.
5. Ensure center schools comply with the requirements to identify, evaluate, and provide special education to students with cognitive disabilities.

Job Corps' Response:

The OIG acknowledges that Job Corps is not required by Federal law to assess all enrolled students for cognitive disabilities. The approach recommended by the OIG would exceed any requirement imposed by IDEA on the public school system. In instances where Job Corps centers are not the high school degree granting authority, under IDEA the local education agency has responsibility to ensure compliance. In these instances, Job Corps' efforts to ensure compliance would be duplicative and have no impact because Job Corps would not have the authority to certify compliance.

For the following reasons, it may not be feasible to completely identify at any one point in time all of the Job Corps centers operating in 48 states, the District of Columbia and Puerto Rico, that are subject to the assessment provisions of IDEA and Section 504:

- Each jurisdiction has considerable variation in their designations of Job Corps centers as accredited schools eligible for IDEA funds and subject to varying state and local regulations for administration of IDEA.
- At any time, some center schools may accept Department of Education funds and consequently become subject to requirements of Section 504.

Therefore, Job Corps will undertake the following:

- Improve its annual survey of centers regarding high school programs to better identify centers that might be subject to IDEA and Section 504 requirements.
- Establish policies in the Job Corps *Policy and Requirements Handbook (PRH)* that:
 - Describe the entities required to assess students for cognitive disabilities under IDEA and Section 504.
 - Require centers that might meet any of the criteria under IDEA or Section 504 to contact the appropriate state or Federal agency for guidance.
 - Require centers subject to IDEA or Section 504 requirements to document their processes for providing student assessments and special education for students in their center training plans.
 - Provide a tool with the *Policy and Requirements Handbook* to assist centers in determining and maintaining their compliance status.

Objective 4— Are Job Corps' data on student cognitive disabilities reliable?

OIG Recommendations:

6. Establish criteria for identifying and reporting cognitively disabled students.
7. Ensure cognitively disabled student data submitted by centers is accurate and complete.
8. Implement a concise and systematic process for effectively communicating to centers Job Corps policy and procedures for recording, tracking, and reporting student cognitive disability data.

Job Corps' Response:

As the OIG knows, Job Corps is aware of this problem, has been working on it for some time, and has continuously advised the OIG of its efforts. Job Corps has made the following system improvements:

**Strengthening Efforts to Assess and Account for
Students with Cognitive Disabilities
Would Help Job Corps Achieve Its Mission**

- A *PRH* Change Notice has been developed and approved by the Department of Labor's Office of Civil Rights to provide center staff with additional information in identifying students with cognitive disabilities. The policy revision is slated for release in October 2005.
- Job Corps program staff currently review center disability data for anomalies. Job Corps will improve its disability data collection system by:
 - Conducting targeted assessments at 10 to 15 Job Corps centers in the fall of 2005 to examine why centers have problems with entry/accuracy and how center disability data collection practices can be improved.
 - Implementing a formal data audit system and requiring centers/contractors to be more accountable for the accuracy of data.
- Job Corps will continue to monitor and upgrade its current system for communicating to centers its policies and procedures related to identifying, assessing, and meeting the needs of students with cognitive disabilities. Its current comprehensive system includes:
 - Release through Job Corps' directive system all information related to Job Corps policies on disability data collection.
 - Support all policy directives and supporting technical guidance materials through Web-based, telephone, and in-person training and technical assistance.
 - Provide detailed information (e.g., FAQs, detailed submission instructions) through the Job Corps Disability Web site.
 - Provide telephone technical assistance on all aspects of data collection.
 - Continue to update the user's guide on disability data collection released in June 2005.

Attachments

AGENCY RESPONSE TO OIG DRAFT AUDIT REPORT ATTACHMENT

Agency's Executive Summary Response

Job Corps' response to the Office of the Inspector General's (OIG) results, findings, and eight (8) recommendations is grounded in a thoughtful consideration and review of the OIG's audit, and an in-depth review of recent research and data pertaining to learning disabilities that have sparked significant re-thinking nationwide about how educational institutions identify, classify, and serve young people with cognitive disabilities, and appropriate public policy responses.

Job Corps declines to accept the OIG's recommendations to screen all students using an approach that may not benefit, and could potentially harm, some 65,000 young people annually.

Requiring Job Corps to expend Federal dollars on a new screening and formal evaluation program that has no solid basis in the current scientific research, and may in fact cause litigation and be harmful to students, utilizes resources which may be more purposefully applied to identification strategies that are research-based and in line with Job Corps' mission.

As the literature on the identification and assessment of cognitive disabilities within public education indicates, most educational agencies can take measures to strengthen their existing processes. While Job Corps agrees with the literature on this finding, we do not agree, and the literature does not support the idea, that the best method for identification is targeted screening of ALL students for cognitive disabilities at the point of enrollment into the program, followed by formal evaluation using the current methods commonly practiced.

The OIG admits that it makes these recommendations without having evaluated the suggested screening tools or the tools that some Job Corps centers voluntarily utilize. As well, the OIG makes these recommendations without presenting evidence that it conducted a review of current cognitive disabilities assessment research or consulted national experts in the field.

Job Corps believes that strengthening its cognitive disability assessment process is important. However, a review of the available literature has convinced us that:

- Current assessment methodologies used by school systems under the Individuals with Disabilities Education Act (IDEA) are being seriously questioned by disabilities researchers and the U.S. Department of Education based on hard, scientific research ("the gold standard").

- New assessment models such as Response-to-Intervention (among others) are being put forth to address the many validity problems that have been identified with the IQ-discrepancy construct, the predominant method used for formal evaluation of learning disabilities. Scientific research on the efficacy of these new models is underway.
- Job Corps' current assessment process is similar to that typically implemented by school systems, which are currently struggling with what to do differently in light of scientific research findings strongly suggesting changes need to be made in their assessment processes under IDEA.
- Job Corps should not launch a pilot program that may not benefit, and could potentially harm, its students when there is not sufficient "gold standard" research supporting such significant changes.

In response to the OIG's recommendations 1-3, Job Corps will continue to follow the research, confer with national experts in the field, and convene work groups to study the new proposed models in order to invest its resources in strategies that are supported by the scientific research. Additionally, as part of our continuous program improvement effort, Job Corps is developing ongoing staff development to strengthen the use of key instructional strategies that have been scientifically shown to work with cognitively disabled students (and other low achieving students).

Assessing all students positively identified through the OIG's proposed cognitive disabilities screening process, which Job Corps does not accept, is cost prohibitive.

With respect to the impact the OIG's proposed assessment process would have on program costs, the OIG estimates that Job Corps would have to expend between \$1.2 million and \$3.5 million annually for screening *and* formal assessment. These figures are based on the OIG's Job Corps survey results of \$0 to \$600 for formal assessments. Job Corps believes the \$600 figure is low at best. The OIG used this figure from one center that has made specific community connections. The majority of Job Corps centers would not be able to obtain services at such a low rate. Rates of \$1,000 to \$1,500 are more realistic, and these figures only reflect screening and diagnosis. Using the OIG's formula, costs at these rates would result in expenditures between \$2 million and \$5.9 million. It is important to note that additional costs for qualified special education staff, training, and instructional materials must be factored into any screening *and* formal assessment program as well. With the inclusion of these additional expenses the estimates would increase substantially.

While Job Corps does have a process in place to identify center high schools, it does not find it necessary to have a formal process in place to notify and inform all centers about their responsibilities under IDEA and Section 504 and ensure compliance.

Job Corps centers operate in forty-eight (48) states, the District of Columbia, and Puerto Rico. Each jurisdiction has considerable variation in their designations of Job Corps centers as accredited schools eligible for IDEA funds and subject to varying state and local regulations for administration of IDEA. Also, at any time, some center schools may accept U.S. Department of Education funds and consequently become subject to the requirements of Section 504. Because it may not be feasible to completely identify all Job Corps centers that are subject to the assessment provisions of IDEA and Section 504 at any one point in time, the National Office proposes to undertake the following:

- Improve its annual survey of centers regarding high school programs in order to better identify centers that might be subject to IDEA and Section 504 requirements; and
- Establish policies in the *Job Corps Policy and Requirements Handbook (PRH)* that:
 - Describe the entities required to assess students for cognitive disabilities under IDEA and those required to assess students under Section 504. The language would provide examples distinguishing between the operations of Job Corps centers that would and would not fall under the requirements of IDEA and Section 504.
 - Require centers that might meet any of the criteria under IDEA or Section 504 to contact their state Departments of Education, or the Federal agencies providing financial assistance, to confirm their status and the required processes to provide assessments for students with undisclosed cognitive disabilities, and special education services.
 - Require centers subject to IDEA or Section 504 requirements to document their processes for providing student assessments and special education for students in their center training plans.
 - Provide a tool with the *PRH* to assist centers in determining and maintaining their compliance status.
 - Describe how Job Corps Regional Offices will monitor center compliance through regularly scheduled center assessments.

Job Corps would also revise the current standard request for proposals (RFP) to operate Job Corps centers, so that the RFP specifies that operators must assure that centers subject to the requirements of IDEA and Section 504 have processes in place to identify, evaluate, and provide special education to students with cognitive disabilities.

Job Corps has procedures to ensure that its cognitive disabilities data is reliable.

With regard to criteria for cognitive disabilities, a *PRH* Change Notice has been developed and approved by the Department of Labor's Office of Civil Rights to provide center staff with additional information in identifying students with cognitive disabilities. The policy revision is slated for release in October 2005. This revision provides (1) definitions and examples of physical and mental disabilities, and (2) answers to commonly asked questions regarding the reasonable accommodation process on Job Corps centers.

Every quarter, Job Corps program staff review center disability data for anomalies. If there are concerns about the accuracy/completeness of the data, centers are contacted and technical assistance provided. The Job Corps disability data collection system could be improved by implementing a formal data audit system and requiring centers/contractors to be more accountable for the accuracy of data. A system will be developed to accomplish this goal. In addition, targeted assessments at 10-15 Job Corps centers are planned for the fall of 2005, with the major goal of these assessments being to determine why centers have problems with data entry/accuracy and how center disability data collection practices can be improved.

With regard to communicating data policy and procedures, all information related to Job Corps' policy on disability data collection is released through the Job Corps directive system. All policy directives and supporting technical guidance materials are supported through Web-based, telephone, and in-person training and technical assistance. Detailed information (including FAQs, tips, and detailed submission instructions) is available on the Job Corps Disability Web site (<http://jcdisability.jobcorps.gov>), and telephone technical assistance is available to centers on all aspects of data collection. A user's guide on disability data collection was released in June 2005.

Agency's Section by Section Response

Objective 1 – Should Job Corps strengthen efforts to identify students with unknown or undisclosed cognitive disabilities?

Recommendations

1. Conduct a pilot program to develop appropriate screening and formal evaluation methodology and assess the impact on performance and costs before implementing national policies and procedures.
2. Based on the pilot program's results, develop and implement national policies and procedures as needed to screen all students for cognitive disabilities and obtain formal evaluations when screening indicates a potential cognitive disability.
3. Monitor compliance with any new policies and procedures.

Agency Response

Job Corps does not accept the OIG's recommendations to screen all students using an approach that may not benefit, and could potentially harm, some 70,000 young people annually. Requiring Job Corps to expend Federal dollars on a screening and formal evaluation program that has no basis in scientific research, may cause litigation, and could be harmful to students, utilizes resources which may be more purposefully applied to identification strategies that are research-based and in line with Job Corps' mission.

The OIG's recommendations are based on four assumptions outlined in their letter to Emily Stover DeRocco, Assistant Secretary for Employment and Training, submitted with the Discussion Draft dated July 29, 2005, and modified in the September 19, 2005, Draft Audit Report. The assumptions were:

1. Job Corps students are not adequately assessed for unknown or undisclosed cognitive disabilities. (July Draft)

We found that improving efforts to assess and account for students with unknown or undisclosed cognitive disabilities would help Job Corps achieve its overall mission. (September Draft)

2. Although Job Corps is not legislatively required to specifically assess ALL students for cognitive disabilities, doing so falls within the overall mission and purpose of the program. (July Draft)

Although Job Corps is not legislatively required to specifically assess ALL students for cognitive disabilities, doing so would help Job Corps achieve the program's overall mission and purpose. (September Draft)

3. Job Corps' student population is at-risk for cognitive disabilities.
4. Effective identification and accommodation would address significant barriers to employment and improve the program's student outcomes.

According to current literature on cognitive disabilities identification and assessment, Job Corps finds these assumptions to be flawed. Appendix A provides a literature review that addresses each of the assumptions.

As the literature on the identification and assessment of cognitive disabilities within public education indicates, most educational agencies can take measures to strengthen their existing processes. While Job Corps agrees with the literature on this finding, we do not agree with the OIG, and the literature does not support the idea, that the best method for identification is targeted screening of ALL students for cognitive disabilities at the point of enrollment into the program using screening tools such as the Kaufman Brief Intelligence Test (K-BIT); the Learning Styles and San Diego Quick Gauge Reading Inventories; or the Learning Needs Screening Tool.

Indeed, the OIG admits that it makes its recommendations without having evaluated any of these screening tools. In addition, the OIG makes its recommendations without presenting evidence that it conducted a review of current research or consulted national experts in the field of cognitive disabilities.

SCREENING/IDENTIFICATION

The primary screening tool referenced by the OIG has no strong scientific research base, is designed to be used on a voluntary basis with a different population than Job Corps' population, and does not further Job Corps' mission.

The Washington State Learning Needs Screening Tool was apparently developed and primarily used to screen long-term Temporary Assistance for Needy Families (TANF) recipients under Welfare-to-Work (WtW) programs, which does not match the circumstances or the purposes of the Job Corps program, and will likely inhibit Job Corps' ability to achieve its mission to attract and teach students and prepare them for postsecondary opportunities.

As revealed by the New York State pilot study of the use of the Washington State screening tool as a method for identifying the need for follow-up diagnostic evaluations (State of New York, Department of Labor, 2005), the tool was designed:

- For use with long-term TANF recipients who are generally considered the very hardest to serve in getting them the kind of steady employment needed to become self-sufficient.

- As part of a multi-stage WtW case management process for evaluating the extent to which an individual can participate in work activities when determining how best to help the individual become self-sufficient (i.e., to identify work limitations, hidden disabilities, and employment service strategies that include accommodations).
- To be used after there is a suspicion on the part of the case manager/case worker that there may be possible unidentified barriers impeding the person's progress on work activities and in conjunction with a review of past work and educational history/records, among other factors.
- To be used in a strictly voluntary manner—TANF recipients are not required to complete the screening tool.
- To be followed up, when screened positive, with a formal diagnostic evaluation completed by a psychologist or other licensed professional and which is based on a battery of aptitude and achievement tests that seek to determine significant discrepancies between abilities and performance in such areas as reading, writing, and math.

Although the tool has been validated, the OIG's recommendation to screen all students did not consider scientific study findings such as the research completed on the Smith Learning Disabilities Screen (Smith & Wiener, 2002). This screening tool was developed for adult use with community college and university students as a simple way to help professionals identify those adults who are likely to have learning disabilities and should be referred for diagnostic assessment (same reasons essentially for the screening tools OIG is suggesting). The tool's validation results indicated that it appeared to identify adults with learning disabilities with at least 75% accuracy. Despite these results, the researchers noted the following caveats concerning its use (Smith & Weiner, 2002, p.14-15):

- "The tool is a screen and should not be used as a substitute for a diagnostic assessment.
- It should not be administered to large numbers of individuals who have no reason to believe they might have learning disabilities, as false positive scores could then lead to unnecessary concerns by individuals who do not have learning disabilities.
- The tool is intended to be administered in the case of an individual who is experiencing some difficulties in adjustment or achievement, and is seeking an explanation for the problems.
- Individuals should provide informed consent prior to completing the test.

- Referrals should be made for psycho-educational assessment at or above the cut-off score and there is a history of academic or vocational struggles.”

Job Corps is an educational and career technical training program for economically disadvantaged youth ages 16-24. Its mission is to attract eligible young adults, teach them the skills they need to become employable and independent, and help them to secure meaningful jobs or opportunities for further education. As such:

- It is not aimed at moving individuals off the welfare caseloads through a work-first type approach or determining eligibility for SSI, although ultimate goals of the program are to provide students with the skills needed for gainful employment and/or postsecondary education.
- The Job Corps education and career technical training program focuses on academic and technical education, including attainment of a high school diploma and mastery of academic standards that help students gain entry into meaningful careers or postsecondary education, which means that assessments of all students must be heavily focused on learning needs, as well as employment needs.
- Unlike TANF, Job Corps’ mission is to “attract” youth to the program. Screening may inhibit Job Corps’ ability to “attract” clientele when potential applicants learn that because of certain characteristics identified by the OIG, such as “economically disadvantaged, high school dropout, reading below the 8th grade level, and never held a full-time job,” Job Corps suspects there is something wrong with them and they are going to be specifically screened for cognitive disabilities, and then automatically referred for a formal evaluation, if screened positive. While we recognize that the Washington State tool and the others mentioned are generally about learning needs, it is the notion that they would be used to specifically target this group of students for cognitive disability evaluations that is the problem.
- The age cohort overlaps but is not really the same as the “families with children” who are eligible for TANF. While all Job Corps program participants are low income, only 31.5% of students entering the program are from families who are on public assistance (U.S. Department of Labor, Job Corps Annual Report, 2005).

Screening all Job Corps students for cognitive disabilities in the manner proposed by the OIG may expose Job Corps to litigation, stigmatize students who are already disengaged from school work, and act as a disincentive to participating in the program.

Neither IDEA (1997 and now 2004) nor Section 504 of the Rehabilitation Act of 1973 REQUIRE the screening/assessment of ALL students specifically for cognitive disabilities in the manner suggested by the OIG, either for those in public school

systems or those in alternative education and training programs such as Job Corps which are funded in part or in whole with Federal dollars. These laws do require an identification process; however, as discussed later in our response, there are better alternatives to be considered.

To mandate that Job Corps specifically screen all students for cognitive disabilities in order to determine who needs a formal diagnostic evaluation may open up unnecessary litigation. Special education under IDEA has been the most litigated area in education (Katsiyannis & Herbst, 2004), with a lot of that litigation involving informed parental consent provisions and the need for school districts to ensure nondiscriminatory assessment in verifying students for special education. The OIG's unsubstantiated assumption that Job Corps students must be screened because they are at high risk for cognitive disabilities due to characteristics found with a high degree of frequency in the general student population increases the likelihood that such a practice would be challenged.

Without citing specific studies, the OIG contends that "national and regional studies suggest certain characteristics are prevalent in both cognitively disabled youth and Job Corps' student population." The OIG describes these characteristics as "economically disadvantaged, high school drop out, below eighth grade reading level, and never held a full-time job." It appears that the OIG is linking cognitive disabilities to characteristics that describe a large percentage of the youth in this country. For example:

- The majority (68%) of U.S. 8th graders are not reading at grade level. According to a Rand Research Brief titled *Meeting Literacy Goals Set by No Child Left Behind* (2004), 32% was the average proficiency rate in Reading for 8th graders on the 2003 National Assessment of Educational Progress.
- Approximately one-third of U.S. 9th graders will not graduate from high school in four years with a high school diploma in 12th grade, according to the Harvard University Civil Rights Project (Orfield et al., 2004).
- Thirty-eight percent of U.S. children live in low income families (National Center for Children in Poverty 2005).

Contrary to the OIG's unsupported assumption, the research does not support the contention that Job Corps' student population is at "higher risk" for cognitive disabilities than any other youth or young adult population.

Scientific research on the identification and classification of public school students as learning-disabled under IDEA indicates that low socio-economic status (SES) cannot be directly linked to learning disabilities (LD), and sociocultural factors may weigh heavily on why LD is overidentified, even though these factors are to be ruled out when assessing students for cognitive disabilities.

For example, Blair and Scott (2002) noted: “The rapid growth of the LD label points to a complex problem in which there is some uncertainty as to the extent to which underachieving students with and without the LD label are distinct.” (see, for example, Algozzine, Ysseldyke, & McGue, 1995; Fletcher et al., 1994; Kavale, 1995; Kavale, Fuchs, & Scruggs, 1994; Pennington, Gilger, Olsen, & DeFries, 1992; Ysseldyke, Algozzine, Shinn, & McGue, 1982 as cited by Blair and Scott, p. 1). The etiological case perspective and findings from various researchers suggest that low socioeconomic status (SES) substantially increases the risk for LD; while the excess case perspective and study findings from various researchers suggest that LD and low achievement (LA) groups overlap and that LA is frequently misdiagnosed as LD. In Blair and Scott’s epidemiological study on distinguishing LD from learning problems originating in social and economic disadvantage (using the IQ-discrepancy construct), the authors found that they: could not conclusively show cause-and effect regarding the relationship of low socioeconomic status to LD placement; could only report the strong association between the two; and could not resolve the issue of the excess case versus etiologic case distinction in LD placement.

MacMillan and Siperstein (2001) also examined through scientific research how school systems are differentiating SES and other factors in their identification of LD, noting: “Cultural, environmental, and economic factors, rather than serving as a cause for rejecting the diagnosis of LD, often weigh heavily in the school’s decision to classify a child as LD. Nowhere is this more evident than in studies that contrast the decision-making process in urban and suburban school districts.” The authors point out that LD-classified students in urban schools represent very different learning problems than do those in suburban districts—“They score lower on measures of intelligence which requires that sociocultural factors must be considered as contributors, if not causes, of their learning difficulties.” (MacMillan and Siperstein, 2001, p 12).

Finally, as cautioned by the 1997 IDEA, over-identification of minority children has been a serious problem, although the U.S. Department of Education’s 24th Annual Report to Congress on the Implementation of IDEA (2002) indicates that the population of high school students receiving special education in 2001 more closely mirrored the racial/ethnic distribution of the general population than had been true in 1987. Consequently, attention must be paid to racial, ethnic, and linguistic diversity to prevent misdiagnosis and mislabeling. In Job Corps, nearly 83% of Job Corps’ student population are people of color— 48.9% African American; 16.9% Hispanic; 3.3% American Indian; and 2.2% Asian/Pacific Islanders (U.S. Department of Labor, Job Corps Annual Report, 2005). Requiring a population which is predominantly of color to participate in an all-student cognitive disabilities screening program could give rise to litigation challenges.

Screening all students for cognitive disabilities may also stigmatize students who are already disengaged from school work. Indeed, Job Corps’ recent experience piloting a program aimed at strengthening cognitive abilities revealed repeatedly in evaluations that students assigned to the pilot program felt stigmatized by, and actually experienced stigmatization from, other students not participating in the pilot. To begin the Job Corps

enrollment process with mandatory screening for the possibility of cognitive disabilities will likely reinforce in the student a belief that she/he is unable to successfully complete school work. The OIG's recommendations are particularly bold when the student has never been asked to meet an at-risk screening requirement specifically for cognitive disabilities in any other educational setting.

According to the National Research Council (2004):

- Dropping out of high school is generally considered a key indicator of disengagement from school work.
- With a high degree of frequency, students disengage from an educational setting because they do not believe they are able to do school work.
- A key component in re-engagement is providing an environment that instills in the student a belief that she/he can master the academic and technical requirements to reach career goals.

If Job Corps were to specifically screen all students at enrollment in the manner suggested by the OIG, and a large percentage of students are then sent on for formal psychological/diagnostic assessments for specific cognitive disabilities, it is likely that for many, the formal assessments will come back with a diagnosis of low achievement or a variety of reading or other learning difficulties, but not necessarily LD or Attention Deficit Hyperactivity Disorder (ADHD), or worse yet, come back with a misdiagnosis or misclassification of LD or ADHD. Low achieving students would then be "labeled" and stigmatized rather than re-engaged through research-based classroom strategies such as direct and strategy instruction that appear to work well with low achieving students (Swanson, 2000).

As noted by Higgins, et al. (2002), in their 20-year longitudinal, ethnographic study of forty-one (41) individuals formally diagnosed with learning disabilities, there is a rather long process of "distinct stages of 'coming to terms' with the technical realities of their disability and with the social/emotional impact of being labeled. These included (a) awareness of their 'differences'; (b) the labeling event; (c) understanding/negotiating the label; (d) compartmentalization; and (e) transformation (p. 3)." "Our participants have shared painful experiences of being teased, hounded, bullied, and ridiculed. In almost every case, the stigmatization and abuse received by this group far exceeds the severity of their difficulties" (p. 15).

Because of the potential stigmatization, it is imperative that Job Corps not put all of its students through a process that could result in mislabeling or misdiagnosing the cognitive learning disabilities of many students.

FORMAL EVALUATION

The OIG implies that Job Corps agrees that there is a high incidence of students with cognitive disabilities when in fact there is a high incidence of misclassification and misdiagnosing due to the IQ-discrepancy approach used in formal evaluations.

The OIG continually references *Job Corps' 2003 LD/ADHD Technical Assistance Guide (TAG G)* to imply that Job Corps agrees that there is an epidemic of individuals with cognitive disabilities. Reliance on the *TAG G* for this proposition is misguided. A call from the OIG to Job Corps prior to including *TAG G* references would have revealed that this document will be updated to reflect new understandings in the research, including, for example, that misdiagnosis and misclassification, especially of LD, are significantly inflating the number of students counted as cognitively disabled, hence leading all to believe that there is an “epidemic” of learning disabilities. The Specific Learning Disability (SLD) category under IDEA, as noted by the OIG, has seen significant increases over the years in the numbers so classified for purposes of special education services. The National Center for Education Statistics report on the Condition of Education in 2005—Indicator 6 (U.S. Department of Education, 2005) states that “specific learning disabilities made up 50% of all special education students served under IDEA.” However, the scientific research tells us that these increases are in large measure due to formal assessment practices that rely on the IQ-achievement discrepancy construct and due to public education’s need to provide additional resources to low achieving students.

In their work on how schools operationally define and classify students as LD, MacMillan and Siperstein (2001) found that:

- The dramatic increase in the numbers identified as LD is in large part due to the fact that public schools do not properly apply the exclusionary criteria for LD identification. Classification of children as LD does not constitute a diagnosis; rather it has become a catch-all designation for eligibility and planning for services.
- For the most part, schools are not examining severe discrepancy and are not carefully excluding cases due to mental retardation or sociolinguistic or instructional disadvantage.
- When general education teachers are faced with students they cannot help, the tendency is to refer them and press for special education assessment and services under IDEA.

In H. Lee Swanson’s (2000, p. 4) review of issues facing the field of learning disabilities, he examined the research on the IQ-discrepancy approach in light of the “epidemic numbers” of LD being reported. One of his conclusions was that: “When compared to non-discrepancy-defined poor achievers, learning-disabled-defined groups are more similar in processing difficulties than different. Thus it is becoming an untenable idea

that aptitude-achievement discrepancy tells us anything important about processing mechanisms underlying such areas as reading disabilities.” He also points out that the implications of the research on distinguishing between LD and garden-variety poor readers have not changed the actual diagnostic practices used by schools.

Many students assessed as LD may not have a cognitive dysfunction, but may simply be very low achieving. Fuchs and Fuchs (2001) in their White Paper for the U.S. Department of Education, Office of Special Education Programs (OSEP) “Is learning disabilities just a fancy term for low achievement?” conducted a meta-analysis of scientific studies in which the reading achievement of LD and low achievement nondisabled students (LA) could be compared. Eighty-six studies met the research team’s stringent inclusion criteria. The most salient conclusions for this White Paper, as summarized by Elksnin et. al. (2001, pg. 303) include:

- Students with LD have more severe differences in reading performance than students who are LA.
- Such differences tend to be more dramatic when (1) timed rather than un-timed tests are used, (2) students are in higher grades and experience accumulating deficiencies in reading, and (3) objective test scores rather than human judgment are used in LD diagnosis.
- It may well be that differences among students with LD and LA are more a matter of degree rather than of kind. Similar to other syndromes that are based on degree of difference from a range of acceptable levels, such as hypertension and obesity, LD may be a disability that is defined simply by extreme low achievement.

Finally, use of the IQ-discrepancy construct often results in misidentification of LD because of the way in which it has been applied from a statistical standpoint. Because regression effects are often not controlled for, the discrepancy construct tends to over-identify as LD those with a high IQ and to under-identify those with a low IQ (Spear-Swerling & Sternberg, 1998).

The OIG’s statement on page 16 of its report — “For example, ED reported in 2002 that 7% of children ages 6-17 had a specific learning disability or mental retardation or traumatic brain injury. The reported percentage is conservative because ADHD was not included.” — provides further evidence that a thorough review of incidence data and associated literature has not been done. Research conducted by Forness & Kavale (2001) on where and how ADHD is being classified and served under IDEA reveals that most are being counted in the Emotional Disturbance Category (40% of this category is likely ADHD) and the Specific Learning Disabilities Category (25% is likely ADHD). In applying their analysis to the 7% figure cited above, which comes from the ED 2002 Annual Report to Congress on IDEA (U.S. Department of Education, 2002), Job Corps calculates that the 7% becomes 7.22%. Because of the co-morbidity of ADHD and

because there is no pure ADHD category for reporting under IDEA, among other factors, ADHD counts overlap. This combined with other literature cited in Appendix A strongly suggests that prevalence and incidence data were not interpreted or used carefully by the OIG in developing its recommendations.

The OIG's statement — "Job Corps has not emphasized the need to identify, [evaluate], and accommodate students with cognitive disabilities" — is not accurate. Job Corps has emphasized the need to identify and accommodate students with cognitive disabilities through its reasonable accommodation policy and related activities (e.g., training, Web site, other directives). Furthermore, the emphasis of *TAG G* is on identification of the possibility of cognitive disabilities through basic education and other skills assessments of learning needs, direct observation and continuous monitoring of students' progress as they are engaged in the learning process, and use of research-based instructional strategies such as direct instruction and strategy instruction that have been shown to work with cognitively disabled students and all students. When learning difficulties persist and educational staff have exhausted all appropriate strategies to help a student progress, then the student is referred for specific screening and formal, diagnostic evaluation of cognitive disabilities. In many respects, Job Corps' current process is similar to a new model —Response to Intervention— that many of the leading LD researchers are advocating as an alternative to using the IQ-discrepancy construct.

STRENGTHENING JOB CORPS' CURRENT IDENTIFICATION AND EVALUATION PROCESS

Since Job Corps and public schools have similar missions, Job Corps' current "assessment process" is very similar to the typical process used by public schools to identify students for LD (or any disability under IDEA).

Job Corps has an established process for identification of cognitive disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, as documented in the *Job Corps Policy and Requirements Handbook (PRH)* and in the *Job Corps Technical Assistance Guide on Learning Disabilities and Attention Deficit Hyperactive Disorder (TAG G)*. Neither IDEA nor Section 504 requires screening/assessment of all students for LD (as recommended by the OIG), although an identification process is required.

The Job Corps process, while not established for purposes of IDEA, essentially fulfills the "spirit of IDEA" in that it parallels the fundamental identification and evaluation process practiced by public schools in their compliance with IDEA. A general comparative table found in Appendix A at page 15 serves to illustrate this point. The table was prepared based on research by MacMillan and Siperstein (2001) regarding the process by which public school systems identify and classify LD; review of the process used by the school system in Montgomery County, Maryland; the *PRH*; and research by Ormsbee (2001) on how pre-assessment teams work in public school systems.

Just as public school systems are struggling with how to improve their processes in light of the current scientific research, Job Corps too must seek better ways. The question is not if, but how.

Because Job Corps believes that its program components should be based on the same “gold standard” of research supported by the U.S. Department of Education in providing guidance to schools, it has turned to the academic literature and “hard studies” coming out of the learning disabilities research community on identification and assessment for an understanding of how best to strengthen its current cognitive disability assessment process.

Much of that recent scientific research has examined the IQ-discrepancy construct and its validity as a “predictor” of learning disabilities, as well as the impact its use has had on over-identification and misidentification of LD under IDEA. Its efficacy as a “predictor” of LD has undergone serious research challenges starting in the late 1990s, with multiple researchers questioning the severe discrepancy criteria due to its poor or undemonstrated reliability and validity. As summed up by Dr. Horowitz, Director of Professional Services at the National Center for Learning Disabilities (2005), the IQ-discrepancy construct is not an accurate predictor of LD because there is little research-based evidence for it.

The research-based dissatisfaction with the IQ-achievement discrepancy approach has led others to re-examine the use of the intrinsic processing approach to identification of LD. This approach was commonly used in the late 1960s and early 1970s, but declined during the 1980s due to an inability to validate the theories through research (Myers & Hammill, 1990 as cited in Dean and Burns, 2002). In Dean and Burns’ critical review (2002) of the more recent sophisticated and comprehensive uses of this approach, the two examined the theoretical basis and large-scale consistent implementation efforts, and researched classroom effectiveness. They concluded that: “Results suggest that not unlike the discrepancy model, the processing definition of LD does not differentiate students with LD from low achievers, is inconsistently implemented, and does not offer enough research to conclusively support its instructional validity” (p. 1).

Furthermore, Torgensen states in his OSEP commissioned White Paper, 2001, as summarized by Elksnin, et al., 2001: “we are currently unable to diagnose learning disabilities directly and reliably by assessment of intrinsic processing weaknesses.” Although there is no direct test for assessing intrinsic processing weaknesses, he suggests that considerable progress in the field of LD has been made over the past two decades, such as in phonological processing in the development of basic reading and its manifestations of LD. He further suggests that process assessment warrants further investigation.

There are many more studies and LD researchers that could be cited to illustrate that the IQ-discrepancy approach and the intrinsic processing approach have research-

based flaws that suggest one should look elsewhere for effective models, such as the Response-to-Intervention approach.

In August 2001, USED/OSEP sponsored a critical summit on Learning Disabilities wherein nine (9) key White Papers were developed, presented, and discussed among the LD community, from which a series of consensus-based decisions were determined to help guide future policy, research, and practice, especially in the area of identification and classification of LD. This effort and the subsequent work of the 2002 and 2004 LD Roundtables have resulted in consensus opinions among well-respected LD researchers and organizations that the Response-to-Intervention approach should be strongly considered as a model to replace the current IQ-discrepancy approach.

- **The Response-to-Intervention (RTI) approach to identifying cognitive dysfunction is included in the IDEA 2004 law.** The LD Roundtable 2004, consisting of fourteen (14) national organizations involved in research-to-practice and related policy issues, made many research-based, consensus recommendations concerning IDEA 2004 and its regulations. Chief among them involves eliminating the absolute requirement for the existence of a severe discrepancy between achievement and ability, but allowing school districts to continue to use it as one element of a comprehensive assessment. Regulatory recommendations also include language that supports the use of the RTI approach, should a school district choose to include such a process as part of its evaluation procedures. Both of these items were included in the 2004 IDEA law; however, it remains to be seen what the final regulations will precisely say about implementation procedures (current draft regulations are undergoing the public comment period).
- **The Response-to-Intervention approach to identifying cognitive dysfunction is supported by key researchers and professional organizations.** The OSEP-sponsored Learning Disabilities Summit in 2001 put forth a majority opinion suggesting that the IQ-achievement discrepancy is neither necessary nor sufficient for identifying individuals with specific learning disabilities. To replace the discrepancy model, a RTI model was endorsed by many key researchers and professional organizations (see, for example, Reschly, et al., 2003; see also www.nrclid.org for all consensus statements and related White Papers for the Summit).

The RTI model or approach to identification is well-regarded as a viable alternative to current LD systems of services and supports in the public education system, and has gained momentum as leading edge thinking in this field. As stated by Horowitz (2005), RTI approaches “have been around for more than 20 years under names like Teacher Assistance Team Model, School-Based Consultation Team Model, and Problem-Solving Model.” Horowitz goes on to describe the RTI approach as a process for serving students who struggle with learning that can contribute meaningfully to the identification and classification process because it is based on evidence that informs the decision-making process.

Response-to-Intervention is a service delivery approach that guides educators to anticipate, recognize, and document student learning; and to provide timely, well-targeted and effective instruction; and, as such, ties LD identification to instructional interventions. How students respond to this instruction (in combination with more formal, psychological assessment, where needed) determines a student's eligibility for classification as LD. While there have been variations in the implementation of the RTI model, there are a number of basic features that all RTI approaches have in common:

- Students first receive high quality instruction in general education settings.
- To the greatest extent possible, all instruction is research-based.
- General education professional and other teaching staff share active roles in student instruction and in collecting data on student performance.
- Student progress is monitored across the curriculum, not just on specific isolated skills.
- Student progress monitoring is ongoing (not just a snapshot of scores at a particular point in time).
- The RTI approach is well documented and seamlessly integrated into school-wide practice.

This leading-edge approach is very much in line with Job Corps' current educational philosophy and the in-progress development of a new vision for an integrated, demand-driven, and agile academic education and technical training system. (See Appendix B.) Job Corps has always focused on assessing the learning needs, styles, and career goals of all its students, and then providing individual instructional strategies and supports as warranted by the assessments. What it now needs to do is strengthen those processes based on strong scientific research in assessment strategies.

Although RTI approaches have been used by some school systems in various forms, they have not yet been rigorously studied through scientific methods. More recent scientific or rigorous research commissioned by OSEP to be carried out by the National Research Center for Learning Disabilities (NRCLD) will provide more solid research on RTI and other methods. This research, just getting underway, includes, for example, randomized field trials to explore the relative utility of specific identification methods in reading and math, and a scientific evaluation of local school use of the Response-to-Intervention approach in LD identification (Fuchs, Deshler, and Reschly, 2004; Mellard, Byrd, Johnson, Tollefson, and Boesche, 2004). Also, there are leading researchers who are proposing yet other models to be considered (see for example Kavale, Holdnack, & Mostert, 2005).

The current literature on cognitive disabilities and IDEA (2004) caution that the discrepancy model is no longer accepted as a stand-alone method to assess learning disabilities. This is at the heart of the debate about how to identify and evaluate cognitive disabilities. At the same time, national experts are coming to consensus on other identification and assessment models, such as Response to Intervention, to perhaps replace the discrepancy model. At this point in time, it is in the best interest of students that Job Corps proceed with caution in the system-wide adoption of any new identification and assessment practices. Therefore, Job Corps will continue to implement its current cognitive disabilities program that is philosophically in line with both the approach used by public school systems and the core features of the RTI model. (See Appendix A, page 15, and Appendix B.) In addition, Job Corps will continue to follow the research, confer with national experts, and convene expert panels in order to invest its resources in identification (screening) and assessment/evaluation strategies that are supported by scientific research.

Objective 2 – What impact would an improved assessment process have on student outcomes and program costs?

Recommendations

None.

Agency Response

PROGRAM OUTCOMES

The OIG does not provide any impact study data to support its contention that student outcomes will improve by screening all students for cognitive disabilities. While the Weber Basin example of improvement on outcomes is useful (page 22 of the OIG report), without a random assignment or quasi-experimental net impact study there is no way to really know for sure what contributed to the improved outcomes (i.e., was it the screening process, or improved instructional strategies for all students, or improved strategies just for those determined to be cognitively disabled, or a very specific strategy, or something else?).

According to a follow-up discussion with the Weber Basin special education teacher, who is a school district employee, Job Corps students at this center are identified for cognitive disabilities using the process outlined in TAG G. Increases in performance cited by the OIG were therefore likely due to the type of instructional strategies and assistance provided by the teachers, not because the Center used a more comprehensive assessment process. This underscores the importance of impact studies in determining actual reasons for such improvements.

We do know from scientific research that certain instructional strategies work for those with LD (and for all students), and that many of them are currently utilized by Job Corps.

For example, Swanson, in conjunction with various others (1996, 1998, 2001), has conducted a comprehensive meta-analysis of experimental instructional (intervention) research with samples of children and adolescents with LD (as reported in Swanson, 2000). Over 900 studies were examined, with only 10 determined as meeting high methodological standards. Although most studies were found to be poorly designed, key findings for the 10 high-quality studies include:

- “Instructional areas for which there is considerable, solid what works research are in the domains of reading (e.g., word recognition, reading comprehension).
- Only 30% of the total number of instructional components (e.g., appropriate sequencing, reminders to use strategies, small group instruction) of the total that were coded contributed significant variance to treatment outcomes.
- A combined instructional approach that includes both strategy and direct instruction positively influences reading comprehension performance.
- Direct instruction improves word recognition.”

Although Swanson states that much more “intervention” research is needed, including studies that follow-up or provide for independent replication, and studies of other domains beyond reading, the results of the meta-analysis are instructive.

Deshler (2005) points to some additional strategies shown to work in interventions research both Deshler and Swanson conducted on adolescents with learning disabilities. These strategies include, for example, questioning, sequencing and segmentation, explicit skill modeling and practice, and highly intensive instruction (amount of time in instruction and how effectively each instructional moment is used). The two further state that while we know more today about what instructional strategies work with older students who are LD, what is not happening in school systems is their application with fidelity and intensity.

Furthermore, in their research on assessment and interventions for those with ADHD, Forness and Kavale (2001) stress behavioral strategies plus instructional strategies such as:

- Providing additional structure through shortening or changing the format of lessons, careful scheduling of tasks, use of prompts or visual cues, and more frequent breaks during lessons.
- Individualized instruction through one-to-one teaching, assistant teachers, or after-school tutors.
- Cognitive approaches such as self monitoring, self evaluation, and self reinforcement.

- Cooperative learning through peer tutoring or shared assignments.
- Social skills training and monitoring for problematic social interactions.

Forness and Kavale also note these school interventions are not markedly different from those already developed and found to be effective for a wide variety of children with learning or behavioral disorders other than ADHD.

The *Job Corps Technical Assistance Guide on Learning Disabilities and Attention Deficit Hyperactive Disorder* discusses nearly all of these teaching and learning techniques for working with cognitively disabled students, and Job Corps stresses that these techniques are helpful for all of its students. Additionally, Job Corps has an extensive social skills training component. To achieve greater impact on student outcomes may simply be a matter of teaching these validated interventions with fidelity and intensity, which, as stated by Deshler (2005), “underscores the need for high-quality staff development, including coaching, and ensuring implementation of these strategies.” Indeed, Job Corps’ current transformation and strategic planning efforts include a strong focus on staff development.

PROGRAM COSTS

With respect to the impact the OIG’s proposed assessment process would have on program costs, the OIG estimates that Job Corps would have to expend between \$1.2 million and \$3.5 million annually for screening *and* formal assessment. These figures are based on the OIG’s Job Corps survey results of \$0 to \$600 for formal assessments. Job Corps believes the \$600 figure is low at best. The OIG used this figure from one center that has made specific community connections. The majority of Job Corps centers would not be able to obtain services at such a low rate. Rates of \$1,000 to \$1,500 are more realistic, and again, these figures only reflect screening and diagnosis. Using the OIG’s formula, costs at these rates would result in annual expenditures between \$2 million and \$5.9 million. It is important to note that additional costs of accommodations premium pay for qualified special education staff, training, and instructional materials must as well be factored into any screening *and* formal assessment program. With the inclusion of these additional expenses the estimates would increase substantially.

Objective 3 – Does Federal law require Job Corps to assess students for cognitive disabilities? If so, does Job Corps have an effective process to ensure compliance?

Recommendations

4. Identify center schools subject to the student assessment provisions of IDEA or Section 504.

5. Ensure center schools comply with the requirements to identify, evaluate, and provide special education to students with cognitive disabilities.

Agency Response

While Job Corps does have a process in place to identify center schools, it is not necessary to have a formal process in place to notify and inform all centers about their responsibilities under IDEA and Section 504 and ensure compliance. Since 2002, Job Corps annually surveys all of its centers to determine the type(s) of high school program(s) each center delivers. In responding to the survey centers must specify if they:

- Have partnerships with local school districts or schools to offer high school programs;
- Partner with charter schools or private schools;
- Are state-accredited, diploma-granting high schools (charter schools or public schools); or
- Are private schools.

Job Corps centers operate in forty-eight (48) states, the District of Columbia, and Puerto Rico. Each jurisdiction has considerable variation in their designations of Job Corps centers as accredited schools eligible for IDEA funds and subject to varying state and local regulations for administration of IDEA. Also, at any time, some center schools may accept Department of Education funds and consequently become subject to requirements of Section 504. Because it may not be feasible to completely identify all Job Corps centers that are subject to the assessment provisions of IDEA and Section 504 at any one point in time, Job Corps proposes to undertake the following:

- Improve its annual survey of centers regarding high school programs to better identify centers that might be subject to IDEA and Section 504 requirements.
- Establish policies in the Job Corps Policy and Requirements Handbook that:
 - Describe the entities required to assess students for cognitive disabilities under IDEA (e.g., local education agencies (LEA), public secondary schools administered by a LEA, or public charter schools), and those required to assess students under Section 504 (e.g., private or public secondary schools receiving U.S. Department of Education funds). The language would provide examples distinguishing between the operations of Job Corps centers that would and would not fall under the requirements of IDEA and Section 504.
 - Require centers that might meet any of the criteria under IDEA or Section 504 to contact their state Departments of Education, or the Federal agencies providing financial assistance, to confirm their status and the required

processes to provide assessments and special education services for students with undisclosed cognitive disabilities.

- Require centers, subject to IDEA or Section 504 requirements, to document their processes for providing student assessments and special education for students in their center training plans.
- Provide a tool with the *PRH* to assist centers in determining and maintaining their compliance status. (This could be developed from the existing self-assessment tools used by school divisions in year 1 of their participation in the Federal monitoring process.)
- Describe how Job Corps Regional Offices will monitor center compliance (with required assessment processes and provision of special education services) through regularly scheduled center assessments.

Job Corps would also revise the current standard request for proposals (RFP) to operate Job Corps centers so that the RFP specifies that operators must assure that centers subject to the requirements of IDEA and Section 504 have processes in place to identify, evaluate, and provide special education to students with cognitive disabilities.

Objective 4 – Are Job Corps’ data on student cognitive disabilities reliable?

Recommendations

6. Establish criteria for identifying and reporting cognitively disabled students.
7. Ensure cognitively disabled student data submitted by centers is accurate and complete.
8. Implement a concise and systematic process for effectively communicating to centers Job Corps policy and procedures for recording, tracking, and reporting student cognitive disability data.

Agency Response

CRITERIA

A *PRH Change Notice* has been developed and approved by the Department of Labor’s Office of Civil Rights to provide center staff with additional information in identifying students with cognitive disabilities. The policy revision is slated for release in October 2005. This revision provides (1) definitions and examples of physical and mental disabilities and (2) answers to commonly asked questions regarding the reasonable accommodation process on Job Corps centers.

ACCURATE AND COMPLETE DATA.

Every quarter, Job Corps program staff review center disability data for anomalies. If there are concerns about the accuracy/completeness of the data, centers are contacted and technical assistance provided. The Job Corps disability data collection system could be improved by implementing a formal data audit system and requiring centers/contractors to be more accountable for the accuracy of data. A system will be developed to accomplish this goal. In addition, targeted assessments at 10-15 Job Corps centers are planned for the fall of 2005, with the major goal of these assessments to examine why centers have problems with entry/accuracy and how center disability data collection practices can be improved.

COMMUNICATING POLICY AND PROCEDURES.

All information related to Job Corps' policy on disability data collection is released through the Job Corps directive system. All policy directives and supporting technical guidance materials are supported through Web-based, telephone, and in-person training and technical assistance. Detailed information (including FAQs, tips, and detailed submission instructions) is available on the Job Corps Disability Web site (<http://jcdisability.jobcorps.org>), and telephone technical assistance is available to centers on all aspects of data collection. A user's guide on disability data collection was released in June 2005.

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**AGENCY RESPONSE TO OIG DRAFT AUDIT REPORT
ATTACHMENT
Appendix A**

**White Paper
Academic Analysis of the OIG Report**

This White Paper focuses on the primary OIG assumptions that underlie its recommendations to Job Corps and responds to these assumptions based on a review of the literature. OIG assumptions include (see page 9, lines 29-35, of the letter to the Assistant Secretary for Employment and Training in the July 29, 2005, OIG Discussion Draft, as updated by the OIG September 19, 2005, Draft Audit Report):

5. Job Corps students are not adequately assessed for unknown or undisclosed cognitive disabilities. (July Draft)

We found that improving efforts to assess and account for students with unknown or undisclosed cognitive disabilities would help Job Corps achieve its overall mission. (September Draft)

6. Although Job Corps is not legislatively required to specifically assess ALL students for cognitive disabilities, doing so falls within the overall mission and purpose of the program. (July Draft)

Although Job Corps is not legislatively required to specifically assess ALL students for cognitive disabilities, doing so would help Job Corps achieve the program's overall mission and purpose. (September Draft)

7. Job Corps' student population is at-risk for cognitive disabilities.
8. Effective identification and accommodation would address significant barriers to employment and improve the program's student outcomes.

ASSUMPTION #1 (JULY DRAFT): JOB CORPS STUDENTS ARE NOT ADEQUATELY ASSESSED FOR UNKNOWN OR UNDISCLOSED COGNITIVE DISABILITIES.

ASSUMPTION #1 (SEPTEMBER DRAFT): WE FOUND THAT IMPROVING EFFORTS TO ASSESS AND ACCOUNT FOR STUDENTS WITH UNKNOWN OR UNDISCLOSED COGNITIVE DISABILITIES WOULD HELP JOB CORPS ACHIEVE ITS OVERALL MISSION.

- **The OIG’s determination of 13% as a conservative proxy for how many students should be identified (in relationship to the 4% reported by the Job Corps MIS), and its subsequent revised determination that it is reasonable to assume that Job Corps’ student population would have a higher incidence rate than 7%, within an estimated range of 7%-23%, are not based on the “gold standard” necessary to make these assumptions.**

Basis for OIG’s 13% estimate and subsequent “higher than 7%” estimate.

The OIG reviewed a number of studies and survey data to determine its conservative estimate of 13% as the proxy incidence rate for the Job Corps population. The OIG uses this 13% proxy as the basis for suggesting that Job Corps’ current identification and assessment process is not uncovering as many students with unknown or undisclosed cognitive disabilities as it should be—so therefore its process must be flawed and should be changed.

The OIG revised report draft modifies this assertion to a “higher than 7% estimate” within a range of 7%-23%, and continues to contend that the Job Corps figure of 4% is too low and that the agency’s process should be changed.

As the OIG points out (and Job Corps is aware), there are no really good, readily available national survey data on cognitive disabilities for direct comparison with the Job Corps cohort—age 16-24 and low-income/economically disadvantaged. Definitions or categorization of cognitive disabilities used among the various national survey data sets vary somewhat, and most do not readily provide a breakdown of incidence data by income status or for the specific age group of 16-24.

The OIG based the 13% figure on data from the National Center for Health Statistics, National Health Interview Survey—13% of children 3-17 years of age in families with income of less than \$20,000 had a learning disability, based the 7% figure on IDEA classification/services data, and based the 23% figure on a 1991 ETA estimation study.

[Note: Cognitive disabilities, as defined by Job Corps, include learning disabilities, ADHD, traumatic brain injuries, and mental retardation. However, the OIG report (and the literature, data, and studies discussed in this White Paper) focus primarily on learning disabilities (LD), and to a lesser extent ADHD, as these are the categories most at issue with regard to identification and prevalence rate issues.]

The National Health Interview Survey (NHIS) provides a very questionable proxy number.

Although the survey is certainly a quality survey, the data do not provide the “gold standard” necessary for use as a proxy number for evaluating Job Corps’ LD assessment process for the following reasons.

- Information about children under 18 years of age is collected during face-to-face interviews with an adult proxy respondent familiar with the child's health. As stated by the published summary report: "the information from both proxies and self-

***Strengthening Efforts to Assess and Account for
Students with Cognitive Disabilities
Would Help Job Corps Achieve Its Mission***

- respondents may be inaccurate because the respondent is unaware of the relevant information, has forgotten it, does not wish to reveal it to an interviewer, or does not understand the intended meaning of the question.” The report also states that there is a high non-response rate for the family income variable. (NHIS 2002, Vital and Health Statistics, Series 10, No. 221)
- The two cognitive disability survey questions are not based on receipt of a formal diagnosis, but rather based on the adult proxy respondent answering these questions:
 - “Has a representative from a school or a health professional ever told you that [child’s name] had a learning disability?”
 - “Has a doctor or health professional ever told you that [child’s name] had Attention Hyperactivity Disorder or Attention Deficit Disorder?”
- The percentages reported for the learning disability question vary considerably by the parental education level variable. Based on the following data, this White Paper suggests that more educated households may be more likely to answer the question more accurately. Since socio-economic status and educational attainment often “correlate” with one another, it is highly likely that low-income adult respondents are reporting higher numbers of LD among their children, i.e.,

Parents’ Education

- Less than HS diploma—10.6% of children have LD; 6.5% have ADHD
- HS diploma or GED—9.6% of children have LD; 9% have ADHD
- More than HS diploma—6.9% of children have LD; 6.4% have ADHD

Other survey data sets provide different data to be examined for development of a proxy.

This White Paper examined two other survey data sets as follows:

- U.S. Census Bureau, Survey of Income and Program Participation (SIPP) 1997—Table 2, Prevalence of Types of Disabilities Among Individuals 15 years old and over, reports the following:
 - 2.8% of 15-24 year olds have a learning disability.
 - 0.7% of 15-24 year olds have mental retardation.

This is a household interview survey concerning the Americans with Disabilities Act. ADHD is not an isolated category of reporting.

- U.S. Department of Education, Office for Civil Rights, Elementary and Secondary School Survey 2000 (2001-2002 school year)—State and National Projections for

Enrollment (see also The Condition of Education 2005, Indicator 6, Children with Selected Disabilities in Public Schools), reports the following:

- 6.1% of total elementary and secondary enrollment, classified as having a specific learning disability (SLD) and served under IDEA.
- 1.4% of total school enrollments, classified as having mental retardation and served under IDEA.

The ETA 1991 study is not “the gold standard” required to make quality decisions.

This White Paper examined the 1991 ETA study referenced by the OIG which suggested much higher estimates of learning disabilities—“15-23% of all participants in employment and training programs were learning disabled.” (page 15 of September 19, 2005, OIG report). This ETA study does not represent the kind of “gold standard” study required to make solid decisions, even though conducted by highly respected researchers, for several reasons: (1) it is very old; (2) as the authors state, it is solely based on ROUGH estimations and extrapolations to determine the proportion of individuals eligible for participation in employment and training programs likely to be learning disabled; and (3) the study can only conclude that **“it is estimated that approximately 15-23 percent of JTPA Title IIA participants may be learning disabled.”**

It appears that the 23% figure for the incident range of 7%-23% cited in the September 19, 2005, OIG report is based on this study.

The statement that the 7% number (as the lower end of the OIG’s expected incidence range) is conservative because ADHD was not included is inaccurate.

On page 16 of the September Draft, the OIG uses the U.S. Department of Education data from the 24th Annual Report to Congress on IDEA—7% of children ages 6-17 had a specific learning disability or mental retardation or traumatic brain injury, and indicates that this number is conservative because it does not include ADHD. Job Corps believes these data come from the report Table AA12 (percentage, based on 2000 Census population, of children ages 6-17 served under IDEA, Part B by disability, during 2000-2001 school year). ADHD is not a separate reporting category under IDEA, but is listed as one of the conditions in the Other Health Impairments (OHI) category along with several physical health conditions such as diabetes or a heart condition.

A study by Forness and Kavale (2001) analyzed various ADHD estimation studies and meta-analyses thereof in an effort to determine estimates of the prevalence of ADHD. Often students with ADHD are counted in the Emotional Disturbance category or LD category because of the way in which school systems assess ADHD for service eligibility. They found that ADHD accounts for over 40% of all children in programs for Emotional Disturbance (ED) and about 25% in programs for LD. Estimates for the OHI category are even more difficult to ascertain, but the authors suggest a possibility of

40% (even though primary eligibility may have been in the OHI category, students may have been placed in programs for LD or ED). Essentially, ADHD counts are somewhere in these three categories. Even though these are very rough estimates, applying them to the Table AA12 data to determine how much ADHD adds to the 7% is illustrative.

5.52% Specific Learning Disabilities or LD (est. 25% of this category is ADHD)
1.08% Mental Retardation
0.03% Traumatic Brain Injury
0.36% Emotional Disturbance (est. 40% of .91% ED is ADHD)
0.23% Other Health Impairments (est. 40% of .57% OHI is ADHD)
7.22 % Total

While ADHD is considered prevalent among the special education population, because of the co-morbidity of ADHD, among other assessment issues, it is difficult to isolate hard numbers. Furthermore, the U.S. Department of Education report, *Identifying and Treating ADHD: A Resource for School and Home (2003)*, also notes this issue by indicating that the National Institute of Mental Health's Multimodal Treatment Study (1999) found that almost one-third of all children with ADHD have learning disabilities, even though the behaviors associated with ADHD—inattention, hyperactivity, impulsivity—are not in themselves a learning disability.

This analysis of the survey and study data used by OIG demonstrates that one cannot make a reasonable assumption about what Job Corps' incidence rate should be.

- **As evidenced by the academic research, the prevalence rates of LD among public school students under IDEA has potentially many flaws, calling into question the widely-held perception that there is an “LD epidemic.”**

Numerous academic researchers specializing in the field of LD have rigorously examined and questioned the whole notion of how LD is identified, classified, and thereby “counted” in the public school systems under the Individuals with Disabilities Education Act (IDEA). Such research began to emerge around the late 1990s and has continued to grow in an effort to inform public discourse on IDEA 2004.

Since 2000, much of the more recent research has been urged by the U.S. Department of Education (ED), Office of Special Education Programs (OSEP) and the various research organizations it funds or supports such as the National Research Center on Learning Disabilities (NRCLD) in an effort to develop scientifically-based LD identification methods, among other areas of research.

This White Paper reviews a selection of salient findings from this research which relates to LD prevalence rates and the OIG's contention that Job Corps is under-identifying LD within its student population. Findings are organized within the two broad issue areas

being examined by various researchers: is there over-identification of LD; and is the IQ-achievement discrepancy approach an accurate predictor of LD.

The true prevalence rate of LD is unknown.

Spear-Swerling & Sternberg (1998, p. 1) bring into question the entire concept of learning disabilities and couch the issue as follows:

“It seems that a veritable plague of learning disabilities has descended on some of our schools. In the past 20 years or so, the number of children diagnosed as learning disabled has steadily increased, and children with learning disabilities now form the single largest category of students receiving special education services [currently, about 50% of public elementary and secondary students who are on IEPs under IDEA are classified as LD]. Is there really an epidemic of learning disabilities? Or, instead is it that the concept of learning disabilities merely serves to excuse the failure of schools and teachers to do an adequate job of teaching all children? In our opinion, neither scenario is accurate. True, some children have actual disabilities in learning, and some teachers do a poor job of teaching. However, the fundamental problem is the concept of learning disabilities itself, and the way it has distorted our view of children’s difficulties in learning.”

So how then has the view of learning disabilities been distorted? How then have the numbers become so inflated? A look at some of the academic research findings in this area is telling.

First, this White Paper presents the research-based consensus work of the U.S. Department of Education, Office Special Education Programs (OSEP). Since 2000, OSEP has been on a “crusade” to develop a scientifically-based research consensus on key issues facing special education, especially given the pending reauthorization of IDEA 1997 at that time. Chief among those issues has been the identification and classification of LD (or as it is more specifically called under IDEA—specific learning disabilities or SLD). Nine white papers were commissioned in 2001 for presentation and discussion at the Learning Disabilities Summit—Building a Foundation for the Future (August 2001). From this Summit, emerged several research-based consensus statements. The consensus statement on LD prevalence rates follows:

“It is difficult to know the true prevalence rate of SLD. However, based on reading research, conducted largely in the elementary grades, we know that:

- High quality classroom instruction is a way to meet many of the educational needs of individuals with learning difficulties.
- Supplemental intensive small-group instruction can reduce the prevalence of learning difficulties.

Even with the above interventions, approximately 6 % of students may exhibit SLD and will need special education intervention.

Prevalence rates for students with SLD involving math and written expression are difficult to estimate given the current lack of research evidence.” (NRCLD, LD Initiative Work Group, 2001, p. 4)

Second, this White Paper presents some of the research on how schools actually go about identifying LD. MacMillan and Siperstein (2001) in their OSEP White Paper conducted a review of experimental, quasi-experimental, and empirical research to examine how learning disabilities are operationally defined by schools (school-identified or SI-LD) in contrast to research-identified LD (RI-LD). The authors indicated that such an examination would shed light on the reasons why there has been a significant increase in the prevalence of LD. It is the SI-LD population, “with all of its imprecision,” that is reported on by the various survey data under IDEA that is characterized by the statistics used in Annual Reports to Congress under IDEA, and that is the subject of significant public policy debate. They essentially found that school-identified cases of LD varied considerably from those that were research-identified. Some of the reasons they cite for this include the following:

- The dramatic increase in the numbers identified as LD is in large part due to the fact that public schools do not properly apply the exclusionary criteria for LD identification. They enroll students as LD who in fact are mentally retarded or are emotionally disturbed (per IDEA definitions). “For schools, LD has become the disability of choice” because it is “less stigmatizing, more acceptable to parents, and more optimistic in the prognosis it conveys.” The result is that classification of children as LD does not constitute a diagnosis; rather, it has become a catchall designation for eligibility and planning for services. (MacMillan and Siperstein, 2001, p.10)
- The prevalence rates for LD in the public schools across states vary considerably in the percentage of students identified as LD. Such variability is attributable to a number of factors such as different state criteria, different perspectives on classification, different approaches to identification and assessment of LD, and varying applications of the IQ-achievement discrepancy method, all of which are in line with IDEA, but nevertheless different.
- LD is operationally defined in the public schools as absolute low achievement. Even though the IQ-discrepancy approach to identification (see below), as best practiced, calls for looking at the discrepancy between IQ and low achievement as a key sign (or “marker”) of LD, MacMillan and Siperstein indicate that, for the most part, public schools are not really examining the discrepancy and are not necessarily excluding cases due to mental retardation or sociolinguistic or instructional disadvantage.

- Many under-achieving students need special attention (extra help and supports) which in many cases, given the structure of public schools and the use of resources, can only be provided by referral to special education. When general education teachers are faced with students they cannot help, the tendency is to refer them and press for special education assessment and services under IDEA. This leads to classification as LD of students who are simply low-achievers.

In sum, these authors contend that there is a “large segment of public school students, many of whom encounter learning difficulties for reasons other than intrinsic, neurologically-based causes [and are not, therefore, LD].” Public schools recognize this large undifferentiated group of students with achievement deficits as having special learning needs, but “use the LD classification to justify providing services and do so on the basis of absolute low achievement, and not on the basis of discrepant low achievement.” (MacMillan and Siperstein, 2001, p. 21).

Most LD researchers agree that the IQ-achievement discrepancy approach is not an accurate predictor of LD

The primary diagnostic approach used by school systems to identify LD under IDEA involves the IQ-achievement discrepancy approach. States and localities rely heavily, and in some cases, exclusively on this construct to diagnose LD. Its efficacy as a “predictor” of LD has undergone serious research challenges starting in the late 1990s, with multiple researchers questioning the severe discrepancy criteria due to its poor or undemonstrated reliability and validity.

For example, as reported in the state survey study *And Miles to Go...State SLD Requirements and Authoritative Recommendations* (Reschly, Hosp, & Schmied, 2003):

- 94% of states in their implementation of IDEA require severe discrepancy between achievement and intellectual ability for diagnosing LD, but there is little consistency in how states implement discrepancy models (also quoted by Lou Danielson, Director, OSEP Research to Practice Division, in his luncheon address at the 2003 Responsiveness-to-Intervention Symposium).
- There is no research-based consensus on the best method to determine the IQ-achievement discrepancy, nor on the criteria for what constitutes a “severe” discrepancy. Some methods are clearly inadequate (Reynolds, 1984, 1985 as cited in Reschly, Hosp, & Schmied, 2003), but debate continues on whether regression-based or simple standard score differences are the most appropriate approaches (Van den Broeck, 2002; Willson & Reynolds, 2002 as cited in Reschly, Hosp, & Schmied, 2003).
- The original purpose of the IQ-achievement discrepancy construct contained in the federal regulations was to provide guidance to states on SLD identification and control over SLD prevalence. The survey showed that neither goal was achieved.

States continue to vary dramatically in SLD classification criteria (i.e., two students with the same test scores and learning needs could receive different SLD diagnoses depending on their state of residence). Prevalence data continue to vary significantly across states for reasons that are not simply related to the application of the IQ-achievement construct. For example, “Georgia, Nebraska, and North Carolina use the same IQ-achievement discrepancy criterion, 20 points with no correction for regression, but report SLD prevalence rates of 3.29%, 5.28%, and 5.25%, respectively.” (Reschly, Hosp, & Schmied, 2003, p. 30).

Finally, this study notes that the state authorities in learning disabilities who were surveyed generally recognize the need to change current identification procedures with “about two-thirds of them endorsing response to treatment approaches and rejecting the IQ-achievement component of SLD classification.” (Reschly, Hosp, & Schmied, 2003, pp. 30-31).

H. Lee Swanson (2000, p. 4) in his review of issues facing the field of learning disabilities examined the research on the IQ-discrepancy approach in light of the “epidemic numbers” of LD being reported. One of his conclusions was that: “When compared to non-discrepancy-defined poor achievers, learning-disabled-defined groups are more similar in processing difficulties than different. Thus it is becoming an untenable idea that aptitude-achievement discrepancy tells us anything important about processing mechanisms underlying such areas as reading disabilities.” He also points out that the implications of the research on distinguishing between LD and garden-variety poor readers have not changed the actual diagnostic practices used by schools.

Another issue with the IQ-discrepancy construct is whether it can reliably distinguish between low achievement and LD, a continuing research controversy. In other words, to what extent are low achievers with and without the LD label more alike or different.

Fuchs and Fuchs (2001) in their White Paper for OSEP “Is learning disabilities just a fancy term for low achievement?” conducted a meta-analysis of scientific studies in which the reading achievement of LD and low achievement non-disabled students (LA) could be compared. Eighty-six studies met the research team’s stringent inclusion criteria. Most salient conclusions for this White Paper, as summarized by Elksnin et al (2001, pg. 303) include:

- Students with LD have more severe differences in reading performance than students who are LA.
- Such differences tend to be more dramatic when (1) timed rather than un-timed tests are used (2) students are in higher grades and experience accumulating deficiencies in reading, and (3) objective test scores rather than human judgment are used in LD diagnosis.
- It may well be that differences among students with LD and LA are more a matter of degree rather than of kind. Similar to other syndromes that are based on degree of

difference from a range of acceptable levels, such as hypertension and obesity, LD may be a disability that is defined simply by extreme low achievement.

In other research on this issue, Blair and Scott (2002) note that: “The rapid growth of the LD label points to a complex problem in which there is some uncertainty as to the extent to which underachieving students with and without the LD label are distinct.” (see, for example, Algozzine, Ysseldyke, & McGue, 1995; Fletcher et al., 1994; Kavale, 1995; Kavale, Fuchs, & Scruggs, 1994; Pennington, Gilger, Olsen, & DeFries, 1992; Ysseldyke, Algozzine, Shinn, & McGue, 1982 as cited by Blair and Scott, p. 1). The etiological case perspective and findings from various researchers suggest that low socio-economic status (SES) substantially increases the risk for LD; while the excess case perspective and study findings from various researchers suggest that LD and low achievement (LA) groups overlap and that LA is frequently misdiagnosed as LD.

In Blair and Scott’s epidemiological study on distinguishing LD from learning problems originating in social and economic disadvantage (using the IQ-discrepancy construct), the authors found that they: could not conclusively show cause-and effect regarding the relationship of low socioeconomic status to LD placement; could only report the strong association between the two; and could not resolve the issue of the excess case versus etiologic case distinction in LD placement.

MacMillan and Siperstein (2001) also looked at how school systems are differentiating SES and other factors in their identification of LD, and note that: “Cultural, environmental, and economic factors, rather than serving as a cause for rejecting the diagnosis of LD, often weigh heavily in the school’s decision to classify a child as LD. Nowhere is this more evident than in studies that contrast the decision-making process in urban and suburban school districts.” The authors point out that LD-classified students in urban schools represent very different learning problems than do those in suburban districts—“They score lower on measures of intelligence which requires that sociocultural factors must be considered as contributors, if not causes, of their learning difficulties.” (MacMillan and Siperstein, 2001, p 12).

Other researchers have also examined the construct and have concluded that it is not an accurate predictor of LD because there is little research-based evidence for it (Horowitz, NCLD, 2005) and because of regression effects often not controlled for, the discrepancy construct tends to over-identify as LD those with a high IQ and to under-identify those with a low IQ (Spear-Swerling & Sternberg, 1998).

Spear-Swerling & Sternberg (1998, pp. 12-13) summarize the dilemma as follows:

“Current educational guidelines for identifying children with LD, using an ability-achievement discrepancy at the core, not only lack scientific validity but also are poor education policy...the essential point for policy makers is that there is no scientific basis for singling out only one group of low achievers [i.e., the LD group] for educational services. Thus, we would like to see low achievers identified for educational services based on low achievement rather than on an

ability-achievement discrepancy...learning-disabilities specialists could focus their time and energies on instruction, on consultation and collaboration with other practitioners, and on educationally relevant forms of assessment...learning disabilities specialists would become, simply, learning specialists.”

Finally, where does the researched-based consensus building process OSEP started in 2001 stand now with regard to these kinds of identification and classification issues? The LD Roundtable 2002 and the LD Roundtable 2004 (14 national organizations involved in research-to-practice and related policy issues) made many research-based, consensus recommendations concerning IDEA 2004 and its regulations. Chief among them involves eliminating the absolute requirement for the existence of a severe discrepancy between achievement and ability, but allowing school districts to continue to use it, but only as one element of a comprehensive assessment. Their regulatory recommendations also include language that supports the use of an alternative process called the Response-to-Intervention approach, should a school district choose to include such a process as part of its evaluation procedures. General language concerning these items is included in the 2004 law; however, it remains to be seen what the final regulations will precisely say (current draft regulations are undergoing the public comment period).

More recent scientific or rigorous research commissioned by OSEP to be carried out by the National Research Center for Learning Disabilities (NRCLD) will hopefully provide better answers to the best ways to identify and classify LD. This research, just getting underway, includes, for example, randomized field trials to explore the relative utility of specific identification methods in reading and math and an evaluation of local school use of the Response-to-Intervention approach in LD identification (Fuchs, Deshler, and Reschly, 2004; Mellard, Byrd, Johnson, Tollefson, and Boesche, 2004).

The IQ-discrepancy construct leads to misdiagnosis and overrepresentation of minority students as cognitively disabled.

The over-representation of minority students under IDEA has been a serious problem (see for example, the legislative history of both the 1997 and 2004 laws). Although the U.S. Department of Education’s 24th *Annual Report to Congress on the Implementation of IDEA* (2002) indicates that the population of high school students receiving special education in 2001 more closely mirrored the racial/ethnic distribution of the general population than had been true in 1987, significant disproportionate identification of minorities continues under IDEA. Extensive studies conducted by the National Research Council and the Harvard Civil Rights Project (Donovan and Cross, eds., *Minority Students in Special and Gifted Education*, 2002 and Losen and Orfield, eds., *Racial Inequality in Special Education*, 2002), have shown that minority populations are consistently over-represented in cognitive disability and related categories (Learning Disabilities—LD, Mental Retardation—MR, and Emotional Disturbance—ED), and African Americans are especially over-represented in the MR category. While these studies point to a number of reasons for this, use of the IQ-discrepancy construct is a key factor in misidentification, misdiagnosis, and misclassification. Both of these

studies also point to problem-solving approaches such as Response to Intervention as possible better alternatives for identification and classification.

- **Conclusion — Assumption #1**

Job Corps Students Are Not Adequately Assessed for Unknown or Undisclosed Cognitive Disabilities. (July Draft)

We found that improving efforts to assess and account for students with unknown or undisclosed cognitive disabilities would help Job Corps achieve its overall mission. (September Draft)

This White Paper concludes that the 1991 ETA study should not be used whatsoever to draw any kind of conclusions about incidence or to suggest that those data represent any kind of “liberal” proxy in contrast to the 13% “conservative” proxy. Additionally, the 7%-23% suggested range, and the contention that Job Corps’ incidence rate should be higher than 7%, are highly questionable. While the national surveys noted above are certainly conducted with the highest of quality, none of them provide a rigorous data match for use as an estimate or benchmark for the Job Corps population, especially when such data are being used as the basis to recommend policy and procedural changes that would be costly to Job Corps. The various national survey data on learning disabilities illustrate that such benchmarks or proxies could range anywhere from 2.8% to 13%.

No one really knows what the true incidence of LD (the largest “epidemic” category) really is among the public school population as evidenced by the selected research summarized above, and the numbers reported under IDEA as ED or MR are also very suspect. Public school systems’ identification processes and reliance on the IQ-achievement discrepancy model under IDEA have resulted in highly questionable incidence data. Furthermore, the research strongly suggests that there may be considerable over-identification of LD (and other cognitive disabilities) among low-income populations especially given the difficulties in separating out low achievement caused by socio-economic factors versus low-achievement caused by LD. The notion that there is an epidemic in LD, and that the Job Corps numbers are so-affected (based on its population demographics) must be challenged in light of the recent academic research.

ASSUMPTION #2 (JULY DRAFT): ALTHOUGH JOB CORPS IS NOT LEGISLATIVELY REQUIRED TO SPECIFICALLY ASSESS ALL STUDENTS FOR COGNITIVE DISABILITIES, DOING SO FALLS WITHIN THE OVERALL MISSION AND PURPOSE OF THE PROGRAM.

ASSUMPTION #2 (SEPTEMBER DRAFT): ALTHOUGH JOB CORPS IS NOT LEGISLATIVELY REQUIRED TO SPECIFICALLY ASSESS ALL STUDENTS FOR COGNITIVE DISABILITIES, DOING SO WOULD HELP JOB CORPS ACHIEVE THE PROGRAM’S OVERALL MISSION AND PURPOSE.

- **The philosophical argument that Job Corps should assess all students based on its mission is inconsistent with what educational institutions are doing.**

The Job Corps mission (as stated in the Program Year 2003 annual report) states that it:

“is to attract eligible young adults, teach them the skills they need to become employable and independent, and help them to secure meaningful jobs or opportunities for further education.”

State education system mission statements are not all that different other than the less direct and more “lofty” language used. For example, the State of Texas (from the State Education Code) states that the mission of the public education system of this state:

“is to ensure that all Texas children have access to a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation.”

Both the public school systems and Job Corps must comply with Section 504 of the Rehabilitation Act of 1973 as do all federally-funded programs. Public school systems must also comply with IDEA, and, based on the Local Education Agency-status of a Job Corps “center school” partnership with the local school district, a particular Job Corps high school program may fall under IDEA.

However, neither statute requires that public school systems “specifically assess ALL students for cognitive disabilities.” So if the missions are similar, numerous questions are raised by OIG’s contention that Job Corps should assess ALL of its students. Does that therefore mean that the OIG suggests all public school systems should do so as well? What about public schools who serve predominantly low-income, low-achievers such as inner-city urban schools, for example? Should those schools assess ALL students for learning disabilities as well?

- **Job Corps’ current “assessment process” is very similar to the typical process used by public schools to identify students for cognitive disabilities (or any disability under IDEA). If the missions are similar and the assessment processes are similar, why should Job Corps be required to assess ALL students for cognitive disabilities?**

Job Corps has an established process for identification of LD in accordance with Section 504 of the Rehabilitation Act of 1973, as documented in the *Job Corps Policy and Requirements Handbook (PRH)* and in the *Job Corps Technical Assistance Guide on Learning Disabilities and Attention Deficit Hyperactive Disorder*. Neither IDEA nor Section 504 requires specific screening/assessment of all students for cognitive disabilities (as recommended by the OIG)..

The Job Corps process, while not established for purposes of IDEA, essentially fulfills the “spirit of IDEA” in that it parallels the fundamental identification process practiced by public schools in their compliance with IDEA. The following comparative table of the phases of “assessment” illustrates the point (note that the overarching process under IDEA is called identification and classification). Although the table does not include the details of each Phase, it serves to generally illustrate that the two processes are quite similar.

[Note: The comparative table was prepared based on MacMillan and Siperstein (2001) research on how public school systems identify and classify cognitive disabilities, review of the process used by the Montgomery County, MD school system, the *Job Corps Policy and Requirements Handbook (PRH)*, and research by Ormsbee (2001) on how pre-assessment teams work in public school systems.]

General Comparative Table of Cognitive Disabilities Identification and Classification Phases

Phases	How Job Corps does it	How public schools generally do it
Educational Screening (upon entry to center or particular grade level in school)	<ul style="list-style-type: none"> • Screening of learning strengths & weaknesses, learning styles inventories, goal-setting, career exploration, and related • TABE scores • No specific screening is done of all students for cognitive disabilities; however, results of educational screening may indicate the need to observe/monitor for possibility <p>Results used to design individual learning strategies & progress monitoring.</p>	<ul style="list-style-type: none"> • Screening of learning needs/difficulties, especially in reading in early grades of all students may be done, depending on grade level, to determine instructional needs of students • Such screenings of all students, however, are not generally used to specifically identify cognitive disabilities for immediate referral to formal assessments
Phase 1 Teacher Referral & Pre-Assessment	<p>A teacher or other educational staff (or parent) determines that:</p> <ul style="list-style-type: none"> • Student is not making adequate progress in the individualized curriculum • Different strategies or additional supports are needed <p>Teacher referral is made to Center Director Designee (CDD) who collects/reviews all documentation, re-evaluates learning needs and instructional strategies, puts in place a revised instructional plan including teacher assistance, monitors student progress against the plan.</p>	<p>General education teacher (or parent) determines student:</p> <ul style="list-style-type: none"> • Is “difficult to teach” • Is not making progress as compared to classmates or as expected • Has behavior problems <p>Teacher referral is made to obtain assistance from the pre-assessment team or teacher support system. Team collects/reviews all documentation, conducts problem-solving process, determines educational support plan to use in regular classroom setting, assists general education teachers, monitors progress against plan.</p>
Phase 2 Formal Assessment & Testing (formal diagnostic evaluation)	<p>Lack of progress/continuation of learning problems prompts another review by CDD, teacher, academic manager, and/or center mental health consultant (CMHC). Together they review all documentation and determine if a formal assessment for cognitive disabilities is required. If yes, student is referred for formal psycho-educational testing & evaluation.</p>	<p>If pre-assessment team determines continued lack of progress, student is referred to the special education review committee for a determination of the need for formal assessment to qualify the student for special education services under IDEA. If yes, student is referred for formal psycho-educational testing & evaluation.</p>
Phase 3 IEP Placement	<p>Educational team (i.e., the Interdisciplinary Team (IDT)) reviews results of formal assessment/testing and develops instructional intervention and accommodations plan accordingly (the Intervention Plan). Progress is reviewed against the plan.</p>	<p>Placement committee reviews formal assessment/testing results to make a decision regarding eligibility and classification for IDEA services. If yes, than Individual Education Plan (IEP) is prepared for student services in full-inclusion program (least restrictive environment), or a pull-out program for special education. Progress reviewed; re-evaluations usually annually.</p>

Note: Each step of the process is documented. For Job Corps, the Personal Career Development Plan (PCDP) process is used. For school systems, file documentation or other systems are used.

- **Screening of ALL students for LD using a screening tool in the way OIG recommends is ill-founded because of the limited research cited by OIG, and results of a scientific study which suggests otherwise.**

Results of the New York and Texas Pilots

The OIG cites the results of the New York State Welfare-to-Work (WtW) pilot program and its use of the Washington State-developed screening tool for LD and other cognitive disabilities as a particularly compelling reason for why Job Corps should start a similar screening program. The New York pilot program was started in 2001, with its most recent results reported as of January 2005. The screening tool was used with long-term TANF recipients, i.e., those who had not been successful in WtW activities. For those identified as at-risk by the screening tool, they were referred on for further assessment (diagnostic evaluations) by a licensed professional. The focus of the pilots was to uncover “hidden” disabilities that may have been interfering with their participation in WtW programs, i.e., in finding and retaining a job (work first) or involvement in other human services programs.

NY reports that more than 75% of participants who screened positive using the tool were diagnosed with some type of cognitive or mental health issue (LD, mental retardation/borderline intelligence, multiple diagnoses, or mental health problems); 56% of those who had a diagnostic evaluation were found to have LD. Data reported by NY do not allow for determining what percent of the total screened population resulted in the LD diagnosis.

In addition to NY, Texas is now piloting the Washington State screening tool in an effort to provide its One-Stop system with an inexpensive method to ensure that all individuals with learning, emotional, or behavioral disabilities have equal opportunity and access to all federally-funded workforce services. The current Texas pilot involves One-Stop customers who consent to the screen. As of May 2004 (brief interim report), 1658 individuals were screened, 116 were referred on for diagnostic evaluations, and 81 were ultimately diagnosed with learning disabilities. Of the total sample screened so far, that represents 4.9% diagnosed with LD. Of the 116 who had a diagnostic evaluation/test, 70% were diagnosed with LD.

What is known from the reports on these studies strongly suggests that:

- The screening tool was not used by NY or TX to identify “learning” issues in an educational context. It was used for long-term TANF, workplace accommodation needs or issues, or an effort to ensure civil rights under the law for One-Stop customers.
- No information was provided in the reports concerning validity testing of the screening tool, however, it appears that the tool has been validated (i.e., reliability

and internal consistency testing, criterion validity testing to correlate scores with the scores from other screening tools known to work, and construct validity).

- It does not appear that either pilot test used the screening tools with ALL TANF participants or ALL One-Stop customers.
- NY' pilot test study indicates that the tool is to be used after there is a suspicion on the part of the case manager that there may be possible unidentified barriers to work activities, and is to be administered on a voluntary basis. When screened positive, a formal diagnostic evaluation would then be conducted to determine significant discrepancy between abilities and performance in such areas as reading, writing, and math.
- The pilot results and the methodologies used, as reported, raise concerns about the efficacy of such screening tools for Job Corps.

Scientific research on the Smith Learning Disabilities Screen, a similar tool.

A recent scientific study of the development and validation of the Smith Learning Disabilities Screen for adult use with community college and university students (Smith & Wiener, 2002) is very instructive and further illustrates why the OIG recommendation is ill-founded. The screening tool was developed to provide a simple way for helping professionals to identify those adults who are likely to have learning disabilities and should be referred for diagnostic assessment (same reasons essentially for the screening tools OIG is suggesting). The tool's validation results indicated that it appeared to identify adults with learning disabilities with at least 75% accuracy. Based on these results, the researchers noted the following caveats concerning its use:

- “The tool is a screen and should not be used as a substitute for a diagnostic assessment.
- It should not be administered to large numbers of individuals who have no reason to believe they might have learning disabilities, as false positive scores could then lead to unnecessary concerns by individuals who do not have learning disabilities.
- The tool is intended to be administered in the case of an individual who is experiencing some difficulties in adjustment or achievement, and is seeking an explanation for the problems.
- Individuals should provide informed consent prior to completing the test.
- Referrals should be made for psycho-educational assessment at or above the cut-off score AND there is a history of academic or vocational struggles.” (Smith & Weiner, 2002, p.14-15)

Conclusion — Assumption #2

Although Job Corps Is Not Legislatively Required to Specifically Assess All Students for Cognitive Disabilities, Doing So Falls Within the Overall Mission and Purpose of the Program. (July Draft)

Although Job Corps is not legislatively required to specifically assess ALL students for cognitive disabilities, doing so would help Job Corps achieve the program’s overall mission and purpose. (September Draft)

The OIG clearly states in its report that it has not evaluated the suggested screening tools, but recommends that Job Corps launch a cognitive disabilities screening program after careful examination and selection of an appropriate tool. However, the OIG’s recommendation IS BASED on the assumption that these kinds of tools work well (as “quick screens”), and can and should be used with ALL Job Corps students. As this analysis points out, OIG’s conclusion is founded on general qualitative studies and its recommendation is not supported by scientific evidence. To the contrary, the one scientific study this White Paper cites strongly suggests such screening tools should not be administered to everyone.

ASSUMPTION #3: JOB CORPS’ STUDENT POPULATION IS AT-RISK FOR COGNITIVE DISABILITIES.

The OIG notes that studies indicate “similarity in the characteristics of cognitive disabled youth and Job Corps’ student population suggest that a disproportionate number of cognitive disabled youth enroll in the program.” Those characteristics include “economically disadvantaged, high school dropout, below eighth grade reading level, and never held a full-time job.”

What the academic research says.

The academic literature cited under assumption #2 (see pages 12-18) illustrates how LD, and other cognitive disabilities, may be misdiagnosed or misclassified within the public school systems and how the low-income, low-achieving public school population (including drop-outs) may be more at-risk of misdiagnosis. While much has been said and written in the literature about the higher incidence of LD among high school dropouts, among those who are poor/low-income, and so forth, one could use the literature previously cited to reasonably argue that the similarity in characteristics among cognitively disabled youth and Job Corps students may be more about their commonality concerning low achievement due to environmental factors associated with poverty than it is about “real” LD (cognitive dysfunction). Indeed, sorting out “real” LD

from low-achievement due to other factors is not an exact science by any means, especially when the predominant approach is based on IQ-achievement discrepancy.

Furthermore, it appears that the OIG is linking cognitive disabilities to characteristics that describe a large percentage of the youth in this country. For example:

- The majority (68%) of U.S. 8th graders are not reading at grade level. According to a Rand Research Brief titled *Meeting Literacy Goals Set by No Child Left Behind* (2004), 32% was the average proficiency rate in Reading for 8th graders on the 2003 National Assessment of Educational Progress.
- Approximately one-third of U.S. 9th graders will not graduate from high school in four years with a high school diploma in 12th grade, according to the Harvard University Civil Rights Project (Orfield et al., 2004).
- Thirty-eight percent of US children live in low income families. (National Center for Children in Poverty 2005).

Additional insights from the SRI study used by the OIG.

The SRI Longitudinal Study 1 and Study 2 (commissioned by OSEP) are designed to document the experiences and outcomes of secondary-school age youth with disabilities who were receiving special education services at the time. Study 2 is specifically designed to assess the current status of youth with disabilities and how they differed from their predecessors (study 1 cohort). A number of reports are available from Study 2 including the report on *Individual and Household Characteristics of Youth with Disabilities* used by the OIG. This is a very rigorous study; however, the data cited by the OIG concerns all disabilities, not just LD, and some of the most salient findings for purposes of this discussion come from a different report released by SRI.

In the *Youth with Disabilities, A Changing Population*, April 2003 report (comparison of the study 1 and study 2 cohorts), SRI data analysis provides insights as to whether the incidence of LD among Job Corps students may be on the rise or not, making the entire population more or less “at-risk” for LD. Changes in the composition of 15-17 year-olds with disabilities (all disabilities) cited by SRI include:

- Racial/ethnic makeup of youth with disabilities has become more like that of the general population
- Proportion of youth who were at the typical age for their grade level increased from one-third of youth to more than one-half between 1987 and 2001 (SRI says this is a powerful predictor of not dropping out).
- Youth with disabilities were less likely to be living in poverty in 2001 than in 1987, although despite the closing income gap, youth with disabilities still were more likely

than other youth to live in households with the risk factors of low income, unemployment, and so forth

- The one-year drop-out rate for youth with disabilities was cut in half in the years between the two studies, with the rate in 2001 for youth with disabilities being significantly lower than the rate in the general population.

Conclusion — Assumption #3

Job Corps' Student Population Is At-Risk for Cognitive Disabilities.

Based on the academic research literature on prevalence rates and the ways in which over-identification of cognitive disabilities, especially LD, occurs in public school systems, and the characteristics that describe a large number of the youth in this country, it is difficult to argue that the Job Corps student population is more at-risk than any other group. In particular, the SRI study of changes over time (although the report's analysis was for all disabilities, not just cognitive disabilities), seems to suggest that it has become less likely for students with cognitive disabilities to drop out and less likely for them to be living in poverty, hence, they may be less likely to become Job Corps students. Overall, all that can be agreed to with certainty is that Job Corps students are at-risk for low achievement. And, low achievement is NOT the same as a learning disability.

ASSUMPTION #4: EFFECTIVE IDENTIFICATION AND ACCOMMODATION WOULD ADDRESS SIGNIFICANT BARRIERS TO EMPLOYMENT AND IMPROVE THE PROGRAM'S STUDENT OUTCOMES.

- **Based on what impact data does the OIG make this claim?**

The OIG notes that national and regional studies discussed in its report indicate student outcomes would improve with effective identification and accommodation. None of the studies cited in the OIG report appear to be net impact evaluations, either using experimental or quasi-experimental designs. How can the OIG make the absolute claim that actions it is recommending would "improve the program's student outcomes?" Please clarify how and where in the studies cited outcomes were impacted as a direct result of effective identification or effective accommodation?

While the Weber Basin example of improvement on outcomes cited by the OIG is useful, without a random assignment or quasi-experimental net impact study there is no way to really know for sure what contributed to the improved outcomes (i.e., was it the screening process or was it improved instructional strategies for all students or was it improved strategies just for those determined to be cognitively disabled or was it a very specific strategy or was it something else?). According to a follow-up discussion with the

Weber Basin special education teacher, who is a school district employee, Job Corps students at this center are identified for cognitive disabilities using the process outlined in TAG G. Increases in performance cited by the OIG were therefore likely due to the type of instructional strategies and assistance provided by the teachers, not because the center used a more comprehensive assessment process. This underscores the importance of impact studies in determining actual reasons for such improvements.

- **Job Corps already employs key instructional strategies (“accommodations”) proven to work with LD students and considered useful for all learners, including an effective educational screening process for all students. Changes in the Job Corps LD identification process as recommended by OIG would not likely affect the performance outcomes of students.**

Rigorous research on instructional strategies proven to work for LD students suggests that Job Corps is using some of the state-of-the-art learning approaches for all of its students including those with LD. Swanson, in conjunction with various others (1996, 1998, 2001) has conducted a comprehensive meta-analysis of experimental instructional (intervention) research with samples of children and adolescents with LD (as reported in Swanson, 2000). Over 900 studies were examined, with only 10 determined as meeting high methodological standards. Although most studies were found to be poorly designed, key findings for the 10 high-quality studies include:

- Instructional areas for which there is considerable, solid what works research are in the domains of reading (e.g., word recognition, reading comprehension.).
- “Only 30% of the total number of instructional components (e.g., appropriate sequencing, reminders to use strategies, small group instruction) of the total that were coded contributed significant variance to treatment outcomes.”
- A combined instructional approach that includes both strategy and direct instruction positively influences reading comprehension performance.
- Direct instruction improves word recognition.

Although Swanson states that much more “intervention” research is needed, including studies that follow-up or provide for independent replication, and studies of other domains beyond reading, the results of the meta-analysis are instructive.

Deshler (2005) points to some additional strategies shown to work in interventions research both Deshler and Swanson conducted on adolescents with learning disabilities. These strategies include, for example, questioning, sequencing and segmentation, explicit skill modeling and practice, and highly intensive instruction (amount of time in instruction and how effectively each instructional moment is used). The two further state that while we know more today about what instructional strategies

work with older students who are LD, what is not happening in school systems is their application with fidelity and intensity.

Furthermore, Forness and Kavale (2001), in their research on assessment and interventions for those with ADHD, stress behavioral strategies plus instructional strategies such as:

- Providing additional structure through shortening or changing the format of lessons, careful scheduling of tasks, use of prompts or visual cues, and more frequent breaks during lessons.
- Individualized instruction through one-to-one teaching, assistant teachers, or after-school tutors.
- Cognitive approaches such as self monitoring, self evaluation, and self reinforcement.
- Cooperative learning through peer tutoring or shared assignments.
- Social skills training and monitoring for problematic social interactions.

Forness and Kavale also note these school interventions are not markedly different from those already developed and found to be effective for a wide variety of children with learning or behavioral disorders other than ADHD.

The Job Corps' Technical Assistance Guide on Learning Disabilities and Attention Deficit Hyperactive Disorder and the *Job Corps' Policy and Requirements Handbook*, emphasize strategy instruction and direct instruction for working with LD students, and all students. And, nearly all of the other instructional strategies listed above are also stressed by Job Corps by these two policy and guidance documents. It is also important to note that according to the Council for Exceptional Children (CEC), strategy instruction, while once focused primarily on LD students, is now being examined by researchers as a strategy useful for all learners (CEC/ERIC Digest, December 2002).

On a final note, the Response-to-Intervention approach is an alternative LD identification and classification model being suggested by the researchers of NRCLD and others, and included in IDEA 2004 as an approach school districts could choose to use, if desired. It is considered by many in the LD research area as a leading-edge alternative to the IQ-discrepancy approach despite the fact that there is no current scientific-based research support for its efficacy (new research has been funded by OSEP to examine its use in couple of large school districts that have been using it for a while). One of the features of this model is universal screening similar to what Job Corps currently does (not what OIG is recommending). The approach, as described by Mellard, NRCLD Principal Investigator (September 2004 briefing paper, p.2) defines the universal screening component of the model as follows:

“School staff conducts universal screening of academics and behavior. This feature focuses on specific criteria for judging the learning and achievement of all students, not only in academics, but also in related behaviors (e.g., class attendance, tardiness, truancy, suspensions, and disciplinary actions). Those criteria are applied in determining which students need closer monitoring or an intervention.”

In sum, Job Corps already conducts universal academic screening, further illustrating that its current processes are sound and in “good company.”

Conclusion — Assumption #4

Effective Identification and Accommodation Would Address Significant Barriers to Employment and Improve the Program’s Student Outcomes.

Job Corps believes it already has an effective cognitive disabilities identification process, although continued improvements in disability data collection, verification, and reliability are no doubt warranted to ensure that all cases are properly documented and counted (per OIG objective #4). As pointed out, the Job Corps identification process is similar to public school system practice, and some aspects are on the “cutting edge” (e.g., use of universal educational screening and instructional practices such as direct instruction and strategy instruction). In the overall context of Job Corps’ future vision and the systemic changes it is contemplating, some of the issues raised by the OIG will be important to consider during the strategic planning process in the context of quality improvement to better educate and serve its students, the number one goal for Job Corps.

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**AGENCY RESPONSE TO OIG DRAFT AUDIT REPORT
ATTACHMENT
Appendix B**

**Identification and Assessment of
Students with Cognitive Disabilities**

**Core Response-to-Intervention (RTI) Features
Compared to What Job Corps Currently Requires/Does**

Core RTI Features As Applied to Public Schools Under IDEA*	What Job Corps Currently Requires/Does () = TAG G Page References
<p><u>Universal Screening.</u></p> <p>School staff conducts universal screening of academics and behavior. This feature focuses on specific criteria for judging the learning and achievement of ALL students, not only in academics but also in related behaviors (e.g., class attendance, tardiness, truancy, suspensions, and disciplinary actions). Those criteria are applied in determining which students need closer monitoring or an intervention.</p>	<p><u>Universal Screening</u></p> <p>Job Corps staff conducts a universal assessment process that identifies every student’s preferred learning modality & his/her individual strengths & weaknesses; process is conducted soon after enrollment/arrival on center during the Career Preparation Period and includes:**</p> <ul style="list-style-type: none"> • Administration of the TABE (reading & math) to place student in appropriate academic level • Administration of learning style inventories to identify student learning preferences (how student prefers to intake and output information—auditory, visual, kinesthetic) • Administration of various goal-setting activities • Administration of various career exploration processes/tools to assist student in determining vocational training <p>Development of individual, self-paced instructional strategies based on the above assessments for both academic and technical learning needs</p>
<p><u>High quality classroom instruction—students are provided with empirically validated, research-based instruction.</u></p> <p>Students receive high quality instruction in their general education setting. Before students are singled out for specific assistance, one has to have an assurance that the typical classroom instruction is of high quality. This quality can be assessed by comparing students’ learning rates and achievement in different classrooms at the same grade level.</p> <p>General education’s classroom practices and the curriculum vary in their efficacy. Thus, ensuring that the practices and curriculum have demonstrated their validity is important. If not, one cannot be confident that students’ limited gains are independent of the classroom experiences.</p>	<p><u>High quality classroom instruction—students are provided with empirically validated, research-based instruction.</u></p> <p>Instructional staff deliver curriculum instruction strategies based on results of universal assessments such as the following strategies which are recommended for use by instructional staff for any/all students:</p> <ul style="list-style-type: none"> • Curriculum/instruction based on universal design (pg. 40) • MAP program, when appropriate (pg. 41) • Visualizing and Verbalizing to stimulate concept imagery, when appropriate (pg. 43) • Orton-Gillingham, a diagnostic-prescriptive approach, when appropriate (pg. 43) • Cognitive & metacognitive approaches (pg. 45) • Direct instruction & information processing instruction techniques (pg. 48) • Strategy instruction (e.g., Strategy Integration Model—pg. 49)

Strengthening Efforts to Assess and Account for Students with Cognitive Disabilities Would Help Job Corps Achieve Its Mission

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<p><u>Classroom performance—Progress is monitored continuously.</u></p> <p>General education instructors and staff assume an active role in students’ assessment in the general education curriculum. This feature emphasizes the important role of the classroom staff in designating and completing student assessments rather than relying on externally developed tests (e.g., state or nationally developed tests.)</p> <p>In RTI models, one expects students’ classroom progress to be monitored continuously. In this way, staff can readily identify those learners who are not meeting the benchmarks or other expected standards. Various curriculum-based assessment models are useful in this role such as Curriculum-Based Measurement (CBM) (see for example, Fuchs, Fuchs & Compton, 2004).</p>	<p><u>Classroom performance—Progress is monitored continuously.</u></p> <ul style="list-style-type: none"> • All students progress is monitored—depending on initial TABE score, the TABE may be re-administered; also, periodic testing is done on skill or academic mastery based on self-paced curriculum of the student; continuous instructor observation of learning process • TABE is used as early indication of need for special assistance--if score is under 500 on reading and/or math component, student is monitored & observed very carefully for at least 4 weeks, prior to re-testing. Also, each center can determine its own TABE cutoff and appropriate amount of time before a referral is made for specific LD assessment. • Each center has a process for a staff person who suspects a student may have a LD (regardless of TABE score) to refer that student to the Center Director Designee (CDD) -- see sample referral form, pg. 34).
<p><u>Research-based interventions—Students who do not respond to high quality classroom instruction receive either more intensive or different instruction, and progress continues to be monitored.</u></p> <p>When students’ screening results or progress monitoring results indicate a deficit, an appropriate instructional intervention is implemented, perhaps an individually designed instructional package or a standardized treatment. The standardized treatment protocols are the interventions that researchers have validated through a series of studies. School staff is expected to implement specific, research-based interventions to address the students’ difficulties. These interventions might include a “double-dose’ of the classroom instruction or a different instructional method. These tailored, research-based interventions are 8-12 weeks in length and are designed to increase the intensity of the learner’ instructional experience.</p> <p>School staff uses progress-monitoring data to determine interventions’ effectiveness and to make any modifications as needed. Carefully defined data are collected, perhaps daily, to provide a cumulative record of the learner’s response to intervention.</p>	<p><u>Research-based interventions—Students who do not respond to high quality classroom instruction receive either more intensive or different instruction, and progress continues to be monitored.</u></p> <p>For those who scored below 500 or other center-defined cut-off, after careful observation of performance for the 4 weeks & if student is having or continues to have problems regardless of TABE score:</p> <ul style="list-style-type: none"> • Teacher notifies CDD who will look for previous documentation of a learning disability—reviews students records, asks student about previous special education services, collects additional data as needed • Teacher documents problems noticed and provides more intensive interventions to help the student deal with the problems for the next 2-week period (after the initial 4-week period) by assessing the types, frequency, and severity of difficulties observed, including the following: <ol style="list-style-type: none"> 1. Does the student consistently score poorly on certain skill tasks? 2. Were or are there extenuating factors/distractions such as a noisy or too hot or cold room, etc.? 3. When these extenuating factors are remedied, does the performance improve? 4. What does the student know of his/her learning difficulties or disabilities? 5. Have instructional opportunities been provided using a student’s preferred learning modality? 6. Are there any other circumstances surrounding student’s poor performance? 7. Ask student how feel about progress, what instructional strategies help, don’t’ help? 8. Review classroom assessment data (test results, portfolio review, etc.) and observation notes

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<p><u>Failure to Respond.</u></p> <p>A failure to respond to all interventions may qualify student for special education—those who fail to respond to empirically validated treatments implemented with integrity might be identified as LD automatically or would be referred for psychological assessments, then development of a special education Individual Education Plan under IDEA, as determined appropriate.</p> <p><u>Note about RTI emphasis:</u> RTI emphasis is on treatment validity (Fuchs & Fuchs 1998) which moves the identification process away from diagnosing deficits such as with the IQ-discrepancy approach to examining student outcomes.</p> <p><u>Note about fidelity measures:</u> While the interventions are designed, implemented, and assessed for their learner effectiveness (per each phase above), fidelity measures are completed that focus on those individuals providing the instruction. The fidelity measure provides the information that the intervention was implemented as intended and with consistency. Staff members other than the classroom teacher have an important role in completing the fidelity measures, which are usually an observational checklist of critical teaching behaviors.</p>	<p><u>Failure to Respond.</u></p> <ul style="list-style-type: none"> • After sufficient trying of various interventions, and observation/documentation thereof, and student still unable to master various skills deficits or demonstrate program competencies, student is directly referred to the CDD using the sample referral form, pg. 34) • CDD then meets with the instructor, academic manager and/or center mental health consultant (CMHC) to determine if formal testing is necessary. If yes, student begins the center's process for formal testing or receives an off-center referral (for psychological assessment). • Based on formal assessment, an intervention plan is developed, based on recommendations from the professional who is interpreting the diagnostic assessments. Members of the student's interdisciplinary team (IDT) and the CDD then use these recommendations to develop an intervention plan. • Teacher then uses the intervention plan along with the knowledge of the student's preferred learning modality to develop new, appropriate strategies for use in the classroom.

*Adapted from Mellard, Daryl. NRCLD Principal Investigator. Understanding Response to Intervention in Learning Disabilities Intervention, 9/15/04, internal briefing paper (www.nrclid.org), and Fuchs, Moch, Morgan, & Young. 2003 as cited in Kavale, LDQ Winter 2005, and Gresham, 2002 as cited in Kavale, LDQ Winter 2005, and Fuchs & Fuchs, 1998 as cited in Kavale, LDQ Winter 2005.

**As with universal screening under RTI, center assessments are not specific LD screenings, but rather universal screenings to determine learning needs.