



TEXAS
SCHOOL
OF THE ARTS

Texas Center for Arts + Academics

Special Services
Handbook

TABLE OF CONTENTS

Purpose	3
Mission	3
FERPA	3
Multi-Tiered Systems of Support (MTSS)	3
Positive Behavioral Interventions and Supports (PBIS)	4
Social Emotional Learning (SEL)	5
Counseling Services	6
Response to Intervention (RtI)	6
Gifted and Talented	7
English Learners	10
TeSA ESL Program	10
Section 504	13
Special Education	17
Dyslexia	23
Appendix	29

Handbook Purpose

The purpose of the Special Populations handbook is to provide an overview of all Special Populations programs at Texas School of the Arts. Each program follows all policies required by the Texas Education Agency, and therefore, some sections of this handbook are directly quoted from the TEA website. Some of the information presented in this handbook may also be found in the Texas School of the Arts Student Handbook.

TeSA Mission

Our mission is to inspire a lifelong passion for learning and empower students to achieve academic excellence through an arts-based education.

Family Education Rights and Privacy Act (FERPA)

FERPA is a federal law that provides parents with the right to access their children's education records, the right to request that the records be amended, and the right to have some control over the disclosure of personally identifiable information. This means that teachers are to protect the privacy of a student's educational records, and ONLY share them with those who have an educational interest in the student (such as their other teachers, the principal, the curriculum instructionalist, etc). They are not to be shared simply because the teacher is asked.

Multi-Tiered Systems of Supports (MTSS)

MTSS is a framework that helps educators provide academic and behavioral strategies for students with various needs. Within this framework, several programs work together to best serve every student. Data-based problem solving is used to take a comprehensive approach to educating the whole child by making systematic improvements across the campus.

To best serve students through consistency of scheduling, services, providers, and resources, all General Education and Special Programs work closely with the MTSS framework at Texas School of the Arts:

- Positive Behavioral Interventions and Supports (PBIS)
- Social Emotional Learning (SEL)
- Response to Intervention (RtI)
- Gifted and Talented Education (GT)
- English as a Second Language (ESL)
- Special Education (SPED)
- Section 504 (504)

MTSS is a proactive approach including the following elements:

- Beginning, middle, and end of year progress monitoring for all students
- Ongoing informal monitoring of students' progress
- Increasing levels of targeted support for struggling students
- Classroom extension opportunities for gifted students
- Integrated plans that address students' academic, behavioral, social, and emotional needs
- A schoolwide approach to student support, with teachers, counselors, administrators, and other specialists working as a team to assess students and plan interventions
- Professional development so staff can provide effective interventions
- The use of evidence-based strategies at every tier of support



Positive Behavioral Interventions and Supports (PBIS)

PBIS is an evidence-based, positive approach used to improve school safety and promote positive behavior. Within its three-tiered framework, PBIS integrates all of the campus systems, data, and procedures for academic, social, and emotional growth. Tier 1 establishes a foundation of continuous, proactive support, with a focus of preventing unwanted behaviors. Tier 2 focuses more on students who are at risk for developing more serious issues. Lastly, Tier 3 provides students with more intense, individualized support to improve their behavior and/or academic performance.

As part of PBIS, TeSA uses the acronym STAR to define both student characteristics and behaviors.

TeSA Students Characteristics:

Self-Aware
Teachable
Artistic
Respectful

TeSA Behavior Categories:

Safety for All
TeSA Rules & Policies
Aggression toward Self or Others
Responsible for Learning Tools & Materials

Social Emotional Learning (SEL)

Texas Education Code (TEC) §29.906 requires schools to provide instruction in the following positive character traits and personal skills at least once during each of the following grade bands: kindergarten-grade 2, grades 3-5, grades 6-8, and grades 9-12:

- Courage
- Trustworthiness, including honesty, reliability, punctuality, and loyalty
- Integrity
- Respect and courtesy
- Responsibility, including accountability, diligence, perseverance, self-management skills, and self-control
- Fairness, including justice and freedom from prejudice
- Caring, including kindness, empathy, compassion, consideration, patience, generosity, charity, and interpersonal skills
- Good citizenship, including patriotism, concern for the common good and the community, responsible decision-making skills, and respect for authority and the law
- School pride
- Gratitude

Social Emotional Learning (SEL) is the process through which students learn and apply the social and emotional skills needed to develop a positive self-image, manage their emotions, show empathy and compassion for others, create and maintain healthy relationships with others, and make sound decisions. SEL lessons, including lessons focused on character traits, will be either led by the School Counselor or incorporated by teachers into classroom meetings and academic activities.

Per Texas Education Agency requirements, all Texas School of the Arts teachers and administrators will participate in the following trainings related to students' Social Emotional Learning:

- Bullying and Cyberbullying
- Building Skills Related to Managing Emotions
- Conflict Resolution
- Establishing and Maintaining Positive Relationships
- Grief Informed and Trauma Informed Training
- HB 3 Mental Health Training
- Positive Youth Development
- Responsible Decision-Making
- Strategies for Establishing and Maintaining Positive Relationships Among Students

Counseling Services

Texas School of the Arts provides a comprehensive counseling program in accordance with the Texas Education Agency (TEA). The services provided by the School Counselor assist all students to grow to their full potential academically, socially, and emotionally. The counselor's mission is to foster emotional awareness and growth in artistically talented students to nurture the "whole" child.

The School Counselor may work with the grade-level teacher(s) to develop a plan of success for students struggling to meet academic or behavioral expectations. The School Counselor will also meet with students and parents as they prepare for the transition from elementary to middle school.

The School Counselor may provide guidance lessons, teaching skills that develop self-confidence, responsible behavior, problem solving, decision making, interpersonal communication, goal setting, and motivation. A student wishing to speak to the School Counselor individually during the school day should notify their teacher. Guardians may also request an individual counseling service for their child by emailing the School Counselor or calling the front office.

Response to Intervention (RtI)

For students having difficulty in the regular classroom, all school districts and open enrollment charter schools must consider tutorial, compensatory, and other academic or behavior support services that are available to all students, including a process based on Response to Intervention (RtI) through a Student Support Team. The implementation of RtI has the potential to have a positive impact on the ability of districts and charter schools to meet the needs of all struggling students.

Response to Intervention (RTI) is a proactive approach to help all students. It is most often used for struggling learners, and may also be used to improve student behavior. Students are provided with interventions at increasing levels of intensity to meet their needs and progress is closely monitored by their classroom teacher(s) and the Student Support Team. The amount of time each student spends in RTI varies as each approach is personalized. The ultimate goal is student success and the Student Support Team will work with other educational professionals as needed to provide additional testing and/or support.



Gifted and Talented Education

Our Philosophy and Program

TeSA serves gifted and talented students in artistic, academic, and leadership areas.

Talented Students

Students who enter TeSA through the audition process are identified and served as artistically talented students. TeSA's slightly longer school day allows time for all four fine arts; Dance, Music, Theatre, and Visual Arts. Through the arts, students are able to explore creativity and performance, as well as have an opportunity to respond and connect to professional and student works.

Gifted Students

Academically gifted students are served in the general education classroom through the Gifted Academic Program (GAP). TeSA believes that students who show attributes of academic giftedness should receive a differentiated learning environment. All students in the GAP will have a GAP Agreement in order to address the unique individual learning needs of each gifted student in the classroom.

A GAP Agreement will be completed for each student at the beginning of the school year in order to outline what is expected of both teachers and students, and how parents can support their child in this program. Classroom teachers will use this document as a guideline in the classroom to differentiate the curriculum in order to meet the unique, individual learning needs of each gifted student in the classroom.

GAP students will be given opportunities throughout the year to work within the classroom both independently, as well as in small groups with other GAP students. GAP students will meet once each grading cycle as a group to discuss progress and complete extension activities. Each GAP student will also complete two required projects, for which the culmination of their learning will

be displayed. As opportunities arise throughout the year, students may attend field trips with other GAP students, listen to presentations from special guest speakers, and/or complete group labs and activities.

TeSA offers this program for students who are identified through the TeSA identification process, or who come to TeSA having been previously identified as an academically gifted student. The identification of GAP students is accomplished through a process consisting of nominations, assessments, and selection by committee.

Leadership- Student Ambassadors

5th grade students who have gone through the application and acceptance process during the first grading cycle have the opportunity to participate in the Student Ambassador program. Student Ambassadors complete service projects on campus throughout the year. Leadership characteristics are cultivated through activities such as leading morning announcements, mentoring kindergarten buddies, assisting with dismissal, and other duties as assigned by the 5th grade teachers and administration. Students selected to be Ambassadors are held accountable for meeting deadlines, maintaining academic integrity, and consistently displaying school-wide student characteristics.

Nominations, Assessments, and Selection by Committee

- All Kindergarten students who perform at a noticeably higher level of accomplishment relative to age peers are assessed for the GAP in the spring. Students are assessed in the area of overall intellectual ability.
- Parents whose children are enrolled at TeSA in Kindergarten-4th grade may nominate their child during the nomination period in April. To nominate a child, a parent nomination form and permission to test form must be completed by the posted deadline. Failure to submit nomination forms by the posted deadline will result in the child not being nominated for the program.
- Staff members at TeSA may nominate a student in April each year.
- Any student who enrolls at TeSA during the middle of the school year can be nominated by a parent within two weeks of enrollment.
- New students to TeSA will be screened within the first six weeks of enrollment during our fall universal screener. If official documentation is provided of being identified as academically gifted at a previous school, they will automatically be served through the GAP.
- Final determination of a student's need for gifted services is completed by the GAP committee, which consists of the GAP committee chair and at least two teachers who have completed 30 core hours of GT training. All committee decisions will be approved by the Campus Principal.

The GAP committee reviews all information gathered on each nominated student to determine if criteria is met for entry into the program.

Entry Process

Step 1: Nominations

Teacher referral, parent nomination, or cognitive ability test scores may be used as a nominator.

Step 2: Information Gathering

After the committee has the completed forms by the posted deadlines, data from the following measures will be compiled.

1. Nomination/referral information
2. Cognitive ability test scores
3. Qualitative inventory or checklist completed by teacher(s)
4. State achievement and/or available school assessments
5. Review of Products/Portfolios, if requested by the committee

Step 3: Testing

This step consists of cognitive ability testing administered for the sole purpose of entrance into the GAP.

Step 4: Selection

The GAP Committee will review the information gathered on each student who has been nominated for the GAP. Parents and staff will be informed of the committee's decision and given an opportunity to discuss this information, if requested.

Appeals

Parents can submit any appeals of GAP decisions to the following, in order, within 30 days of notification of assessment results.

1. GAP committee
2. Principal
3. Chief Academic Officer - The parent presents the reasons for reconsideration. The decision of the Chief Academic Officer is final.

Transfers, Furloughs, Reassessment, & Exiting

When a student in the GAP transfers to another district, either in or out of Texas, that district is provided with the student's assessment data once request records have been received.

Students may have a furlough (a leave of absence from gifted program services) for specified reasons, with approval from the GAP committee, without being exited from the program.

Students may not be assessed for entry into the GAP more than one time per school year. A student who is admitted to the GAP through our nomination and selection process will remain in the GAP for the duration of their enrollment at TeSA, without the need for re-nomination or re-assessment each year.

A GAP student who does not complete one of the two required GAP projects during the year will be placed on probation for the following semester. A student on probation will be monitored closely for adequate progress in response to services. If progress is satisfactory, the probation will be removed the following semester. If progress continues to be unsatisfactory, the student may be removed from the program by decision of the GAP committee. Parents will be informed of probation status and any decisions made as a result of probation.

Students may be exited from gifted services at any time based on multiple criteria, including student performance in response to services, lack of progress after being placed on probation, or at the request of a parent. The exiting of a student is finalized by a GAP committee decision after consultation with parent(s) and student regarding the student's educational needs.

English Learners

A student identified as an English Learner (EL), or Emergent Bilingual (EB), may have services provided through the school. Students will enter the program and continue to demonstrate eligibility through the Texas English Language Proficiency Assessment System (TELPAS). The Language Proficiency Assessment Committee (LPAC) will meet multiple times each year to review and consider the classroom and testing needs of all English Learners.

Texas School of the Arts strives to foster the linguistic and academic development, along with personal and social growth of the English learners in our learning community by focusing on reading, writing, listening, and speaking.

Required Home Language Survey

The home language survey will be collected for each student new to TeSA, and students previously enrolled who were not surveyed in the past. If a response on the home language survey indicates that a language other than English is used, the student shall be tested to establish language proficiency.

State Identification Requirements

It is Texas policy that every student in the state who has a primary language other than English and who is identified as an English learner shall be provided a full opportunity to participate in a bilingual education or English as a Second Language (ESL) program, as required in the Texas Education Code (TEC), Chapter 29, Subchapter B.

Texas School of the Arts ESL Program

Statutory requirements

Texas Administrative Code §89.1205 and 89.1210 requires that any school district that is not required to offer a bilingual education program to be provided an ESL program, regardless of

the students' grade levels and home language, and regardless of the number of students. This program must:

- Use second language methods throughout the curriculum.
- Provide instruction that includes TEKS based academic content, as well as language development.
- Differentiate instruction of content according to language proficiency levels.
- Provides academic instruction that is on grade level.

The goal of ESL programs shall be to enable English learners to become proficient in listening, speaking, reading, and writing in the English language through the integrated use of second language acquisition methods. The ESL program shall emphasize the mastery of English language skills, as well as mathematics, science, and social studies, as integral parts of the academic goals for all students to enable English learners to participate equitably in school. The English as a Second Language program shall be implemented with consideration for each English Learners' unique readiness level through one of the following program models:

Content-Based Program Model

TeSA primarily utilizes an English program that serves students identified as students of limited English proficiency in English only by providing a full-time teacher certified under TEC §29.061(c) to provide supplementary instruction for all content area instruction. The program integrates English-as-a-second-language instruction with subject matter instruction which focuses not only on learning a second language, but using that language as a medium to learn mathematics, science, social studies, or other academic subjects.

Pull-Out Program Model

When needed, TeSA utilizes an English program that serves students identified as students of limited English proficiency in English only by providing a certified teacher under TEC §29.061(c) to provide English language arts instruction exclusively, while the student remains in a mainstream instructional arrangement in the remaining content areas. Instruction may be provided by the ESL teacher in a pull-out or inclusionary delivery model.

Goals of the ESL program

- Enable ELs to become proficient in listening, speaking, reading, and writing of English.
- Emphasize mastery of English language skills, as well as Math, Science, and Social Studies.
- Use instructional approaches designed to meet the needs of ELs.
- Be an integral part of the total school program.
- Utilize the essential knowledge and skills required by the state as the curriculum.

The school district shall seek certified teachers to ensure ELs are afforded full opportunity to master essential knowledge and skills and provide professional development.

TELPAS

TELPAS is an assessment program for students in Texas public schools who are learning the English language. TeSA must annually assess the English language proficiency of students who have been identified as English learners (ELs) in four language domains—listening, speaking, reading, and writing. TELPAS evaluates the progress that each EL makes in becoming proficient in the use of academic English.

Students in grades K-12 that have been identified as an EL are required to take TELPAS. This includes ELs whose parents have declined English as a Second Language (ESL) program services. They will stop participating in TELPAS when their language proficiency assessment committee (LPAC) determines that they are proficient in the English language and have met exit criteria. This applies to all ELs, even those who are not in an ESL program. Once a student has met the state's exit criteria, they will no longer be identified as an EL and will not have to participate in TELPAS.

Language Proficiency Assessment Committee (LPAC)

The Language Proficiency Assessment Committees (LPAC) meets multiple times throughout the year to officially enter or exit students into the campus ESL program and to create classroom and assessment accommodations on an individual student basis. The LPAC committee must

- Designate the language proficiency level of each limited English proficient student in accordance with the state and federal guidelines
- Designate the level of academic achievement of each limited English proficient student
- Designate the initial instructional placement of each limited English proficient student in the campus program or note the parent/guardian denial of recommended services
- Facilitate the participation of limited English proficient students in other special programs for which they are eligible, such as Special Education, 504, GT, or RtI
- Classify students as English proficient in accordance with the state and federal criteria, and recommend their exit

Criteria to Exit

To exit from the TeSA ESL program, a student may be classified as English proficient at the end of the school year in which a student would be able to participate equally in a regular, all-English, instructional program. The determination shall be based upon all of the following:

- TEA-approved tests that measure the extent to which the student has developed oral and written language proficiency and specific language skills in English
- Satisfactory performance on the approved reading assessment, or a TEA-approved English Language Arts assessment instrument administered in English, or a score at or above the 40th percentile on both the English Reading and the English Language Arts section of a TEA-approved norm-referenced assessment instrument for a student who is enrolled in Grade 1 or 2
- TEA-approved criterion-referenced written tests when available and the results of a subjective teacher evaluation

The LPAC will reevaluate a student who is transferred out of the ESL program during the first two years after the student is exited. If the student earns a failing grade in a subject during any grading period, the LPAC may meet to determine whether the student should be entered back in the ESL program.

Section 504

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to:

- have a physical or mental impairment that substantially limits one or more major life activities; or
- have a record of such an impairment; or
- be regarded as having such an impairment.

Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

Consent for Evaluation

In order to evaluate a child for eligibility under Section 504, a parent/guardian/adult student must provide consent. This consent only allows for examination of data to determine initial eligibility. Additional consent for re-evaluation is not necessary. Sometimes the parent is not present when Section 504 consideration is discussed and consent must be sent home for signatures.

Consent for Services

Following an initial eligibility determination, the campus coordinator will need to collect a Consent for Services form from the parent/guardian/adult student. This form will only be collected once.

Revoking Consent

There may be situations in which a parent wants to revoke consent for certain services while maintaining eligibility under Section 504 for accommodations. If this occurs, a Section 504 meeting should be held to discuss the parent request.

Initial Referrals

Referrals for Section 504 can be made by parents or staff. Examples of situations in which a student may meet eligibility as a student protected under Section 504:

- The student has a chronic health condition such as asthma, diabetes, epilepsy, etc.
- The student has a disability identified under IDEA, but does not qualify for special education
- The student has low vision, poor hearing, heart disease, or some other “hidden disability.”

- The student has been evaluated by an agency outside of school and the parents provide the report and recommendations.

The 504 Evaluation

The district must conduct an Evaluation before Section 504 services can be provided to the child with a disability. Consent from a parent/guardian must be obtained prior to an evaluation. Evaluation under Section 504 does not necessarily mean a test or assessment. Rather, the evaluation consists of reviewing data from multiple sources and asking questions to determine eligibility. This process occurs within the context of a Section 504 meeting.

Timelines

The Office of Civil Rights encourages school districts to follow the evaluation timelines similar to those of special education. Evaluations (the Initial Section 504 meeting) must be completed within 45 school days of the receipt of Consent for Evaluation. If a student has excessive absences, this timeline can be extended. Re-evaluations should be conducted every 3 years. Extensive data collection should occur at this time to determine continued eligibility. Section 504 review meetings should occur annually.

Data to Collect and Consider in a Section 504 Evaluation

The following is a list of data examples to be reviewed in a Section 504 evaluation. This is not an exhaustive list as each evaluation is specific to the needs of the student. The Section 504 committee should consider:

- Parent and Teacher input
- Medical information from campus nurse and/or outside providers
- Academic information, including grades, progress monitoring data, universal screening data, state assessment data, etc.
- Behavioral information, including discipline reports, behavioral observations
- Outside evaluations

When collecting information from outside providers, the campus coordinator will need to obtain additional consent for release of confidential information. If the information obtained is vague in nature, the coordinator is expected to call the provider and ask clarifying questions.

Eligibility

In order to be considered eligible for Section 504 protections and supports, these questions must be answered:

- Does the student have a physical or mental impairment?
- Does the physical or mental impairment substantially limit one or more major life activities?
- Does the physical or mental impairment substantially limit a major life activity?

The Section 504 committee must answer “yes” to all of these questions and be able to explain the support necessary for the student to access all academic and extracurricular activities to the

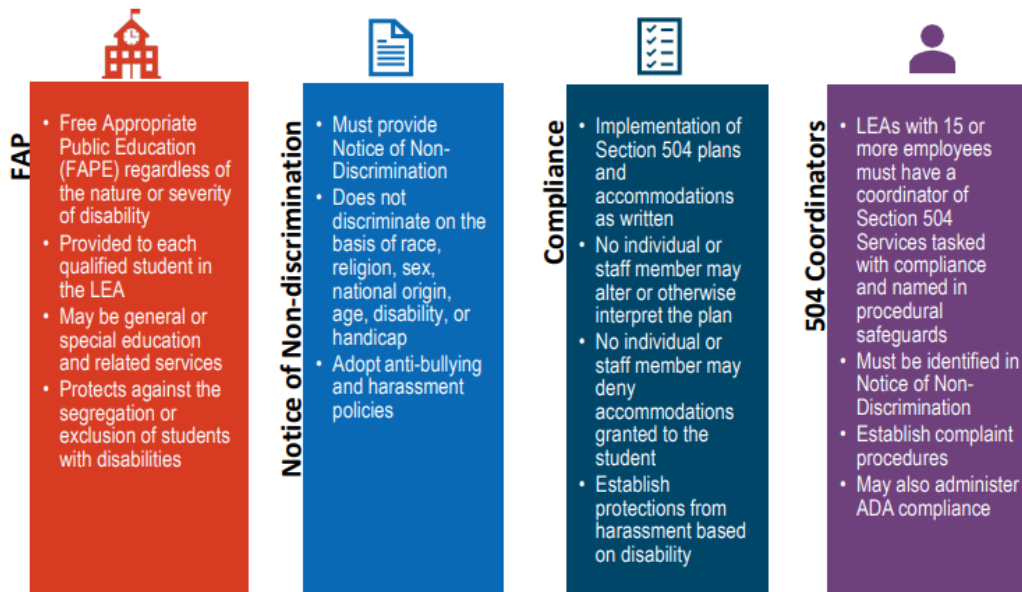
same extent as their peers. Federal law explains that a person eligible under Section 504 must have a disability, have a history of a disability, or be regarded as having a disability.

Also, the regulations stipulate that the disability must “substantially limit” one or more major life activities such as breathing, walking, seeing, reading, hearing, eating, running, concentrating, and/or learning. For a disability to be considered “substantially” limiting, it must create such a limitation without the application of mitigating measures that requires intervention so that the student has equal opportunity to access school-related activities without discrimination.

“Substantially limits” should be considered without regard to the helpful effects of mitigating measures (ADHD medications, hearing aids, behavioral therapy, etc.), with the exceptions of ordinary glasses or contact lenses. If a medical or mental health provider indicates that the disability is “mild” in nature, then the child would not require any intentional interventions to prohibit discrimination. The impact must be classified as “moderate” to “severe” to be considered “substantial.”

There is not an exhaustive list of impairments nor a list of every possible life activity. The decision of eligibility is up to the Section 504 committee. Diabetic or ADHD students are the only exceptions to the questions because they are always found eligible for Section 504. Some students, however, may be eligible for Section 504 protections, but not require a Student Service Plan due to mitigating measures (i.e., medication) and/or remission (i.e., cancer patients).

Local Education Agency (LEA) Responsibilities under Section 504



Section 504



What rights do parents or guardians have under Section 504?

- Request a hearing with respect to the school's actions regarding the identification, evaluation, or placement of their child
- File a grievance complaint with the school's Section 504 Coordinator or with the Office for Civil Rights online or by calling the regional office
- Receive notice about the identification, evaluation and/or placement of their child
- Examine their child's educational records
- A 504 plan that is periodically reviewed




What does a 504 plan include?

It includes the accommodations and services that the individual student needs and provides equal access to the same educational programs and activities available to non-disabled peers.

Office for Civil Rights (OCR)

In Texas, if you have a question or would like to file a complaint about Section 504, contact the Office for Civil Rights (OCR).

 OCR.Dallas@ed.gov

 214.661.9600

Section 504 Parent and Educator Resource Guide

 direc.to/dUkU

Fact Sheet for Families



What is Section 504?

Section 504 is part of a long-standing federal civil rights law that guarantees certain protections to people with disabilities.



Who does Section 504 protect?

Section 504 protects people with a physical or mental impairment that substantially limits a major life activity, such as caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning.



Section 504 and Individuals with Disabilities Education Act (IDEA) both...

- Provide protections for students with disabilities. However, while all students in special education are protected under Section 504, not all students covered by Section 504 are eligible for special education.
- Require schools to provide a free appropriate public education (FAPE) to students with disabilities. Section 504 and IDEA define FAPE differently.



TEA.Texas.gov/TexasSpEd



Special Education

When a child receives special education, it means that a public school provides custom services and instruction specific to the needs of that student. Special education is available because of a federal law called the Individuals with Disabilities Education Act (IDEA), which provides students with disabilities and their parents special legal rights to receive these individualized learning opportunities.

Individuals with Disabilities Education Act (IDEA)

IDEA ensures that all students with disabilities receive a free and appropriate public education (FAPE) which will meet their needs and prepare them for their education, employment, and independent living. IDEA defines 13 disability categories:

- Autism
- Deaf or Hard of Hearing
- Deaf-Blindness
- Emotional Disturbance
- Intellectual Disability
- Multiple Disabilities
- Noncategorical Early Childhood
- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment Including Blindness

Referrals for a Special Education Full Individual and Initial Evaluation (FIE)

A parent may request an evaluation for Special Education services at any time. If a parent makes a written request for an initial evaluation for special education services, the school must respond no later than 15 school days after receiving the request. At that time, the school must give the parent a prior written notice of whether it agrees to or refuses to evaluate the student, along with a copy of the Notice of Procedural Safeguards. If the school agrees to evaluate the student, it must also obtain written consent for the evaluation.

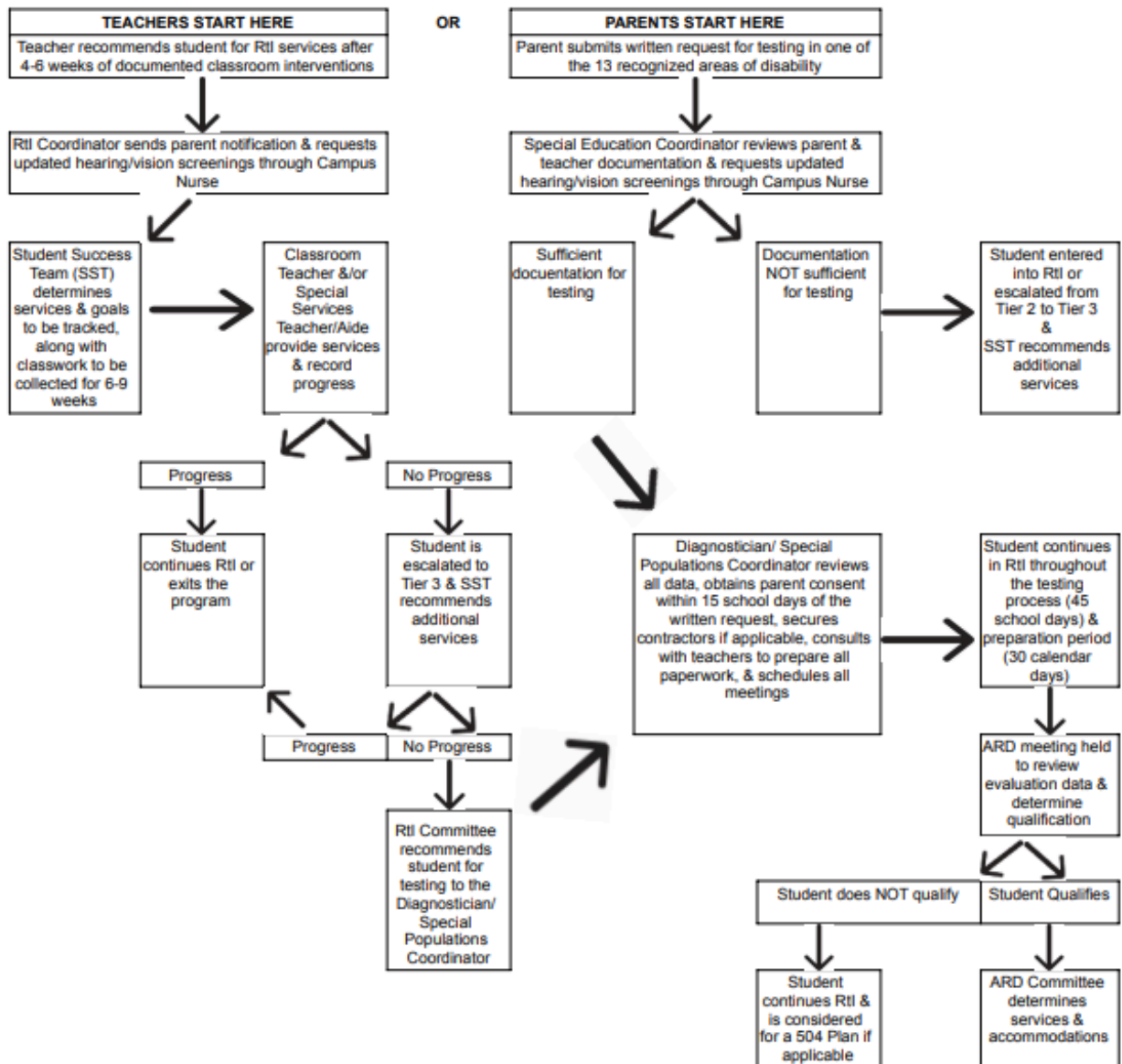
Initial Evaluation Timeline

A copy of the written evaluation report must be provided to the student's parents as soon as possible after completion of the report but no later than five school days prior to the initial admission, review, and dismissal (ARD) committee meeting (see 19 TAC §89.1011(e)(1) for an exception to this timeline).

Initial ARD committee meeting must be held within 30 calendar days from the date of the completion of the evaluation report. If the 30th calendar day falls during the summer and school is not in session, the ARD committee must meet not later than the 15th school day of the

following school year. If an evaluation report indicates that a student would need extended school year (ESY) services, however, the ARD committee must meet as expeditiously as possible. The flowchart below represents the specific process at Texas School of the Arts.

Texas School of the Arts Referral for Special Education Evaluation

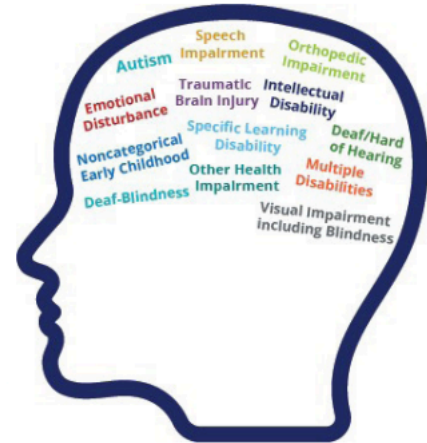


Eligibility

To determine whether a student qualifies for special education services, the ARD committee must answer the following two questions:

1. Does the child meet the criteria for a qualifying disability? **AND**

2. As a result of the disability, does the child have a need for special education services?



Reevaluation

Review of Existing Evaluation Data Requirements (REED) is the process of looking at a student's existing data to determine if additional data is needed as part of an FIIE, if appropriate, or as part of a reevaluation. A REED helps schools decide whether current information about a child can be used to determine a child's eligibility for special education.

A REED may be a part of an initial evaluation (if appropriate). Examples of situations where a REED is appropriate: The parent of a child brings in an outside evaluation from a professional and the members of admission, review and dismissal (ARD) committee review this information to determine if additional evaluation by school or contracted personnel is needed.

The REED must be conducted by the members of the student's ARD committee, and others as appropriate. The members review the student's existing evaluation data to determine the scope of the evaluation. This review process does not have to take place in an ARD committee meeting. Prior to the REED, the school must issue to parents the Prior Written Notice (PWN) of its proposal to conduct an evaluation, a copy of the Notice of Procedural Safeguards (NPS), and the opportunity to consent to the evaluation or when the school issues to parents the PWN of its refusal to conduct an evaluation and a copy of the NPS.

An Individual Education Plan (IEP)

An Individual Education Plan (IEP) is the written, legal document that is completed by an Admission, Review, and Dismissal (ARD) committee for every public-school child ages 3-21 receiving special education services in Texas. The IEP is the centerpiece of the federal legislation called the Individuals with Disabilities Education Act (IDEA). The IDEA ensures "that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living."

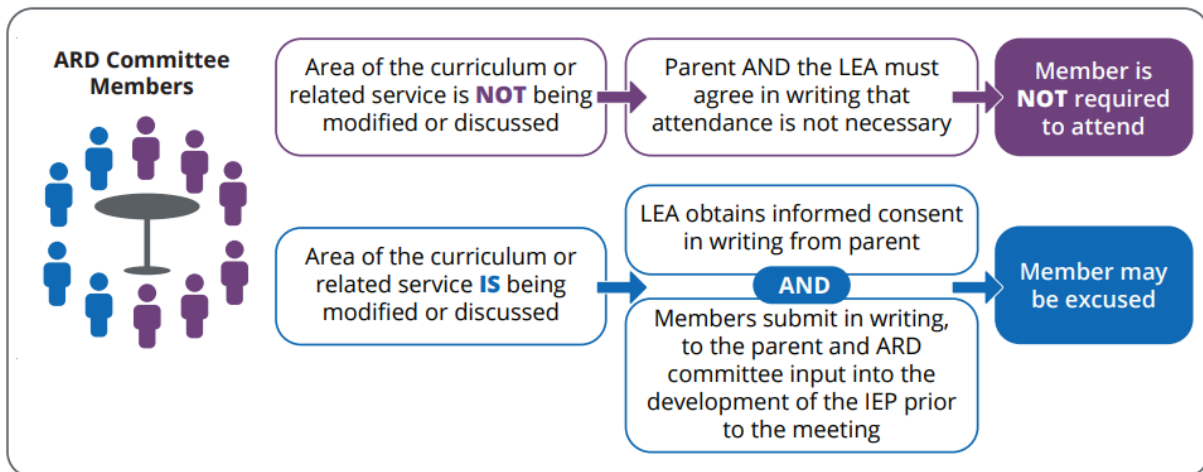
The ARD committee develops the IEP during an ARD committee meeting. The meeting must be held at a time and place that is mutually agreeable, and the school must take steps to ensure that one or both parents are present at every ARD committee meeting or are given the opportunity to participate. The school must keep a record of its attempts to arrange a meeting at a mutually agreed time and place. If a parent cannot attend an ARD committee meeting, the school must allow the parent to participate through other means, such as by telephone or video conference. Schools may draft components of the IEP before the ARD committee meeting but must make parents aware that these portions are a draft and can be modified by the ARD committee.

Admission, Review, Dismissal Meeting (ARD)

The Admission, Review, and Dismissal (ARD) Committee is the team that meets to determine eligibility based on a full and individual evaluation report, and to develop an individualized education program (IEP) for the child. The ARD committee must meet annually, but may meet more often as needed. The ARD Committee must include the following members:

- Parent/Guardian
- Child (when appropriate)
- Regular Education Teacher
- Special Education Teacher
- School Administrator/Representative
- Someone who can interpret evaluation results (if applicable)

Excusal from ARD committee meetings



Present Levels of Academic and Functional Performance (PLAAFPs)

The Present Levels of Academic and Functional Performance (PLAAFPs) are a major component of a student’s Individualized Education Plan. They provide information on how the disability affects involvement and progress in the general curriculum.

Specially Designed Instruction

The core of special education is the specially designed instruction (SDI) a student receives. IDEA defines special education services as “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.” In Texas, the Admission, Review, and Dismissal (ARD) committee determines the specially designed instruction needed for each student as part of the Individualized Education Program (IEP).

Instruction that targets the unique needs of a child that result from a disability. The instruction must be designed in such a way that the student can access the general curriculum to the same extent as non-disabled peers and make progress toward grade level standards (Texas Essential Knowledge and Skills (TEKS)).

Inclusion and Resource Services

During inclusion, a member of the special populations team will work with students in their general education classroom, using the work provided by the classroom teacher. During resource, the student goes to a different instructional area to work on the subject in which they need assistance. This work may be provided by the classroom teacher, special education teacher, dyslexia teacher, or combination.

Accommodations and Modifications

Accommodations are intended to reduce or even eliminate the effects of student’s disability on academic tasks but do not change learning expectations. The objectives of the course or activity remain the same. Accommodations change how the student learns or demonstrates knowledge. ARD committees should consider whether changes in presentation, response, setting, or timing/scheduling are required for students to access the general curriculum.

Modifications change what the student is expected to master. ARD committees should keep in mind that using modifications may have adverse implications, as students accessing below grade-level content may not close achievement gaps. Modifications typically require a student to learn less material or learn material below grade level and/ or complete or be tested over easier or less complex problems. The decision to modify is a significant one, however some students will require modifications. Decisions to modify should be data driven and individualized for the student.

Least Restrictive Environment

IDEA requires students with disabilities, including students in public or private institutions or other care facilities, are educated with students without disabilities to the maximum extent appropriate. Additionally, schools must ensure that a student with a disability is not removed from the general education environment (including removal to separate schools or special classes) unless the nature or severity of the student’s disability is such that he or she cannot be educated in general education classes, even with the use of supplementary aids and services. A student’s educational placement is determined at least annually.

Placement decisions must be based on the student's IEP. When making the placement decision, the first consideration should be whether the student can be educated in the general education classroom with or without supplementary aids and services. A student can only be placed in a more restrictive environment when the ARD committee concludes that education in a less restrictive setting, even with appropriate supports and services, cannot be achieved satisfactorily.

Behavior Improvement Plan (BIP)

A Behavior Improvement Plan (BIP) specifically addresses the behavioral plan for a student whose behavior interferes with their own learning or the learning of others. It is created along with the IEP and it must include positive behavioral intervention strategies. There must be a Functional Behavior Assessment (FBA) completed prior to developing a BIP. This process may take several weeks, as multiple sources of data are required.

Special Education Progress Reports

Each student in Special Education will receive a progress report of their IEP goals at the end of each grading cycle. Notes are added to the online progress monitoring program weekly, and are based on the work students complete during inclusion or resource. The progress report gives specific data about the student's goals, and is to be used in conjunction with their regular report card.

Special Education Personnel

Special Education and/or Dyslexia Teachers provide individual and small group opportunities to students in need of additional instruction in specific areas through Special Education, 504, or Response to Intervention (RtI). Special Education and/or Dyslexia Teachers will create individualized lesson plans based on each student's current levels and goals. They will also work collaboratively with all students' classroom teachers to ensure alignment to the Texas Essential Knowledge and Skills (TEKS) and classroom activities.

Special Education and/or Intervention Aides provide individual and small group attention to students in need of extra assistance and support through Special Education and Response to Intervention (RtI). Aides also provides support for teachers by helping with classroom activities and monitoring students. Aides work under the general supervision of the Principal and immediate direction of the certified teacher of the student(s) needing services.

A Diagnostician is a Texas-approved licensed evaluator of students with special needs. The diagnostician is the leader in identifying needs of students and serves on the ARD committee to develop an IEP.

A Speech Pathologist is a Texas-approved licensed professional trained in diagnosing speech deficits and remediating those areas of concerns. The Speech Pathologist may work with students individually, in small groups, or in the classroom.

An Occupational Therapist is a Texas-approved licensed professional providing support for improving the physical, cognitive, psychosocial, and sensory components of performing tasks needed for independent functioning in the academic setting. Educational occupational therapy primarily focuses on academics, play and leisure, social participation, self-care skills, and transition/work skills.

The Special Services Coordinator, also known as the Special Populations Coordinator, works closely with the administrators, teachers, and service providers to review referrals and diagnostic reports to determine appropriate interventions, provide training and support for special education and general education teachers, and ensure that all legal requirements are met. The Special Services Coordinator will also work with the Principal and other designated staff to conduct ARD and 504 meetings, ensuring compliance with Federal, State, and local requirements. S/he will also work with the Principal to schedule and document all student services with employed or contracted staff and providers.

Dyslexia

In the state of Texas, students who continue to struggle with reading, despite appropriate or intensified instruction, are provided organized systems of reading support. Some students struggle during early reading acquisition while others do not struggle until the later grades, even at the postsecondary level. For many struggling readers, the difficulty may be due to Dyslexia. Dyslexia is found in all student populations and languages. Some students with dyslexia may be English Learners (ELs) who struggle with reading not only in English, but also in their native language. In Texas, special education referrals for evaluation for a Specific Learning Disorder in Dyslexia may be conducted from kindergarten through grade 12.

The purpose of the TEA Dyslexia Handbook is to provide procedures for school districts, charter schools, campuses, teachers, students, and parents/guardians in early identification of, instruction for, and accommodations for students with dyslexia. This handbook will be used by school districts and charter schools as they develop their written procedures regarding students with dyslexia. It will also serve as a resource for educator preparation programs and other entities seeking guidance in serving students with dyslexia.

Dyslexia




Risk factors and signs of dyslexia:

- Family history of dyslexia or reading difficulty
- Early language difficulties such as delayed speech or trouble pronouncing words
- Difficulty identifying and manipulating individual sounds within words
- Challenges learning letter names
- Difficulty recalling the names of letters, numbers, and familiar objects
- Avoidance of reading and writing tasks
- Inaccurate or slow reading
- Difficulty with note taking and producing written work
- Over use of pictures to guess at words

Early intervention is critical, and parents or guardians should talk to their child's teacher if they have concerns.

Additional resources and information for parents can be found on the SPEDTex website.

 [SpEdTex.org](https://www.spedtex.org)

 1.855.773.3839

Fact Sheet for Families



What is dyslexia?

Dyslexia is a brain-based learning disability that makes learning to read, write, and/or spell difficult despite adequate instruction and intelligence.

Students with dysgraphia, a related learning disorder, demonstrate academic challenges in handwriting, spelling, and written expression.



Characteristics of dyslexia:

Primary characteristics include difficulties:

- Learning the sounds letters make
- Reading words in isolation or reading unknown words
- Reading smoothly with enough speed and accuracy to comprehend
- Spelling

Secondary characteristics may include difficulty:

- Expressing ideas or concepts in writing
- Understanding what is read

Students with dyslexia may also present with additional difficulties and/or disorders, including attention deficit hyperactivity disorder (ADHD), speech and language disorders, and/or other academic needs.



Procedures for evaluation and identification:

Your children are legally entitled to receive individualized services and supports. State and federal law require schools to have specific procedures in place to identify, locate, and evaluate students with, or suspected of having, dyslexia. Dyslexia is a learning disability that may require special education services.

Parents may request a special education evaluation through their child's campus or district.



[TEA.Texas.gov/TexasSpEd](https://www.tea.texas.gov/TexasSpEd)



WHAT IS SPECIAL EDUCATION?

When a child receives special education, it means that a public school provides custom services and instruction specific to the needs of that student. Special education is available because of a federal law called the Individuals with Disabilities Education Act (IDEA), which provides students with disabilities and their parents special legal rights to receive these individualized learning opportunities.

Special education is a service, not a place.

How can special education services help your child?



- ▶ If your child is eligible for special education services, your child will have access to services and supports that are specially designed to meet your child's unique needs.
- ▶ Special education services provide individualized programming at NO cost to you and may include special education teachers and service providers such as occupational therapists, physical therapists, speech-language pathologists, and providers of dyslexia instruction.

SPECIAL EDUCATION PROCESS:

Parents have a right to request a special education evaluation at any time. Schools are required to refer a student for an evaluation when a disability is suspected that might require special education services. It's important to understand the steps of the **special education process**.

Steps to Begin Special Education:



Receiving Special Education Services:



Implement the IEP

More information about your rights as a parent can be found below:



spedtex.org
1-855-773-3839

SPEDTEX
Special Education Information Center
Special Education Help for Parents



Parents Guide to the ARD Process
bit.ly/ParentsARD



Notice of Procedural Safeguards
bit.ly/ParentsNPS

While there are other federal laws that also offer certain protections for students with disabilities - such as Section 504 of the Rehabilitation Act of 1973 - IDEA has specific rights only available under that law. This document summarizes those rights.

1 REFERRAL FOR SPECIAL EDUCATION EVALUATION IS MADE.



A referral is:

- ▶ Required by law when a public school feels that your child may have a disability that requires special education services to be successful.
- ▶ Called a *request* for a special education evaluation when a parent makes it. A request should be made in writing to the proper staff member. The school will respond with information on whether it will proceed with an evaluation.

The school must respond in writing within 15 school days.

2 YOU WILL BE ASKED WHETHER YOU **CONSENT** FOR THE SCHOOL TO EVALUATE YOUR CHILD.



Consent to evaluate is:

- ▶ Permission you choose to give for specially trained personnel to evaluate and assess your child in specific areas.
- ▶ Used by the school to start the timeline by which the school must complete your child's evaluation.

With some exceptions, an evaluation must be completed within 45 school days.

3 EVALUATION IS DONE BY A GROUP OF TRAINED PROFESSIONALS.



An evaluation is:

- ▶ Called a *Full Individual and Initial Evaluation (FIEE)*, which includes a written report of education recommendations and information about your child's strengths, interests, and challenges. Professionals with training in the suspected disability must participate, e.g., someone like a licensed dyslexia therapist if dyslexia is suspected.
- ▶ Done at no cost to you. If you do not agree with the school's evaluation, you may ask for an *Independent Educational Evaluation (IEE)*. This would be done by someone who is not employed by the school.

4 ADMISSION, REVIEW AND DISMISSAL (ARD) COMMITTEE MEETS TO DETERMINE IF YOUR CHILD IS ELIGIBLE FOR SPECIAL EDUCATION SERVICES.

The ARD committee is:

- ▶ A team, including you, teachers, school administrators, those with special expertise about your child, and professionals with special training about the suspected disability.
- ▶ In this meeting, discussing your child's evaluation report, identifying your child's strengths and areas of need, and then determining whether your child has a disability and the need for special education services.



Once the evaluation report is done, an ARD committee typically has 30 calendar days to determine eligibility and develop the IEP.

5

IF YOUR CHILD IS ELIGIBLE FOR SPECIAL EDUCATION SERVICES, THEN THE ARD COMMITTEE WILL ALSO DEVELOP AN **INDIVIDUALIZED EDUCATION PROGRAM (IEP)**.



An IEP is:

- ▶ A collection of information that identifies your child's disability, shows your child's current strengths and areas of need, identifies goals to be worked on, and shows the special education and related services that are required for your child to be successful.
- ▶ A document that a school must follow once the process for developing it is complete, and you consent to your child receiving services. Services would begin as soon as possible.

You have the right to participate in the development of the IEP and agree or disagree to your child getting special education services.



MOVING FORWARD: RECEIVING SPECIAL EDUCATION SERVICES

Once an IEP has been developed, it is the school's responsibility to implement the IEP. Schools must offer the services, accommodations, and supports described in the IEP, and school staff will monitor your child's progress toward the goals in the IEP.

- ▶ You will receive progress reports on your child's IEP goals at least once each grading period.
- ▶ The ARD committee will meet and review your child's IEP at least annually.
- ▶ As a member of the ARD committee, you will discuss the need for an updated evaluation at least every three years.
- ▶ You can ask for an ARD committee meeting at any time.
- ▶ You can revoke your consent to special education services. In other words, you can tell the school in writing that you want your child's special education services to stop being provided.
- ▶ Special rules are in place for school discipline. If your child's disability is found to be the reason why the misbehavior occurred, then the ARD committee may, in certain situations, change the disciplinary consequence.



IF DISAGREEMENT OCCURS:

During each ARD committee meeting, you will be an active participant, discussing your child's specific needs with school staff as you work to come to a consensus on the best path forward. But from time to time, you may disagree with school decisions. Under the federal law IDEA, you have formal rights to disagree with special education decisions made by the school, both in the *steps to begin special education* and while *receiving special education services*. Dispute resolution options include filing state complaints, requesting mediation, and requesting a due process hearing. State facilitators are also available to help ARD committees reach consensus on IEPs.

Overview of Special Education for Parents



WHAT IS IN AN IEP?:

The IEP must address certain elements for your child, including:

PLAAFP	<ul style="list-style-type: none">» <i>Present Levels of Academic Achievement and Functional Performance (PLAAFP)</i>: The ARD committee writes down your child's skills, abilities, and challenges based on the evaluation report and other data.
Goals	<ul style="list-style-type: none">» Measurable annual goals: Goals are developed to focus on your child's specific needs and to describe when your child is expected to make progress.<ul style="list-style-type: none">▪ If your child has dyslexia, for example, a goal might focus on improvement in a specific area of reading development or fluency within a certain amount of time.
Instruction & Services	<ul style="list-style-type: none">» A description of the specially designed instruction, related services, and supplementary aids and services that will be provided. The instruction and services will vary based on the specific needs of your child. For example, if your child has been identified with dyslexia:<ul style="list-style-type: none">▪ The specially designed instruction would likely include a regularly scheduled time for instruction by a highly trained provider using a program that has been shown to help students with dyslexia and in accordance with the Dyslexia Handbook;▪ Related services might include support to improve your child's fine motor skills from an occupational therapist if he or she also struggles with handwriting; and▪ Supplementary aids and services might include documenting your child's need for speech to text options for writing assignments.
Assessments	<ul style="list-style-type: none">» Information on how your child will participate in state and districtwide assessments, including whether accommodations like extra time are necessary.
Transition	<ul style="list-style-type: none">» Transition services: When your child turns 14, the IEP must begin to document plans for your child after high school and how your child's special education services will be adjusted to work on those plans.
Placement	<ul style="list-style-type: none">» The IEP notes the educational placement of your child. Placement decisions are guided by a requirement to provide education in the least restrictive environment (LRE). The goal of LRE is to have your child included in classrooms and settings with children without disabilities as much as appropriate based on your child's unique needs.



Appendix Table of Contents

Appendix A: Section 504 Notice of Rights

Appendix B: Section 504

Appendix C: Child Find and Evaluation

Appendix D: Special Education Notice of Procedural Safeguards

Appendix E: Parent's Guide to the Admission, Review, and Dismissal Process

Appendix F: Texas State Board of Education Dyslexia Handbook

Notice of Rights & Procedural Safeguards for Disabled Students and their Parents Under §504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly known in the schools as “Section 504,” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered “disabled” if he or she suffers from a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of an impairment, or who are regarded as having an impairment from discrimination on the basis of disability. Students can be considered disabled, and can receive services under §504, including regular or special education and related aids and services, even if they do not qualify for, or receive, special education services under the IDEA.

The purpose of this Notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible student and their parents, to the following rights:

1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District’s §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].
6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].

Section 504 Notice of Parent Rights & Procedural Safeguards
Form 6, page 2 of 2

8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].

9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].

10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36]

11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].

12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.

13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below. In Texas, you must submit the required notice or request in writing within one year of the action or omission giving rise to your complaint. Failure to make a timely request will result in the loss of your opportunity to pursue a due process hearing on that action or omission.

A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

Texas School of the Arts
Attn: 504 Coordinator
6025 Village Parkway
Edgecliff Village, TX 76134
P: (817) 732-8372
F: (817) 732-8373

14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have a right to present a grievance or complaint through the District's local grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504 Coordinator for more information about the District's grievance process.

16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:

Director, Office for Civil Rights, Region VI
1999 Bryan Street, Suite 1620, Dallas, Texas 75201-6810, Tel. 214-661-9600



Technical Assistance: Section 504

January 2024

Table of Contents

Welcome Letter	4
Guidance Document Terms, Key, and Revisions:	4
Terms:	4
Key:	5
Revisions:	5
Overview	6
Texas Education Agency (TEA)	6
Section 504	6
The Americans with Disabilities Act/Amendment Act.	6
Local Education Agency Responsibilities Under Section 504.	9
Section 504 Coordinators	9
Collaboration is Key!	10
Eligibility	11
The Referral Process.	11
Initial Evaluation.	12
Eligibility for Section 504.	12
Evaluation	13
Least Restrictive Environment (LRE).	13
Section 504 Meetings	14
How to Facilitate an Initial Section 504 Meeting	14
During the Initial Meeting.	15
Other Types of Section 504 Meetings.	16
Partner with Families	18
Discipline.	19
Manifestation Determination Reviews (MDRs)	19
Homebound	21
Pregnancy	22
Attendance	23
The 504 Plan	24
Accommodations.	25
Selecting Accommodations for Students with Disabilities.	26
Examples and Non-Examples of Documented Accommodations	26
STAAR Accommodations/Accessibility	27

Section 504 Special Circumstances	28
Competing Plans – IDEA vs. Section 504	28
Title II Effective Communication	28
Nonacademic Services and Extracurricular Activities	30
Additional Considerations	30
Section 504 Plan, Individual Health Plan, & Emergency Care Plans	32
Allergies/Anaphylaxis	33
Attention Deficit Hyperactivity Disorder	34
Chronic Illness	35
Diabetes	36
Seizures	37
Visual Impairments	37
Dispute Resolution	38
Procedural Safeguards	38
Local Grievance Procedures	38
Impartial Hearing	39
Office for Civil Rights	39
Retaliation	39
Resources	40
Accommodations	40
Communication (Title II)	40
Disability Information	40
Office for Civil Rights	40
State and Federal Laws, Regulations, and Code	41
Texas Education Agency	42
Miscellaneous	42
Appendix	43
Appendix A:	44
Appendix B:	45
Appendix C:	47

Welcome Letter

Dear Fellow Texas Educators,

Thank you for your service and dedication to all students in the Lone Star state! As a committed stakeholder in public education, you are charged with preparing all students for success in college, a career, or the military by providing students access to high-quality learning experiences, curriculum, and instruction.

The Special Education Technical Assistance Team at the Texas Education Agency (TEA) has developed a series of [technical assistance guidance documents](#). These technical assistance guides are intended for use by Texas educators to support the implementation of services for students with or suspected of having disabilities.

There is so much useful information out there for school staff! Our goal with these guides is to gather and link information into one, easy-to-read resource. While you can read the documents from beginning to end, you do not have to use them that way. The table of contents links each section, so you can click to skip directly to that area. These guides help clarify TEA's recommendations for practice.

For a glossary of special education terms, please see: [The Texas Legal Framework Glossary](#). At the end of the document there is a resource page that provides links to the Texas SPED Support website, the TEA Special Education webpage, and other key state-level resources.

If you ever have a question, concern, comment, suggestion, or find a broken link within these documents, please email the TEA Special Education Division at sped@tea.texas.gov.

Again, thank you for all you do, and we hope this document helps you in your journey of serving our students with disabilities and their families.

Sincerely,

The Special Education Technical Assistance Team at TEA

The Texas Education Agency has developed this document to provide technical assistance to local education agencies and parents. The intention of this document is to provide helpful, general information. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to a specific legal situation. This document may not include a complete rendition of federal law.

Guidance Document Terms, Key, and Revisions:

Terms:

“Parent or parents”:

In this document, references to “parent(s)” are defined by the Individuals with Disabilities Education Act (IDEA) definition of “parent.” Throughout this guide when the term “parent or parents” is used, the term includes the definition aligned to [34 CFR § 300.30](#). That definition includes biological or adoptive parent, foster parent, guardian, an individual acting in the place of a biological parent with whom the child lives or is legally responsible for the child's welfare, or a surrogate parent as defined in [34 CFR § 300.519](#). Additionally, Section 504 regulations refer to “impairment” and has not been updated to current standards; therefore, the words “impairment” and “disability” are used interchangeably throughout this document.

“A student identified as emergent bilingual” or “emergent bilingual”

The federal language currently used to describe students as Limited English Proficient or English Language Learner is different from Texas regulations and language, which uses “a student identified as emergent bilingual” or Emergent Bilingual (EB). Throughout this guide the term “a student identified as emergent bilingual” or “emergent bilingual” will be used. The federal language currently used to describe students as Limited English Proficient or English Language Learner is different from Texas regulations and language, which uses “a student identified as emergent bilingual” or Emergent Bilingual (EB). Throughout this guide the term “a student identified as emergent bilingual or emergent bilingual” will be used.

Key:

Included in the guide are legal citations, informational links to resources, best practice tips, changes/updates, and more. The following information will help you navigate the technical assistance guides:



➔ **NOTE:** “Notes” point out important reminders or considerations.



➔ **Best Practice Tips:** are highlighted with blue rectangle.

links

➔ **Informational Links:** Links that are in lowercase will take you to a related website, resource, or document that supports the information which you are reading.

LINKS

➔ **LEGAL CITATION LINKS:** Links that use all capital letters will take you to a legal citation and definition.

Resources ➔ **Resources:** Various resources are linked within each section. All resources are provided in a categorized list at the end of the guide.

Revisions:

In addition to the changes/updates and new/added icons above, as each guide is updated, the following global revisions are also made:

- Repaired broken links, including updated Texas Legal Framework and Texas SPED Support hyperlinks
- Updated Table of Contents, Welcome Letter, and added Guidance Document Terms, Key, and Revisions section
- Added additional resources to the “Resources” section and reorganized them into a list by category
- Corrected minor changes and copyedit errors
- Deleted any outdated or irrelevant information
- Updated graphics throughout the guide



NOTE: The Technical Assistance: Section 504 Guide has been entirely updated and revised so a change document and icons indicating updates and revisions has not been included.

Overview

Texas Education Agency (TEA)

Texas Education Agency does not have the authority to investigate Section 504 complaints. The Office for Civil Rights (OCR) investigates [complaints](#) regarding Section 504. For information about the complaints that TEA will investigate, please access the [TEA Complaints and Investigations](#) webpage. TEA provides technical assistance on Section 504 and a recipient's due process rights. This guidance document serves as one facet of available technical assistance.

Section 504

Despite the signing of the Rehabilitation Act of 1973, which was intended to end societal discrimination and provide protections for people with disabilities, the lack of regulations to implement the law resulted in courts interpreting the law. Unfortunately, no regulations accompanied the law, and the decisions regarding the interpretation of the law were left up to the courts. In a [1977 New York Times article, Daniel Yohalem](#), an advocacy group member wrote, "The Department's failure to issue regulations has meant that hundreds of thousands of intended beneficiaries of HEW [Health, Education and Welfare] funded programs throughout the country who are handicapped continue to be



subjected to discrimination in employment, health, and social services, education and access to programs." (Hicks, New York Times, 4/11/1977). After intense pressure from disability activists that included sit-ins and protests, the HEW signed the regulations into law in January 1978, five years after the law was first passed. [TITLE 34](#), Section 104, of the Code of Federal Regulations (CFR) implemented Section 504 of the Rehabilitation Act and created a framework for providing equal access to all students in any program or activity receiving federal financial assistance.



[Video: The Power of 504](#)

The Americans with Disabilities Act/Amendment Act

The [Americans with Disabilities Act of 1990 \(ADA\)](#), signed by President George H.W. Bush, is a "sister act" to Section 504 of the Rehabilitation Act of 1973. Much of the language of the law is the same or similar to that of Section 504 and broadens the scope of civil rights protections for people with disabilities from only entities receiving federal financial assistance to all of society, including the private sector. Congress amended the ADA in 2008, called the ADA Amendment Act (ADAAA), in part in response to court decisions that had narrowed the definition of impairment. In amending the ADA, Congress sought to reestablish the original intent of the law by underscoring the broad definition of impairment and clarifying its intent that impairments should be determined without reference to or consideration of [MITIGATING MEASURES](#). In addition, the Department of Justice (DOJ) published regulations implementing the ADA for Title II (State and local government) which includes guidance on service animals.



Adobe Stock Photo



“One of America’s most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life...”



- Civil Rights Division of the DOJ

Federal Laws	Description
SECTION 504 OF THE REHABILITATION ACT OF 1973	<p>Section 504 is a provision of the Rehabilitation Act of 1973 that prohibits discrimination based on disability. Section 504 is a civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met.</p> <p>The Office for Civil Rights of the US Department of Education (USDE) has jurisdiction to enforce Section 504 in instances of discrimination, harassment, or retaliation against anyone based on disability.</p>
The Individuals with Disabilities Education Act (IDEA 2004)	<p>According to the USDE, the purpose of the IDEA is to provide a free appropriate public education (FAPE) to children with disabilities who qualify for and receive special education and related services. These services are individually determined to meet the needs of students, including preparation for post-secondary transition. IDEA is a funding statute that provides financial assistance to states, education service centers (ESCs), and local education agencies (LEAs). The Texas Legal Framework provides a side-by-side publication of IDEA, State Board of Education Rules, Commissioner’s Rules, and Texas State Laws titled: Special Education Rules & Regulations. Compliance with IDEA timelines is one way of ensuring compliance with Section 504 requirements for child find, evaluation, meetings, notice, and procedural safeguards.</p>
AMERICANS WITH DISABILITIES ACT (ADA) OF 1990 Title II	<p>The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. See the ADA guidance page titled ADA Update: A Primer for State and Local Governments for more information.</p>

Federal Laws	Description
<p>AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT (ADAAA) OF 2008</p>	<p>The ADAAA restored the original definition of “substantially limited” - that the impairment simply is a substantial limitation rather than a “significant” or “severe” restriction- and broadened the definition of “major life activities.”</p> <p>The determination of substantial limitation is made based on a comparison to the ability of students without disabilities to carry out major life activities. It is up to LEAs, including school districts and open-enrollment charter schools, to define substantial limitation. The law also clarified that the impairment must limit at least one major life activity, not necessarily learning, to be considered a disability under the ADA.</p> <p>LEAs must make Section 504 determinations based on the child’s disability as it presents itself without mitigating measures (e.g., hearing aids, medications, learned behavioral adaptations). The use of eyeglasses or contact lenses is the exception to this rule.</p> <p>Example: A student with attention deficit hyperactivity disorder (ADHD) takes medication daily to focus and learn at school. Without the medication, the student’s hyper-attention or non-attention would impair the major life activity of learning. Therefore, the determination of eligibility must be made according to the impact of the impairment without medication even if the student is making progress when using the mitigating measure.</p> <p>The ADA defines transitory or minor disability as “an impairment with an actual or expected duration of 6 months or less.” Thus, not requiring a Section 504 plan.</p> <p>Example: A student has broken the arm used for writing and needs help completing schoolwork. Because this disability will likely be resolved within six months or less, it is “transitory and minor.” This does not preclude the LEA, however, from creating a temporary campus support plan for the student in order to accommodate the student’s needs during recovery.</p> <p>An impairment that is EPISODIC or in remission is considered a disability if it substantially limits a major life activity when it is active.</p> <p>Example: A student with epilepsy may experience episodic seizures that, while not frequent, substantially limit major life activities when seizures occur.</p>

Texas Law	Description
<p>TEXAS EDUCATION CODE (TEC)</p>	<p>TEXAS LAW requires LEAs to publish explanations of the options and requirements for providing assistance to students who need or may need special education or supplementary aids, accommodations and services under Section 504 of the Rehabilitation Act of 1973. The explanation must include a statement of the parent’s right to request an evaluation for either a full and individual initial evaluation (FIIIE) under the IDEA for special education or Section 504. TEA provides the following required handbook statement that LEAs must use to fulfill this requirement.</p>

Local Education Agency Responsibilities Under Section 504

FAPE	Notice of Non-Discrimination	Implementation	504 Coordinators
<ul style="list-style-type: none"> Free Appropriate Public Education (FAPE) regardless of the nature or severity of disability Provided to each qualified student in the LEA May be general or special education and related services Protects against the segregation or exclusion of students with disabilities 	<ul style="list-style-type: none"> Must provide Notice of Non-Discrimination Does not discriminate on the basis of race, religion, sex, national origin, age, disability, or handicap Adopt anti-bullying and harassment policies Establish protections from harassment based on disability 	<ul style="list-style-type: none"> LEAs must implement Section 504 plans and accommodations as written No individual or staff member may alter or otherwise interpret the plan No individual or staff member may deny accommodations granted to the student 	<ul style="list-style-type: none"> LEAs with 15 or more employees must have a coordinator of Section 504 services tasked with compliance and named in procedural safeguards Must be identified in Notice of Non-Discrimination Establish complaint procedures May also administer ADA compliance

Section 504 Coordinators

Section 504 coordinators have various duties, such as:

- ▶ Coordinating and monitoring the LEA's compliance with Section 504 and Title II of the [ADA](#), as well as state civil rights requirements regarding discrimination and harassment based on disability
- ▶ Overseeing efforts to prevent Section 504 and ADA violations from occurring
- ▶ Implementing the LEA's discrimination complaint procedures with respect to allegations of Section 504/ADA violations, discrimination based on disability, and disability harassment
- ▶ Investigating complaints alleging violations of Section 504/ADA, discrimination based on disability, and disability harassment
- ▶ Additional responsibilities may be determined by the LEA. (The law does not require that the same person coordinate both Section 504 and ADA compliance.)



Best Practice Tips:

- Routinely take steps to ensure staff members are trained in Section 504 rules and procedures
 - For example, offer ongoing professional development, hold campus Section 504 coordinator meetings, facilitate professional learning communities
- Perform internal self-audits for Section 504 compliance
 - For example, periodic folder reviews
- Post Section 504 procedural safeguards on a prominent place on the LEA website that is easily accessible for families
- Post the designated Section 504 Coordinator and contact information prominently on the LEA website so that it is easily accessible for families

Collaboration is Key!

To better understand the interplay between Section 504, the ADA, and the IDEA, visualize civil rights protections as a big umbrella. Students under the Section 504 umbrella are entitled to a [FAPE](#) which may consist of regular or special education with supplementary aids and services or related services. Congress enacted the IDEA to provide financial assistance to states so that they could create special education programs to meet the needs of students whose disabilities require specially designed instruction and related services.

The [IDEA](#) defines FAPE as:

“Free appropriate public education or FAPE means special education and related services that -

(a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the standards of the SEA [state education agency], including the requirements of this part;

(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of [34 CFR §300.320 through §300.324.](#)”

Not all students who are eligible for services and accommodations under Section 504 will be eligible for special education and related services under the IDEA. However, all students provided special education services are protected under both the civil rights umbrella and the IDEA. The FAPE standard is defined differently by each law.

To receive special education, a student must have a [DISABILITY](#) that falls within at least one of the 13 eligibility categories identified in the IDEA and, because of that disability, requires special education and related services. It is possible that some students with disabilities may not require special education for the entirety of their educational career. Collaboration between Special Education and Section 504 can create a bridge to provide services in a fluid progression according to student growth, progress, and individual need.



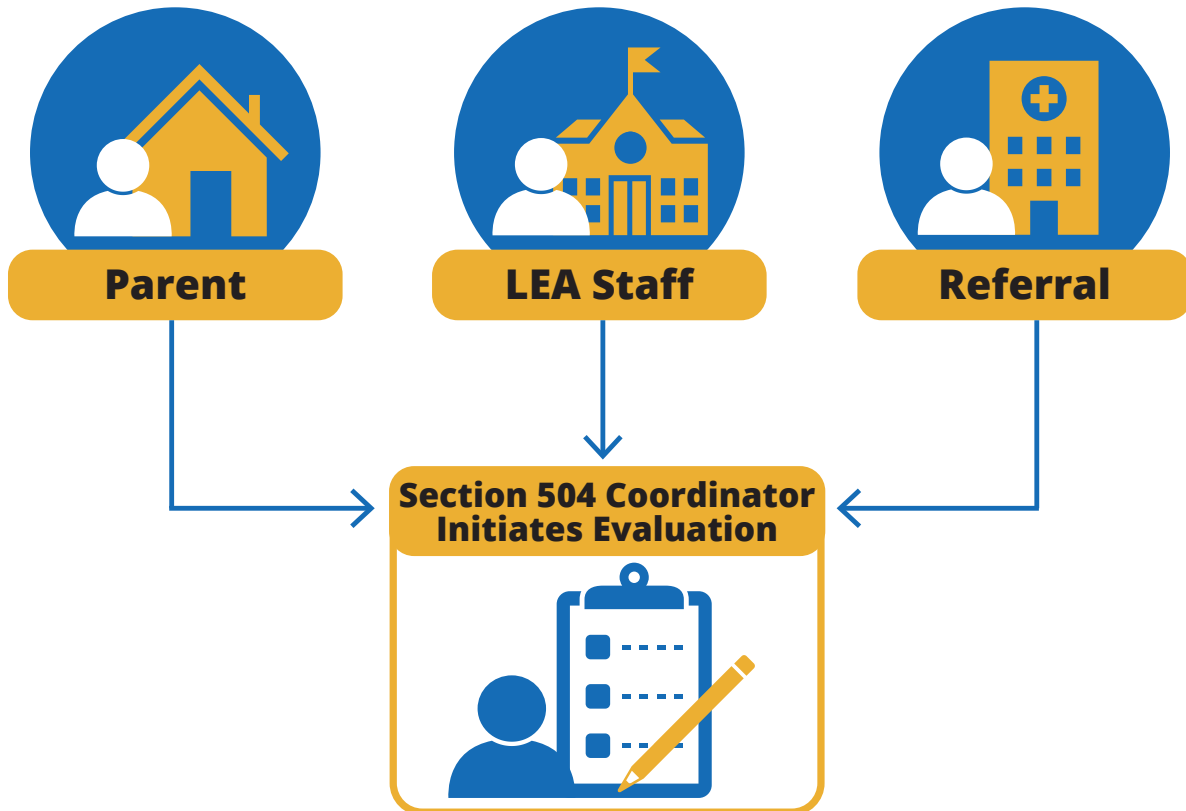
Eligibility

The Referral Process

The LEA's duty to evaluate a student for Section 504 protections is triggered by the suspicion that the student has a disability that substantially limits a major life activity. The [TEA](#) is required by [TEXAS LAW](#) to provide school districts and charter schools with a written statement, which they must communicate to parents, of the options and requirements for providing assistance to students who have learning difficulties or who need, or may need, special education services. The statement includes notifying a parent that he or she is entitled to request aids, accommodations, or services through Section 504 at any time.

Referrals can be made by families or LEA staff and should be requested in writing. Examples of circumstances in which referral requests are often made include:

- ▶ The student has a chronic medical condition that is not covered by the IDEA.
- ▶ The student has one of the disabilities identified in the IDEA but is not eligible for special education and related services because the student does not need specially designed instruction.
- ▶ The student has a "[hidden disability](#)," such as low vision, poor hearing, heart disease, or a chronic illness, such as diabetes.
- ▶ Families have received an outside evaluation and are requesting Section 504 protections and/or accommodations.



Best Practice Tips:

- Upon receiving a request for a Section 504 evaluation and parental consent, the Section 504 Coordinator will follow LEA procedures for the Section 504 evaluation, including providing prior written notice, and notice of procedural safeguards (NPS) to the family.
- Should the LEA determine that an evaluation is not necessary, the parent should be provided prior written notice (following the [IDEA procedures](#) – sometimes referred to as notice of refusal) and must be provided Section 504 [procedural safeguards](#).
- If an LEA is unsure if a need for special education services is suspected, a referral through IDEA should be initiated.

Initial Evaluation

[SECTION 504](#) regulations require LEAs to individually evaluate students before determining eligibility for protections under [Section 504](#) or the IDEA. Procedures must be established at the LEA level for initial evaluation of students who need or are believed to need special education, Section 504, and/or related services. If formal, standardized testing is deemed appropriate by the Section 504 committee, it must be provided free of charge to families. [TEST](#) materials must be valid for the purpose for which they are being used and administered by trained personnel according to publisher instructions. The evaluation must be tailored to address areas of educational need. Tests administered to students with impaired sensory, manual, or speaking skills must accurately reflect the student's aptitude or achievement level or the factor that the test is created to measure, rather than impaired sensory, manual or speaking skills.

Eligibility for Section 504

Definition

Physical or mental impairment* that substantially limits a major life activity

Major Life Activities**

Walking, bending, speaking, breathing, learning, reading

Concentrating, thinking, standing, communicating, lifting, working

Caring for oneself, manual tasks, seeing, hearing, eating, sleeping

* Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, attention deficit hyperactivity disorder, human immunodeficiency virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Physical and mental impairment may also include, cosmetic disfigurement, physiological/psychological disorder or condition, and anatomical loss affecting one or more body systems (e.g., neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, endocrine).

**This is not an exhaustive list of major life activities.

Evaluation

Evaluation does not necessarily mean “test.” In a Section 504 context, “evaluation” refers to a gathering of data or information from a variety of sources so that the committee can make the required determinations ([OCR FAQ 17-34](#)). Below are some examples of types of data to collect for a Section 504 evaluation.

Evaluation Data Sources:

Medical/Health

Hearing & Vision, School Health Records, Individual Health Plan, Outside Medical Evaluations

Social Behavioral

Behavioral Data, Disciplinary Records, Outside Psychological Evaluations, Intervention Progress Monitoring Data, Social and Developmental History

Academic

Universal Screening Data, Intervention Progress Monitoring Data, Curriculum Based Assessments, State Assessment Results, Grades, Benchmarks, Quizzes, Unit Tests

Individuals

Observations and Input From: Student, Family, Teachers, Behavior Specialists, Counselors, School Nurse, Interventionist, Campus Administrator

[EVALUATIONS](#) should be completed in a timely manner. The OCR encourages LEAs to follow state special education timelines for evaluation after receiving parental consent ([pg. 17, scenario 5](#)). In [TEXAS](#), special education evaluations must be completed within 45 school days of receipt of parental consent, subject to certain exceptions. For more information, see the [Technical Assistance: Child Find and Evaluation Guide](#).



NOTE:

- When evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons.
- According to the ADA, the definition of disability should not require extensive analysis, and parents may not be burdened or required to provide data or information.
- If a medical or outside evaluation is required, it must be provided at no cost to the families. Refer to page 19 of the [Dear Colleague Letter and Resource Guide on Students with ADHD](#). Although this document is specific to ADHD, the information applies generally to all 504 decisions.

Least Restrictive Environment (LRE)

Section 504 regulations [MANDATE](#) that students with disabilities are to be educated with their peers without disabilities to the maximum extent appropriate. The expectation for students protected under Section 504 is placement in the general education setting unless the LEA can demonstrate that the education of that student in the general education setting with supplementary aids and services cannot be achieved. If the LEA is able to demonstrate this, the LEA would refer the child for a special education evaluation.

Technical Assistance: Section 504

When Section 504 committees are considering evaluation data and appropriate placement, the OCR advises that the following questions should be asked and answered:



1. Does the student have a disability under Section 504?
2. If so, does the student need regular or special education, related aids and services, or supplementary aids and services because of the disability, and in what setting should the student receive them?

- [Dear Colleague Letter and Resource Guide on Students with ADHD](#), page 19



Section 504 Meetings

How to Facilitate an Initial Section 504 Meeting

Initial Section 504 meetings can be intimidating to families and students. Care should be taken to conduct a positive, solution focused meeting, protecting the dignity of students and families.



Who must attend the Section 504 Meeting?

Section 504 regulations require members who:

- ▶ Can make placement decisions (and allocate resources)
- ▶ Are knowledgeable about the student
- ▶ Can interpret the meaning of the evaluation data

Can Make Placement Decisions



Example of Members:
Principal, Vice/Assistant Principal, Counselor, LEA 504 Coordinator, or Campus 504 Coordinator

Is Knowledgeable about the Student



Example of Members:
Student, Parents or Guardians, Teachers, Counselor, Behavior Specialist, Campus 504 Coordinator, or other Related Service Providers

Can Interpret the Meaning of Evaluation Data



Example of Members:
School Nurse, Diagnostician, School Psychologist, a Person with specific knowledge in reading process, dyslexia, and related disorders, Language Proficiency Assessment Committee (LPAC) Representative, or Texas Workforce Commission (TWC) Representative



NOTE: Parents are not required members of the Section 504 committee but, at minimum, parental input should be collected by the LEA. In addition, if the student is changing campuses, consider inviting a representative from the receiving campus to attend the Section 504 meeting.

During the Initial Meeting

In a Section 504 meeting, several key areas will be discussed to ensure the most appropriate plan is developed.

- ▶ Committee discussion could include:
 - ▷ Student's strengths,
 - ▷ Student input related to educational experience and challenges,
 - ▷ Parent input relevant to the student's impairment and the educational impact, and
 - ▷ Staff input regarding student performance in academics and behavior.
- ▶ Committee will review all evaluation data.
- ▶ Committee will confirm whether the student meets Section 504 eligibility requirements.
 - ▷ The student must be [QUALIFIED](#), which means that they must be of an age in which services are provided to non-disabled students.
 - ▷ The student must have a physical or [mental impairment](#)
 - ▷ The physical or mental impairment [substantially limits](#) one or more major life activities without consideration of mitigating measures other than glasses.

Best Practice Tips:

- The person designated to make placement decisions also may allocate LEA resources to fulfill the Section 504 plan and needs of the student such as purchasing equipment, providing related services, and reassigning staff. Be prepared to represent the LEA during the meeting to make these decisions; don't stop the meeting to rely on someone outside of the Section 504 committee.
- Students should be encouraged to attend their meetings in order to provide input about their disability, experience in the educational setting, and supports that they find helpful. Best practice suggests following IDEA requirements for including students in IEP meetings and transition planning at 14 years old as a guide for Section 504 meetings.
- Prepare an agenda or checklist to make sure that all necessary components of eligibility are addressed. Agendas guide discussion and keep meetings on track.
- Introduce all meeting participants. If the student is in attendance, spend a few minutes to make them feel comfortable and included.
- One member of the committee should be assigned to take detailed meeting minutes. While a written summary is not mandated under federal guidelines, it provides required [DOCUMENTATION](#) of the discussion and data sources considered and captures key points.
- Document in meeting minutes that discussion between staff responsible for extracurricular activities and nonacademic activities will be facilitated in order to provide an equal opportunity for participation.

Other Types of Section 504 Meetings

Types of Meetings	Description
Annual Reviews	<p>While Section 504 regulations merely require “periodic reevaluation,” some LEAs may choose to require annual reviews of Section 504 plans as a best practice or establish their own procedures for alternatives to in-person meetings. Examples of alternatives may include: Section 504 reevaluation and monitoring year schedules, quarterly monitoring activities with documentation, and “snapshot” reviews that are shared with parents in lieu of a yearly meeting. These processes may be beneficial in providing structures for ongoing progress monitoring that may illuminate students who are struggling and in need of further assistance and intervention or those who are performing well due to effective Section 504 plans. If the student is changing campuses, consider having a Section 504 meeting to discuss any considerations related to the move.</p>
Periodic Reevaluations	<p>Section 504 regulations require LEAs to develop procedures for periodic REEVALUATION of students served by Section 504. The Section 504 regulatory guidelines for reevaluation procedures are the same as for initial evaluations. A reevaluation procedure that mirrors the IDEA timeline is one way of complying with the requirement. IDEA timelines require reevaluations not more than one time per year, unless agreed upon by the parents and LEA, and at least one time every three years (Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools, OCR, pg. 18, footnote 60).</p>
Manifestation Determinations	<p>Disciplinary removals of more than ten days constitute a significant change in placement, and Section 504 regulations require a reevaluation prior to any change in placement. Changes in placement due to discipline require that the reevaluation include consideration whether the behavior is a manifestation of the student’s disability. (see page 3 of the Section 504 Discipline Fact Sheet and the Manifestation Determination section of this guide)</p>
Homebound	<p>In some cases, students suffer from an illness or injury that causes excessive absences. The Student Attendance Accounting Handbook (SAAH) and LEA policies provide procedures for facilitating a homebound educational experience. Immediately after receiving a licensed physician’s written recommendation that a student be confined at home or hospital bedside for a minimum of four weeks, the 504 coordinator should schedule an initial evaluation meeting if the student has not been previously served under Section 504, or a reevaluation to consider a change in placement if the student is already served under Section 504. The committee should follow Section 504 evaluation procedures (see Appendix C) and consider transition plans for leaving and returning to the school environment. (see Homebound section of this guide)</p>

Best Practice Tips:

In some instances, committees may need to convene more frequently to adjust the plan when a student is struggling or has experienced any change in impairment status.

Examples could include, but are not limited to:

- A [REFERRAL](#) for special education
- To change accommodations based on a need or lack thereof
- When students experience difficulty in the general education classroom
- Prior to any change of placement (such as moving to another campus)
- To discuss a student's pattern of absences



LEA Responsibilities:

The LEA must follow all legal requirements for Section 504 meetings and ensure that the committee consists of qualified members, that the Section 504 plan is provided to staff and followed with fidelity, and that ongoing monitoring of student progress is implemented. Periodic reevaluations are required.



Family Participation:

Parents should request that they be invited to all meetings regarding their student. They should be given the opportunity to provide meaningful input about their student's impairment and possible accommodations, collaborate with campus staff, and encourage their student to utilize the supports and services provided. Parents are encouraged to keep and review all documents, familiarize themselves with procedural safeguards, and learn about Section 504 regulations.



Student Participation:

As soon as they are old enough, students should participate in their Section 504 meetings and be encouraged to provide input into their Section 504 plan. Students should be aware of the accommodations created by the Section 504 committee. Best practice suggests following IDEA requirements for including students in IEP meetings and transition planning at 14 years of age.

Partner with Families

Families and Section 504

While federal law does not require that families participate in a Section 504 meeting, they should be provided ample opportunity to participate. If they are not able to attend, they should be given the opportunity to provide meaningful input. The relationship between the family and the LEA is foundational to creating supports and services that meet the needs of students. Texas Education Code states: "[PURPOSE](#). (a) Parents are partners with educators, administrators, and school district boards of trustees in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children."

Section 504 meetings are powerful opportunities for LEA staff to celebrate student progress and collaborate with families in a solution focused way to ensure a "level playing field" for eligible students.



Best Practice Tips:

- Provide frequent positive communication with parents about their student.
- Seek parent input and collaboration in creating Section 504 Plans.
- Always invite parents to Section 504 meetings. If parents live at separate addresses, invite both as allowed and subject to any child custody agreements to which the LEA has access.
- Send home draft documents prior to meetings so that parents know what to expect and have time to read and understand the information to be discussed.
- Ensure that the Section 504 committee includes individuals who meet the regulatory criteria as well as those who have specific knowledge of the student's needs (e.g., school nurse, behavior specialist, teachers in all subjects).
- Plan for the Section 504 meeting to be a positive, solution focused meeting by setting expectations for decorum and providing an agenda.
- In the case of disagreement, consider pausing the meeting with a plan to reconvene within 10 days to gather additional data. Provide parents with procedural safeguards.
- Request an interpreter if the family speaks another language and or has limited command of the English language. See [page 43 of the Parent and Educator Resource Guide to Section 504](#) for more specific information.

Discipline

Students under Section 504 follow the same requirements as any other general education student. The USDE OCR developed the two guidance documents below to assist LEAs in supporting students served under Section 504 and to avoid the discriminatory use of student discipline.

OCR makes the following points:

- ▶ Schools must take steps to ensure that any staff responsible for providing a student with the services necessary to receive FAPE understand the student's needs and have the training and skills required to implement the services. ([page 3](#))
- ▶ For students with disability-based behavior that interferes with their own or others' ability to learn, their Section 504 plan may identify individualized behavioral supports for responding to the behavior and supporting the student's behavioral needs, explain how the school will implement the supports, and describe how the team can assess whether the supports are effective. ([page 5](#))
- ▶ Providing the needed services and supports can help the student appropriately engage in learning, build and maintain social relationships, and avoid behaviors that otherwise would lead the school to consider disciplinary measures. ([page 5](#))



NOTE: A school's responsibility not to discriminate against students with disabilities applies to the conduct of everyone with whom the school has a contractual or other arrangement, such as lunch or recess monitors, cafeteria staff, bus drivers, security staff, private security companies or other contractors, school district police officers, or school resource officers (SROs).

RESOURCES:

- [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973 \(July 2022\).](#)
- [FACT SHEET Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973 \(July 2022\).](#)

Manifestation Determination Reviews (MDRs)

Disciplinary removals of more than ten consecutive days or ten days in a cumulative pattern are considered long term removals and constitute a change in placement. Section 504 regulations require a [reevaluation](#) (pg. 22) prior to change in placement. Therefore, changes in placement due to discipline require that the reevaluation include consideration of whether the behavior is a manifestation of the student's disability ([Disability Rights Enforcement Highlights](#), OCR, USDE, see page 10).

The Section 504 committee must consist of a group of persons who can make placement decisions, are knowledgeable about the student, and can interpret the meaning of the evaluation data and placement options. Documentation should be recent and comprehensive, including parent information and behavioral data.



Utilizing all available information, the Section 504 committee must answer the following questions:



Was the behavior caused by or directly related to the disability?

The first question addresses whether there is a direct and significant relationship between the student's disability and the behavior in question. In other words, the committee needs to assess if the disability contributed to or caused the student's misconduct.

Was the behavior due to the LEA's failure to implement the Section 504 Plan?

The second question examines whether the school has fulfilled its obligations under Section 504. If the student's behavior resulted from the school's failure to implement the Section 504 plan or provide the necessary accommodations and services, the misconduct is considered a manifestation of the disability.

If the answer to either of these questions is yes, the behavior is a manifestation of the disability and the student cannot be removed from the [current placement](#) (see pg. 3). A student whose behavior inhibits their ability to learn, or that of others, may require an evaluation for special education and/or [related services](#) (see pg. 3-4). Committees should consider requesting additional evaluations, including a referral for special education along with additional interventions and supports such as data-based individualization, behavior intervention plans, and related services. Parents must be provided with [PROCEDURAL SAFEGUARDS](#) which stipulate that parents have the right to challenge the decision.

If it is determined, based upon the 504 committee's answers to these questions, that the behavior is not a manifestation of the disability, then the student may be disciplined according to the student code of conduct in the same manner as their non-disabled peers (see [pg. 3](#)). Parents must be provided with the Notice of Procedural Safeguards (NPS) and informed of their rights to challenge the decision. The Section 504 plan should be reviewed and updated by the Section 504 committee to prevent future challenges.

When implementing disciplinary procedures for behavior that does not trigger consideration of change of placement, LEAs should avoid assigning harsher disciplinary procedures for students with disabilities than those [APPLIED](#) to students without disabilities.

Limited Exception Regarding FAPE and Discipline for Current Illegal Substance Use

There is one limited exception in which Section 504 FAPE requirements do not apply. Students with disabilities who are currently engaging in the illegal use of [alcohol and/or drugs](#) are subject to the state and LEA disciplinary procedures to the same extent as their non-disabled peers. Due process protections under [TITLE 34, SECTION 104.36](#) do not apply in this situation even if the behavior is a manifestation of the disability, and the LEA is not required to conduct a manifestation determination review. [TEXAS EDUCATION CODE](#) requires the removal from class and placement at a disciplinary alternative education program (DAEP) for certain conduct, including when students sell, give, or deliver controlled substances, marijuana, or alcohol.

More information regarding discipline of students with disabilities can be found in the OCR document titled: ["Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973."](#)

Homebound

Eligibility for General Education Homebound (GEH) services is typically determined based on a student's medical condition or other circumstances that temporarily prevent them from attending school. A healthcare professional's recommendation is involved in the eligibility determination process. The criteria for GEH eligibility is listed in the [SAAH](#) starting in section 3.7. It states that students served through GEH program must meet the following conditions:

- ▶ Will be confined at home or hospital bedside for a minimum of 4 weeks (weeks need not be consecutive).
- ▶ The confinement at home or hospital bedside is for medical or psychological reasons only.
- ▶ The medical or psychological condition is documented by a physician licensed to practice in the United States.

Homebound education is provided by a certified general education teacher in core academic subjects. If possible, elective courses should be addressed as well. Each LEA is required to have policies and procedures for implementing homebound instruction that are school board approved. In addition, a designated campus committee (a GEH committee) comprised of a campus administrator, the student's teacher, and a parent/guardian, must make decisions regarding GEH placement. For students served under Section 504, the Section 504 committee would serve as the student's GEH committee. A GEH committee convenes to review and consider the necessity of providing instruction to a general education student at home or hospital bedside. The GEH committee (SAAH, Section 3.7.2) must evaluate a variety of data, including documentation from the student's licensed physician. In these cases, it may be beneficial to include the school nurse as a member of the committee. However, documentation from the licensed physician is not the sole determining factor in the committee's decision-making process.

All homebound educational plans must be created on a case-by-case basis. Consideration should also include state and LEA assessments, transition away from campus, and returning to campus (including academic, behavioral, and social/emotional needs). This means that the GEH committee may need to meet frequently to adjust the transition plans according to individual student needs and current medical information. Each GEH committee must

consider if a referral to Section 504 or IDEA is warranted based on the unique needs of each individual student. The GEH committee must consider the following: "Does the child have a physical or mental impairment that substantially limits a major life activity?" Some students in GEH may not be eligible for Section 504 services due to the transitory nature and degree of impact of the disability. TEA's recommendation is to err on the side of caution and refer to Section 504 or IDEA for each student in GEH to ensure their rights are being protected and each student is provided FAPE.



Pregnancy

As it relates to serving students with pregnancy and related conditions, Section 504 and its implementing regulations require schools to do the following:

- 1) engage in an interactive process with the student with pregnancy-related conditions, and
- 2) consider whether the student's pregnancy caused a temporary disability requiring academic adjustments.

Although a student with pregnancy and related conditions *may* be eligible for homebound services, pregnancy alone does not automatically equate to a determination that a student has a disability as defined by Section 504 regulations, or that the student would benefit from Section 504 accommodations. Rather, schools must engage students who are pregnant in a collaborative process to determine whether the pregnancy is causing a temporary disability requiring academic adjustments during and after the pregnancy.

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs, which includes students with pregnancy-related conditions. According to [OCR's Pregnancy Fact Resource](#), schools must treat pregnancy and related conditions the same as any other temporary disability with respect to any hospital or medical benefit, service, plan, or policy for students.

Further clarification of homebound and pregnancy-related services can be found in sections 3.7 and 9 in the [SAAH](#). Additional information about leave (i.e., absences) can be found in [TITLE IX \(\(b\)\(5\)\)](#).

As a reminder, OCR enforces Title IX which states:

“A recipient [schools] shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.”



Attendance

Section 504 committees may need to address attendance issues when it impacts a student's ability to make progress or falls outside of state guidelines in the SAAH (Section 3.5) and [TEXAS EDUCATION CODE](#). The minimum standards for the truancy prevention measures an LEA **MUST** implement include "establishing procedures to notify the admission, review, and dismissal (ARD) committee or the Section 504 committee of attendance issues relating to a student with a disability and ensure that the committee considers whether the student's attendance issues warrant an evaluation, a reevaluation, and/or modifications to the student's individualized education program or Section 504 plan, as appropriate."



Additionally, the [LAW](#) states "A school district shall offer additional counseling to a student and may not refer the student to truancy court under this section, Section 25.0951, or any other provision if the school determines that the student's truancy is the result of:

- (1) pregnancy;**
- (2) being in the state foster program;**
- (3) homelessness;**
- (4) severe or life-threatening illness or related treatment; or**
- (5) being the principal income earner for the student's family."**

Section 504 committees must meet to address students with disabilities who miss large amounts of school and are not served by homebound services. Section 504 [REGULATIONS](#) protect the rights of students to have access to the general or special education environment through FAPE in the LRE.

Best practice

The Section 504 coordinator should monitor student attendance for all absences (excused and unexcused) and convene the Section 504 committee as needed to proactively prevent truancy by creating an individualized plan that may modify LEA attendance policy and document the needs and situations where the student may be absent from school.



NOTE: [STATE LAW](#) outlines the requirements for student attendance to receive credit. Districts have policies and procedures for the necessary time required to receive credit for the grade level/course which aligns with state law. If an LEA chooses to shorten the school day, TEA recommends they review their local policy on awarding credit or promotion to the next grade level, otherwise, the student may need to attend summer school or repeat a grade level.

The 504 Plan

The purpose of the Section 504 plan is to create an educational blueprint that is unique to each student and provides the student access to a FAPE. An [APPROPRIATE](#) education is one that is designed to meet the individual needs of the student as adequately as that of their non-disabled peers. The Section 504 plan is the bridge that facilitates the provision of an appropriate education.



Student 504 Plan

- [Document all data sources used to build the plan](#)
- Document all committee discussion about FAPE, and possible referral for special education and related services
- [Describe the physical or mental impairment](#)
- List major life activities substantially limited
- List all needed accommodations including those for the classroom, testing, behavior
- Document who will monitor the plan
- Document parental receipt of [procedural safeguards](#)
- Incorporate addendums which may include, prior written notice, home bound services, behavior plan, individual health plans, referral for special education evaluation, related services provisions, auxiliary aids and services (Title II ADA).

While Section 504 regulations do not require a written plan, practical requirements such as documentation of evaluation sources, the impairment and substantial limitations, committee discussion and decisions, and accommodations make it necessary to put the plan in writing. In addition, should a disagreement take place, the written document may provide clear information regarding the intent of the LEA to provide FAPE.

Accommodations

Accommodations are intended to reduce or even eliminate the effects of student's disability on academic tasks but do not change learning expectations. The objectives of the course or activity remain the same. Accommodations change how the student learns or demonstrates knowledge. Section 504 committees should consider whether changes in presentation, response, setting, or timing/scheduling are required for students.

The provision of FAPE is foundational to the creation of a highly effective accommodation plan. Section 504 regulations mandate that students be educated with their non-disabled peers to the maximum extent appropriate based on their individual needs. The first choice for that setting is in general education with accommodations that provide the bridge connecting the student to curriculum and instruction. The LEA must demonstrate that the provision of supplementary aids and services are not effective prior to removing a student from general education. Accommodations should "level the playing field" as opposed to giving any advantage and should never change what a student learns, which would be a modification.

Accommodations should address all impacted areas of the student's school environment such as classroom, testing, and behavior. A student's needs may change each year or throughout the year depending on the context and content required to learn. It is important to do regular checks with the student, teacher, and family to ensure the accommodations implemented are providing the appropriate access to information.

Campus Responsibilities:



Accommodations that are written into a Section 504 plan are legally binding. This means that for the student to receive their FAPE, they must receive the identified accommodations as written in the plan. Compliance with Section 504 accommodations is non-negotiable.

The campus Section 504 coordinator should disseminate Section 504 accommodation plans and collaborate with campus staff responsible for implementing the plan to ensure fidelity of implementation. In addition, the campus Section 504 coordinator should work with campus staff to monitor student progress to determine if the accommodations are effective.

If a student does not make adequate progress, a Section 504 meeting or referral for special education evaluation should be considered.



Family Participation:

Parents should provide input about the impact of the impairment on their student and in the creation of the accommodation plan for their child. Parents can partner with teachers to monitor student progress.



Student Participation:

Students should be encouraged to provide input about the impact of their impairment and in the creation of accommodation plans. The Section 504 committee can help students understand the accommodations that are provided for them.

Older students can participate in their Section 504 meetings and should be encouraged to self-advocate for their accommodations.



NOTE:

- Accommodations should be unique and written in such a way that teachers are able to implement them with fidelity.
- Section 504 coordinators should schedule time to check-in with teachers regarding student progress and support them with the implementation of the accommodation plan.
- Do not use phrases such as “at student request” for accommodations. If the committee has carefully considered the impact of the impairment and has determined an accommodation is necessary to provide FAPE, it must be provided to the student as directed in the plan as opposed to requiring the student to request them. The LEA is responsible for implementing the accommodations and not the student.

Selecting Accommodations for Students with Disabilities

Accommodations must be created based on the impact of the impairment on each individual student’s ability to access the aid, benefits and services of the general education environment and calculated in such a way to remove the barriers to access. Many websites and organizations have a list of [recommended accommodations](#) related to a specific disability which may be requested at the Section 504 meeting. However, not all students with the same disability will have the same needs, and all decisions must be made based upon the data collected and the unique needs of the individual student.

Examples and Non-Examples of Documented Accommodations

Small Group Testing - Limit Distractions

Exemplar:

Student will take tests and quizzes in the learning lab for math and science (test materials will be delivered to the testing center prior to the class period).

Non-Example:

Student will take tests and quizzes in the learning lab at student request.

Behavior - Cue Student to Stay On Task

Exemplar:

During independent work time, monitor and provide frequent verbal or nonverbal reminders to return to task (student will put his head down or take out his phone when off task) - All Classes

Non-Example:

Cue student to return to task.

Extra Time to Complete Assigned Work

Exemplar:

Student will receive one day of extra time to complete assigned work after check-in with teacher to review progress and provide feedback.- ELA and Social Studies

Non-Example:

Student will receive extra time to complete assigned work

STAAR Accommodations/Accessibility

Accommodations similar to those documented in the student's Section 504 plan for classroom instruction may also be allowable on the State of Texas Assessments of Academic Readiness (STAAR) or the Texas English Language Proficiency Assessment System (TELPAS). Please reference the Accessibility Policy documents listed on the [Accommodation Resources](#) webpage and in the [District and Campus Coordinator Resources](#) online for more specific information about TEA state assessment accessibility policies.

Best Practice Tips:

- If a student is regularly benefiting from accommodations during instruction, they should be documented as accommodations in the Section 504 plan.
- LEAs should work with campus testing coordinators to determine local procedures and practices to ensure proper implementation of all STAAR (and TELPAS if applicable) accommodations in accordance with TEA's policy documents related to each.

Section 504 Special Circumstances

Competing Plans – IDEA vs. Section 504

The [OCR states](#) if a student is [DETERMINED ELIGIBLE UNDER IDEA](#) he or she must have an IEP. One way to meet the Section 504 requirements for a FAPE is to implement an IEP. If a student served through special education services has a disability not covered under IDEA, LEAs should document the additional needs and address them in the IEP if appropriate considering the child's individual circumstances.

There may be very narrow circumstances when a student may have both plans due to temporary accommodations needed through a Section 504 plan. An impairment that is [EPISODIC](#) or in remission is considered a disability if it substantially limits a major life activity when it is active. However, ARD and Section 504 committees should ensure that the 504 plans and IEPs do not compete with one another. Failure to address the Section 504 needs in the IEP may cause LEAs to fail to meet FAPE for a student. Students under the Section 504 umbrella are entitled to FAPE which may consist of regular or special education with supplementary aids and services or related services.

Title II Effective Communication

Title II of the ADA requires public entities, including schools, to ensure effective communication with individuals with disabilities. This means that schools must provide [AUXILIARY AIDS](#) and services, such as interpreters or accessible formats, to ensure that communication is as equally effective for individuals with disabilities as it is for those without disabilities. The goal is to remove barriers to communication and ensure that individuals with disabilities have equal access to information, programs, and services provided by public entities.

In the case of [effective communication](#) for students with vision, hearing, or speech disabilities, the ADA published [FAQs on Effective Communication for Students with Hearing, Vision, or Speech Disabilities](#). According to USDE and the DOJ, "In some instances, in order to comply with Title II, an LEA may have to provide the student with services that are not required under the IDEA." ([USDE and DOJ, 2014 p.2](#)) In addition, LEAs are to give primary consideration to the auxiliary aid or service requested by the student with the disability when determining what is appropriate. This means that the student or parent must be given the opportunity to request the aid or service that they think is needed to provide effective communications. LEAs will then make an individualized determination considering the communication used by the student, the nature, length, and complexity of the communication involved and the context in which the communication is taking place.

Examples of auxiliary aids and services for students who are deaf, deaf-blind, or hard of hearing include, but are not limited to:

- ▶ Qualified sign language interpreters
- ▶ Note takers
- ▶ Exchange of teacher notes
- ▶ Real-time, computer-aided transcription services
- ▶ Assistive listening systems
- ▶ Accessible electronic and information technology
- ▶ Open and closed captioning



Examples of auxiliary aids and services for students who are blind, deaf-blind, or have low vision include, but are not limited to:

- ▶ Qualified readers
- ▶ Taped texts
- ▶ Audio recordings
- ▶ Braille materials and displays
- ▶ Screen reader software
- ▶ Magnification software
- ▶ Optical readers
- ▶ Secondary auditory programs (SAP)
- ▶ Large print materials
- ▶ Accessible electronic and information technology



Examples of auxiliary aids and services for students who have a speech disability include, but are not limited to:

- ▶ Word or letter board
- ▶ Writing materials
- ▶ Spelling to communicate
- ▶ Qualified interpreter
- ▶ Taped texts
- ▶ Computer
- ▶ Portable device that writes and/or produces speech
- ▶ Telecommunications services



NOTE: LEAs that provide interpreting services to students who are deaf or hard of hearing must ensure that interpreters hold appropriate [CERTIFICATIONS](#) from the Texas Board for Evaluation of Interpreters (BEI) or the National Registry of Interpreters for the Deaf (RID).

Section 504 committees must "[CONSIDER](#) the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode including opportunities for direct instruction in the child's language and communication mode" when making placement decisions.

Best Practice Tips:

Sign Language Interpreting Services: If a student's needs are not met through interpreting services alone, an evaluation for special education services may be necessary to ensure the student receives FAPE.

Nonacademic Services and Extracurricular Activities

According to Section 504 regulations, the LEA is required to provide students with disabilities an equal opportunity for participation in nonacademic and extracurricular services. [NONACADEMIC SERVICES](#) and extracurricular services may include activities such as: LEA sponsored special interest groups or clubs, recreational activities and recreational athletics, counseling services, transportation, health services, referrals to agencies that provide assistance to people with a disability, and employment of students, including both employment by the LEA and making available outside employment.

LEAs must make reasonable accommodations and provide the necessary aids and services to allow students an equal opportunity for participation, unless they can show that the modification would fundamentally alter the program. Equal opportunity for participation is to be decided on an individual basis and is not meant to provide unfair advantage to students. If a modification would result in an unfair advantage or would fundamentally alter the program, LEAs may consider alternative accommodations, aids, or services.



[PHYSICAL EDUCATION](#) and extracurricular athletic activities including club, intramural, or interscholastic athletics at all grade levels are an important part of many students' educational experiences. According to Section 504 regulations, the LEA is required to provide an equal opportunity for participation to all students with disabilities. LEAs may offer separate or different athletic activities only if the separation or differentiation is consistent with the regulatory requirement that students with disabilities are educated to the maximum extent with their peers without disabilities, unless the LEA can demonstrate the education of the student in the general education setting with supplementary aids and services cannot be achieved. According to a [2013 Dear Colleague Letter](#) from the Assistant Secretary for Civil Rights regarding extracurricular athletics, LEAs have an obligation under federal regulations to ensure that no student may be rendered ineligible to participate in any aid, benefit, or service due to their disability. However, students with disabilities must meet the skill level requirements of any selective or competitive program.

As previously noted, LEAs may not rely on generalizations, assumptions, prejudice, or stereotypes about disabilities regarding student capability to participate in an athletic activity.

Separate activities must be provided with LEA support equal to other athletic activities (e.g., wheelchair basketball team). LEAs may collaborate with community organizations to find creative ways to match student interests with opportunities for participation in athletic experiences.

Additional Considerations

Now let's review a few additional considerations Section 504 committees may face as they make determinations about a student's educational programming.

Advanced Placement and Dual Enrollment

Students who receive Section 504 services can participate in both advanced placement and dual enrollment programs. LEAs are responsible for providing reasonable accommodations to ensure equal access to educational opportunities for these students. Section 504 plans play a crucial role in guiding the accommodations and support provided to students with disabilities in these advanced academic settings. Academic programs offered by the LEA that generate high school credit on a student's transcript are subject to FAPE.

If a student with a disability requires accommodations in their general education classes in order to access FAPE, they must be provided with those accommodations in advanced placement or dual enrollment classes offered by the LEA so long as the advanced nature of the course is not altered. All decisions about accommodations must be made on a case-by-case basis through evaluation by the Section 504 committee. Failure by the LEA to ensure that the Section 504 accommodations are implemented may result in a violation of Section 504. An [OCR Dear Colleague Letter](#) explains why the practice of denying, on the basis of disability, a qualified student with a disability the opportunity to participate in an accelerated program violates both Section 504 and Title II.

After School and Summer Programs

Equal opportunity for participation in after-school and summer programs is a fundamental principle that applies to all students, including those with disabilities. LEAs that offer after school or summer programs must ensure that all students have equal opportunity for [PARTICIPATION](#). This includes activities not specifically sponsored by the LEA but located on school property (e.g., YMCA program, Karate lessons held at an elementary). This means that the LEA may need to make reasonable accommodations to provide students with disabilities access to the program. These accommodations need not be identical to those listed in the Section 504 plan and are not a required component of it.



Counseling Services

Section 504 regulations require LEAs that provide [COUNSELING](#), guidance, or placement services to students must provide them to all students without discrimination due to disability. In addition, students with disabilities should not be counseled toward more restrictive career objectives than their peers with similar interests without disabilities.

Intradistrict and Interdistrict Transfers

Intradistrict and interdistrict transfers are processes where students move from one school or district to another within the same district (intradistrict) or between different districts (interdistrict). When students receiving Section 504 accommodations are involved, these transfers must consider the continuation of services and accommodations to ensure the students' needs are met appropriately.

Some districts allow intradistrict and interdistrict transfers for a variety of reasons. Administration may choose to revoke transfers due to student absences and/or behavior concerns. If a transfer revocation could in any way be related to the student's disability, this could be a form of disability discrimination. If a campus is considering revocation of a student who has a Section 504 plan, the Section 504 committee should meet to determine if additional accommodations or a referral for a special education are necessary. Approved transfers and revocations fall under the [TEC § 25.031-25.034](#). It states:

Parents may:

- ▶ file a request to transfer or,
- ▶ file objections to an assignment to the school board, including to review the documented request or,
- ▶ request a hearing.*



* Each LEA has policies and procedures for revocations and transfers, which vary. Please see your local board policies and procedures for the appropriate timelines and steps to follow.

Best practices for Approved Transfers/Revocations

- The district Section 504 coordinator contacts the receiving district Section 504 coordinator to set up a meeting.
- Meet to review the student's Section 504 plan and discuss any special needs to make the transition successful (e.g., transfer of needed equipment, assignment of staff to implement the plan).
- Discuss with your district legal counsel prior to revocation for any student under Section 504.

Section 504 Plan, Individual Health Plan, & Emergency Care Plans



The task of protecting students with individual health plans (IHPs) and emergency care plans at school can be daunting and should be approached in a team-based framework. A student may need an IHP or emergency care plan for a variety of reasons such as diabetes, epilepsy, asthma, allergies, etc.

The IHP may be implemented in addition to the Section 504 accommodation plan, and the school nurse should be a member of the Section 504 committee. Section 504 protects the rights of the students to a FAPE and procedural safeguards while the IHP does not, in of itself, provide civil rights protections.

The following list of disabilities will typically require a Section 504 plan which includes the IHP or emergency care plan. This section is not meant to address every disability that might be eligible for a Section 504 accommodation plan but serves instead to provide information on some frequently occurring disabilities based on feedback from LEAs. Section 504 and ADA regulations mandate a broad interpretation of physical or mental impairment and substantial limitation. In addition, you can find more information about [classroom resources](#) for teachers to use in addressing individual student health needs on the TEA website.

Allergies/Anaphylaxis

Allergies for some students are far more than a mere inconvenience; they are life threatening. According to the [Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis](#) published by The Commissioner of the Texas Department of State Health Services (DSHS), a food allergy is an abnormal response to a food triggered by the body's immune system that can range from mild to life threatening. Other common causes of anaphylaxis include, latex, insect stings or bites and medication.

Anaphylaxis is a severe reaction that occurs quickly and can result in the death of the student. The Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis states that there is no cure for food allergies (pg. 13). The only way to avoid the risk of symptoms is strict avoidance of the allergen.

TEC requires LEA boards of trustees and governing bodies to create and adopt policy for the care of students at risk for **ANAPHYLAXIS** based on guidelines developed by DSHS. See the [DSHS Special Health Care Needs - Texas Guide to School Health Services webpage](#) for resources and more information on Section 504 in schools.

It is important to note that service animals may cause allergic reactions for some students. However, LEAs should find a solution that meets both students' needs and does not penalize either. For more information, see [Frequently Asked Questions about Service Animals and the ADA](#). In addition, The Texas Association of School Boards provides guidance in their document "[Legal Questions about Service Animals in Schools.](#)"



Best Practice

When planning on addressing allergies, campuses are encouraged to form food allergy management teams, including the school nurse and parents, to create plans that will help ensure a safe learning environment for students who suffer from serious food allergies.

LEA Responsibilities:

- Comply with federal and [STATE LAWS](#) and LEA policy.
- Include students with allergies in all LEA activities.
- Train all staff in how to recognize symptoms and respond to an emergency anaphylactic reaction.
- Work to eliminate allergens from the LEA environment.
- Distribute Emergency Care plans and Section 504 plans to LEA staff, including bus drivers and other support staff, with support from the school nurse in understanding and implementing the accommodations and emergency procedures.
- Plan for field trips and extracurricular activities with LEA staff and parents.
- Confirm that all consent forms are signed to administer medications.





Family Participation:

- Families should [NOTIFY](#) the school if their child has a food allergy that may impact his or her safety.
- Families should specify what the child is allergic to and the nature of the allergic reaction.
- Families should complete consent forms for medication [ADMINISTRATION](#) by the school nurse or appropriate staff.



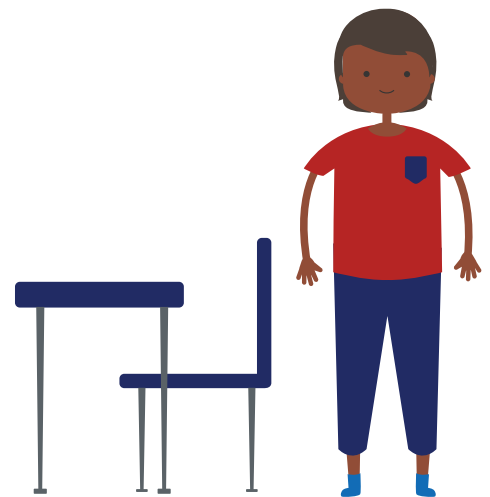
Student Participation:

Students of an appropriate age, as determined by physician and parents, should understand their disability and work towards self-management of avoiding the allergen, identifying symptoms, communicating with an adult when they are having a reaction, reading food labels, and carrying and administering their personal medications.

Attention Deficit Hyperactivity Disorder

Attention Deficit Hyperactivity Disorder (ADHD) can significantly impact major life activities, such as learning, concentrating, thinking, and interacting with others, which means students who are diagnosed with ADHD may require a Section 504 plan. If a student with ADHD is found ineligible for services through special education, the LEA bears the obligation to consider whether they are eligible for Section 504 accommodations. The OCR advises that a diagnosis of ADHD provided by a licensed clinician with expertise in ADHD, as the result of a comprehensive evaluation, may be considered evidence of a disability, and the presumption may be made that there is a substantial limitation in one or more major life activities.

In 2016, the OCR published a [Dear Colleague Letter and Resource Guide](#) specific to students with ADHD in order to clarify LEA responsibilities under Section 504 and address the increase in complaints to the OCR alleging discrimination against students with ADHD. The OCR states that a comprehensive evaluation should be provided at no cost to the parent and include "information from a variety of sources which can include aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, ... adaptive behavior, ... information from the student, the student's parents and caregivers, teachers, and other professionals...." (Dear Colleague Letter and Resource Guide, p. 19). Once the comprehensive evaluation has been completed, placement decisions must be made by a group of individuals who are knowledgeable about the student, the meaning of the evaluation data, and the various placement options. Decisions about appropriate accommodations, supplementary aids and services, and other supports to address the student's individual needs should be discussed. The committee may consider supports such as, but not limited to, assistance with medication disbursement, behavior modifications, organizational and/or time management strategies or skills, and instructional accommodations. However, the OCR emphasizes that LEAs "cannot simply group together a few aids and services and provide them in a blanket fashion to any student with ADHD." (Dear Colleague Letter and Resource Guide, p. 26)



Chronic Illness

Creating a plan for a student with a chronic illness can be challenging for all involved. According to the OCR, “A [chronic illness](#) involves a recurring and long-term disability such as diabetes, heart disease, kidney and liver disease, high blood pressure, or ulcers.”

Chronic disease may cause a student to miss a significant amount of instruction due to the severity of the disability or frequent, required medical visits. Section 504 regulations protect the rights of students to have the opportunity to participate in or benefit from the aid, benefit, or services of the LEA environment with their peers without disabilities in the [LEAST RESTRICTIVE ENVIRONMENT](#) to the maximum extent appropriate. Most likely these students will be serviced through a combination of homebound and classroom instruction.

When reviewing and analyzing a variety of evaluation data, Section 504 committees should consider:

- ▶ The medical description of the disorder including common symptoms
- ▶ The type of treatment plan the student requires
- ▶ If an IHP is needed (see page 32)
- ▶ If an emergency care plan is needed (see page 32)
- ▶ Whether any medical equipment is needed
- ▶ The unique impact of the student’s chronic illness in the following areas:
 - ▷ Classroom environment – seating, temperature, access to assistive technology
 - ▷ Class work and tests – May include a statement regarding student’s ability to make up work missed due to [chronic absenteeism](#)
 - ▷ Access to water, bathroom, and nurse
 - ▷ Participation in LEA activities
 - ▷ Rest time
 - ▷ Physical education - Allowed level of physical exertion during recess or other LEA activities
 - ▷ Physical navigation on campus
 - ▷ Nutrition (breakfast, lunch, snacks)
- ▶ Communication to LEA staff, including substitutes
- ▶ Collaboration with school nurse for training for LEA staff
- ▶ The unique student requirements during emergency drill procedures
- ▶ Transportation and other necessary related services
- ▶ Transition procedures for absences from school and return to school including academic, behavioral, and social emotional supports



Diabetes

There are statutes in [TEXAS LAW](#) that protect and provide support to students who have diabetes. One support includes the requirement to have a diabetes management and treatment plan, which must be developed and implemented for each student with diabetes who may need care while participating in a school activity.

A diabetes management and treatment plan must:

- ▶ identify the health care services the student may receive at school;
- ▶ evaluate the student's ability to manage and level of understanding of the student's diabetes; and
- ▶ be signed by the student's parent and the physician responsible for the student's diabetes treatment.

If a parent is seeking care for the student's diabetes while at school, a copy of the student's diabetes management and treatment plan should be submitted to and reviewed by the school:

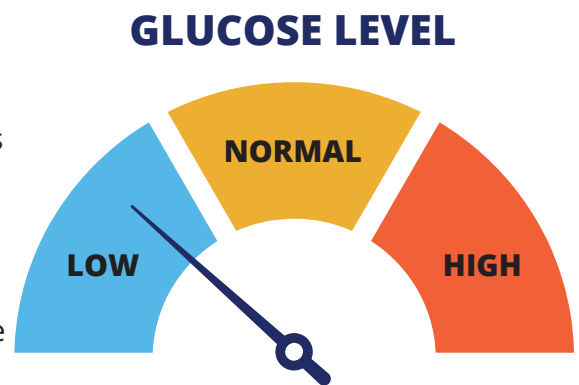
- (1) before or at the beginning of the school year;
- (2) on enrollment of the student, if the student enrolls in the school after the beginning of the school year; or
- (3) as soon as practicable following a diagnosis of diabetes for the student.

An IHP is a coordinated plan of care designed to meet the unique healthcare needs of a student with diabetes in the school setting. An IHP must be developed for each student with diabetes who will seek care for diabetes while at school or while participating in a school activity. Once the school receives a student's diabetes management and treatment plan, the Section 504 committee, which should include the school nurse, if a school nurse is assigned to the school, must develop a student's IHP in collaboration with the student's parent and, to the extent practicable, the physician responsible for the student's diabetes treatment and one or more of the student's teachers. A student's IHP must incorporate components of the student's [DIABETES MANAGEMENT AND TREATMENT PLAN](#). The Section 504 plan would include the IHP.

In addition, the school principal should seek school employees who are not health care professionals to serve as unlicensed diabetes care assistants and care for students with diabetes. Effort should be made to ensure the school has at least one unlicensed diabetes care assistant if a full-time nurse is assigned to the school or at least three if a full-time nurse is not assigned to the school. Principals must ensure [training](#) is provided by either the school nurse or a health care professional knowledgeable about diabetes care if the school does not have a nurse.

OCR has additional guidance outlined in a [Dear Colleague letter](#) regarding students with diabetes. This letter refers to The U.S. Department of Health and Human Services National Diabetes Education Program (NDEP) guide, [Helping the Student with Diabetes Succeed: A Guide for School Personnel](#). This guidance gives school administrators and health services personnel a comprehensive resource that:

- ▶ Lays out a team approach to diabetes management in the school setting;
- ▶ Provides a basic primer and glossary about diabetes;
- ▶ Reviews components for planning and implementing effective diabetes management;



- ▶ Contains sample action plans that alert school personnel to common signs and symptoms of high and low blood glucose levels and how to handle emergencies; and
- ▶ Reviews the federal laws pertaining to schools' responsibilities to educate students with disabilities.

Seizures

[TEXAS EDUCATION CODE](#) contains provisions relating to students who experience seizures. The parent of a student with a seizure disorder may seek care for the student's seizures while the student is at school or participating in a school activity by submitting to the school district at which the student is enrolled a copy of a seizure management and treatment plan developed by the student's parent and the physician responsible for the student's seizure treatment.

TEA's [Seizure Management and Treatment Plan Form](#) is to be used in submitting a seizure management and treatment plan to a student's school that includes a specific list of information and the signatures of the student's parent or guardian and the physician responsible for the seizure treatment. This form consists of several questions about seizure history, medications, precautions, and other considerations.



A school nurse employed by a school district must complete an agency-approved online course of instruction for school nurses regarding managing students with seizure disorders that include information about seizure recognition and related first aid. Information about TEA-approved online courses that meet this requirement can be found on TEA's Healthy and Safe School Environment of the Coordinated School Mental Health Model [webpage](#). The Section 504 committee should be familiar with these resources and requirements.

Visual Impairments

Under [IDEA](#), "visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance." Based on this definition and [TAC §89.1040 \(12\)](#), the majority of students who are visually impaired are eligible to be served under IDEA. Therefore, the mandate under child find is to refer any student who has a suspected visual impairment for an FIE. Refer to [Students with Visual Impairments: Eligibility for Special Education](#) for more guidance on the topic.

However, in some cases, a student with a visual impairment may not qualify for special education services and may need a Section 504 plan. For a student who qualifies for Section 504 services, the committee should determine the need for any related services specific to his or her needs. For instance, the student may not receive services from a teacher of students with visual impairments (TVI) as these services are only available under IDEA; however, the student may need orientation and mobility services (O&M) which is a related service and can be provided under Section 504. It is important to note that a TVI may consult with the Section 504 committee when making determinations specific to visual impairments.





“When consulting with a 504 committee, a TVI may not utilize tests or procedures that would be used in their FVE [functional vision evaluation] or LMA [learning media assessment]. They should never be asked to observe with the specific viewpoint of determining a need for services. It is best to approach an observation with the mindset of helping the team to understand possible issues with vision that may be improved with accommodations or instructional strategies. For example, it would be beneficial to help the 504 committees understand the process of patching for amblyopia or to explain how the loss of vision in only one eye could be accommodated. There is a limit to a TVI's ability to identify accommodations and instructional strategies without a formal evaluation. If it is suspected that the student has an impairment in vision and needs special education and related services, an FIE [must] be initiated”



- [Students with Visual Impairments: Eligibility for Special Education, page 20](#)

Dispute Resolution

There are times when families feel like their child's civil rights may be violated. When a dispute does occur, Section 504 has the following resolution options available and should be detailed in the LEA's Section 504 procedural safeguards.

Procedural Safeguards

Section 504 regulations require that LEAs establish and implement a system of [PROCEDURAL SAFEGUARDS](#) that includes:

Notice

Opportunity
for parents to
examine relevant
records

Impartial hearing
with parent
participation &
representation by
counsel

Review procedure
following hearing

Compliance with IDEA [procedural safeguards](#) is one way of meeting this requirement.

Local Grievance Procedures

Section 504 regulations require LEAs with 15 or more employees to adopt [grievance](#) procedures that incorporate due process standards and that provide prompt, equitable resolution of complaints alleging any prohibited action. Families and LEAs have a powerful tool at the local level for resolving disagreements before escalating to the federal or judicial level. LEAs should adopt easily understood and accessible procedures for parents to submit grievances which are responded to quickly in a solution focused manner.

“ **Note, a school district cannot satisfy the requirement to have due process procedures by relying on its grievance procedure, nor can a district require a parent to pursue a FAPE-related complaint through the grievance procedure before a hearing under the system of procedural safeguards will be granted. Districts must ensure that they have due process procedures that are available to parents, as required.** ”

- [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools, pg. 35](#)

Impartial Hearing

The purpose of the [impartial hearing](#) is to resolve disagreements between the LEA and parents regarding the identification, evaluation, or educational placement of a student with a disability. It is the LEA's responsibility to arrange for the hearing, providing the parents the opportunity to participate and to be represented by counsel if they so choose.

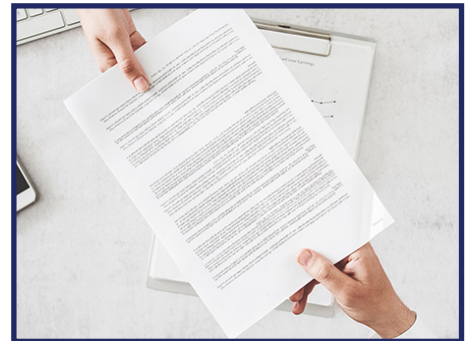
Office for Civil Rights

According to the OCR, anyone can file a civil rights complaint whether they are the complainant or are filing the complaint on behalf of an individual, with written consent. [Complaints](#) should be filed online or via email, mail, or fax within 180 days of the last act of discrimination.

Retaliation

Federal civil rights laws prohibit [RETALIATION](#) against individuals who assert their rights. The [ADA Title II](#) mandates that no public or private entity may discriminate, coerce, intimidate, threaten, or interfere with any individual who has asserted their rights, opposed any act or practice, made a charge or testified, assisted, or participated in an investigation, proceeding, or hearing.

Additionally, Section 504 regulations cite the procedural provisions regarding intimidation or retaliation in [Title VI](#) of the Civil Rights Act of 1964. The regulations directly prohibit intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege that is protected by law because they complained, testified, assisted or participated in an investigation, proceeding, or hearing.



Best Practice Tips:

- Build and maintain positive relationships with families and community members.
- Respond promptly to concerns in a solution focused manner.
- Provide professional development and coaching to staff in how to communicate with families and manage parent concerns, crucial conversations, or negative feedback.
- Ensure that LEA grievance procedures are accessible and easy to follow for parents and staff in order to resolve problems at the local level.

Resources

Accommodations	40
Communication (Title II)	40
Disability Information	40
Office for Civil Rights	40
State and Federal Laws, Regulations, and Code	41
Texas Education Agency	42
Miscellaneous	42

Accommodations

[Accommodations Central](#)

Communication (Title II)

[ADA Requirements - Effective Communication](#)

[Communicating Effectively with People with Disabilities](#)

[Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools](#)

[Nondiscrimination on the Basis of Disability in State and Local Government Services](#)

Disability Information

[ADA Guidance and Resource Materials](#)

[Attention-Deficit/Hyperactivity Disorder](#)

[What is ADHD?](#)

[Guidelines for the Care of Students With Food Allergies](#)

[Students with ADHD and Section 504: A Resource Guide](#)

Office for Civil Rights

[The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973](#)

[Disability Discrimination](#)

[Dual Enrollment OCR Resolution](#)

[Identification of Students 504-Only Students: An Alternate Eligibility Form](#)

[Office for Civil Rights | U.S. Department of Education](#)

[OCR Topical Index](#)

[OCR Complaints](#)

[OCR Dear Colleague Letter 2012 - Americans with Disabilities Amendment Act](#)

[OCR Dear Colleague Letter 2010 - Bullying and Harassment](#)

[OCR Dear Colleague Letter 2013 - Extracurricular Athletics](#)

[OCR Dear Colleague Letter 2013 - Retaliation](#)

[Discrimination Based on Pregnancy and Related Conditions: A Resource for Students and Schools](#)

[OCR Parent And Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#)

[OCR Section 504 FAQ: Procedural Safeguards](#)

[OCR Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools](#)

[OCR Disability Discrimination](#)

State and Federal Laws, Regulations, and Code

[ADA Laws, Regulations, and Standards](#)

[The Americans with Disabilities Act](#)

[Americans with Disabilities Act Title II Regulations](#)

[Civil Rights Act of 1964 - Retaliation](#)

[File a Complaint](#)

[IDEA](#)

[Section 504](#)

[Section 504 Regulations Subpart D – Preschool, Elementary, and Secondary Education](#)

[Special Education Regulations](#)

[Service Animals – ADA Requirements](#)

[Texas Administrative Code, Title 19, Part 2](#)

[Texas Administrative Code Full Individual and Initial Evaluation](#)

[Texas Association of School Boards – Legal Questions about Service Animals in Schools](#)

[Texas Disability Law – Service Animals](#)

[Texas Education Code Chapter 26 Parental Rights and Responsibilities](#)

[Texas Education Code 26.0081: Right to Information Concerning Special Education and Education of Students with Learning Difficulties](#)

[Texas Education Code 38.0151 – Policies for Care of Certain Students at Risk for Anaphylaxis](#)

[Title 42 - The Public Health and Welfare](#)

[U.S. Department of Justice – Frequently Asked Questions about Service Animals and the ADA](#)

Texas Education Agency

[Student Assessment Division: Accommodation Resources](#)

[Child Find](#)

[Complaints and Investigations](#)

[Dyslexia and Related Disorders](#)

[Responsibilities and Timelines Regarding Parent Requests for Special Education Evaluations under IDEA, TEC, and TAC](#)

[School Health - Students with Special Health Needs](#)

[Section 504](#)

[Section 504 Fact Sheet for Families](#)

[Student Handbook Statement](#)

[Student Attendance Accounting Handbook](#)

[Student Assessment Division](#)

[The Texas Legal Framework](#)

[Special Education Rules & Regulations](#)

Miscellaneous

[The Power of Section 504](#)

[The Public Schools' Obligation for Impartial Hearings Under Section 504](#)

[Request for Special Education Testing](#)

Appendix

A - Section 504 Meeting – Sample Checklists

B - Manifestation Determination Review Meeting – Sample Checklist

C - General Education Homebound Meeting – Sample Checklist

Appendix A:

**SECTION 504 MEETING - SAMPLE CHECKLIST**

- Call or email parents to schedule meeting
- Send home an invitation to the meeting with a Notice of Procedural Safeguards
- Assemble evaluation data and be ready for review
- Invite all applicable participants, including student (as appropriate):
 - ▶ Follow LEA established procedures for procuring substitutes
 - ▶ Obtain parental consent to invite or obtain information from any outside service providers
- Document parent intent to attend or need to reschedule
- Prepare the room ahead of time for the meeting
 - ▶ Technology – if meeting virtually, ensure the meeting platform is secure
 - ▶ Seating – if meeting in person, ensure there is enough seating for everyone
- Introduce participants
- Explain eligibility requirements
 - ▶ Physical or mental impairment
 - ▶ Impacts on major life activities
- Discuss student strengths
- Discuss student challenge areas (impact of the disability)
- Review and document the evaluation of data regarding the student's physical or mental impairment
- Review and document identification of major life activities that are substantially limited
- Document committee discussion regarding the need for special education and related services
- Document committee deliberations regarding the LRE and FAPE for the student
- Create plan outlining services and accommodations
- Review minutes
- Document participants in attendance (signatures are not required unless required by the LEA's written operating procedures)
- Provide a copy of the Section 504 plan to parents and make sure to obtain signed receipt of Procedural Safeguards if not returned with invitation
- Distribute the Section 504 plan to all appropriate staff with consult for clarification or assistance in implementation
- Obtain and file signed receipt of Section 504 plan from LEA staff

Appendix B:**MANIFESTATION DETERMINATION MEETING –
SAMPLE CHECKLIST:**

- Call or email parents to schedule meeting
- Send home invitation to the meeting with Notice of Procedural Safeguards
- Assemble [relevant information](#) from a variety of sources that may include (pages 16-17):
 - student's Section 504 plan (including any behavioral supports the student needs), any updates to the plan, and information about whether the current Section 504 plan is being implemented with fidelity
 - psychological or medical evaluation data related to the behavior at issue
 - information provided by the student's parents or guardians
 - academic records
 - discipline records, including information on whether previous disciplinary actions led to changes in behavior, and incident reports, including any involving Student Resource Officers (SRO) or other law enforcement officials, consistent with applicable Federal or State privacy protections and
 - teacher notes, observations, data collected about the behavior
- Invite all applicable participants, including people knowledgeable about the student and someone who can interpret evaluation data
 - ▶ Follow LEA established procedures for procuring substitutes
 - ▶ Obtain parental consent to invite or obtain information from any outside service providers
- Document parent intent to attend, not attend, or need to reschedule
- Prepare the room ahead of time for the meeting
 - ▶ Technology – if meeting virtually, ensure the meeting platform is secure
 - ▶ Seating – if meeting in person, ensure there is enough seating for everyone
- Introduce Participants
- Explain eligibility requirements
 - ▶ Physical or mental impairment
 - ▶ Impacts on major life activity
- Discuss student strengths
- Discuss student challenge areas
- Review and document the evaluation of data regarding the student's physical or mental impairment, the behavior, and disciplinary consequence under consideration
- Review and document identification of major life activities that are substantially limited

- Document committee discussion regarding the following:
 - ▶ Was the behavior caused by or directly related to the disability?
 - ▶ Was the behavior due to the LEA's failure to implement the Section 504 plan?
- If the answer is "No" to both, the behavior is not a manifestation and discipline will be decided in accordance with student code of conduct
- If the answer is "Yes" to either question, the behavior is a manifestation; document any additional evaluations, such as a functional behavior assessment and an evaluation for special education and related services, that will be requested
- Revise Section 504 plan as needed to include additional accommodations and supports to mitigate future behaviors
- Review minutes
- Document participants in attendance (signatures are not required unless required by the LEA's written operating procedures)
- Provide a copy of the Section 504 plan to include the MDR decision to parents and make sure to obtain signed receipt of Procedural Safeguards if not returned with invitation.
- Distribute the Section 504 plan to all appropriate staff with consult for clarification or assistance in implementation
- Obtain and file signed receipt of Section 504 plan from LEA staff

Appendix C:



GENERAL EDUCATION HOMEBOUND MEETING – SAMPLE CHECKLIST

- Call or email parents to schedule meeting
- Send home invitation to the meeting with Notice of Procedural Safeguards
- Assemble evaluation data, and be ready to review. Review and be familiar with [SAAH](#) 3.7 General Education Homebound Program
- Invite all applicable participants, including but not limited to a campus administrator, a teacher of the student, the parent, and the student (if appropriate)

While the school nurse is not a required participant, according to the SAAH 3.7.2, they are valuable members of the committee and should be invited as a best practice to assist in understanding evaluation data

- ▶ Follow LEA established procedures for procuring substitutes
- ▶ Obtain parental consent to invite or obtain information from any outside service providers
- Document parent intent to attend, not attend, or need to reschedule
- Prepare the room ahead of time for the meeting
 - ▶ Technology – if meeting virtually, ensure the meeting platform is secure
 - ▶ Seating – if meeting in person, ensure there is enough seating for everyone
- Introduce Participants
- Explain eligibility requirements
 - ▶ Physical or mental impairment
 - ▶ Impacts on major life activity
- Discuss student strengths
- Discuss student challenge areas
- Review and document the evaluation of data regarding the student’s physical or mental impairment, including notification from a licensed physician about the need for homebound for a minimum of 4 weeks
- Review and document identification of major life activities substantially limited
- Document committee discussion regarding the need for special education and related services
- Document committee deliberations regarding the LRE and FAPE for the student
- Create the GEH plan including location (home or hospital), amount of time per week, and type of instruction to be provided. Provide start and completion dates
- Plan to reconvene to plan for the student’s transition back to school
- Complete any LEA developed forms
- Document discussion of how the plan will meet the core instruction requirement and include all other courses the student is enrolled in, if possible

- Identify person responsible for collecting the homebound teacher's instruction log and any additional LEA required documentation following requirements of SAAH 3.7.2.1 GEH Committee Documentation Responsibilities
- Review minutes
- Document participants in attendance (signatures are not required unless required by the LEA's written operating procedures)
- Provide a copy of the Section 504 plan to the parents and make sure to obtain signed receipt of Procedural Safeguards and Parent and Student Rights if not returned with invitation
- Follow LEA policy for coordinating with homebound instruction



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Technical Assistance: Child Find and Evaluation

Updated January 2024

Table of Contents

Welcome Letter	4
Guidance Document Terms, Key, and Revisions:	4
Terms:	4
Key:.....	5
Revisions:	5
Child Find and Evaluation Overview	6
Child Find Overview	6
Evaluation Overview	7
Evaluation Purpose	7
Technical Assistance for Child Find, Evaluation, and ARD Supports.....	7
Referral for Possible Special Education and Related Services	7
Child Find: Federal Mandate under IDEA	7
Parent Referrals.....	9
Annual Right to Information Statement	10
Support Services Available to All Students.....	10
Multi-Tiered Systems of Support (MTSS).....	10
Do Not Delay or Deny	10
Circumstances that May Indicate the Need for Evaluation (not an exhaustive list)	11
Making Data-based Decisions	11
Children Who Transfer	12
Age Ranges for Eligibility	13
Birth Through Age Two.....	13
Sensory Impairments Birth Through Age 2.....	14
Transition From IDEA-C ECI to IDEA-B Early Childhood Special Education (ECSE) Programs	14
Ages 3 through 5	15
Early Childhood Intervention Memorandum of Understanding	15
Evaluation Procedures	16
Components of a Comprehensive Evaluation – A Data-Gathering Process.....	17
Evaluation Considerations	17
Investigating the Need for Special Education and Related Services.....	18

Evaluation Requirements	18
Review of Existing Evaluation Data Requirements.....	18
The REED Process Must Include	19
Prior Written Notice (PWN)	20
Consent for Initial Evaluation.....	22
Counting Five School Days	23
Populations Served:	27
Full and Individual Initial Evaluation (FIEE)	28
Evaluation Procedures.....	29
Timeline	29
For Children Previously Served in Part C Early Childhood Intervention (ECI) Ages 0 through 2	30
Reevaluation	31
Reevaluation Procedures	32
Summary of Performance and Evaluation	34
Special Circumstances Evaluation Areas	36
Emergent Bilingual (EB) Students.....	36
Twice-Exceptional Learner	37
Assistive Technology	37
Independent Educational Evaluation (IEE)	38
Parent Request for an IEE	39
LEA's Response to Parent's Request for an IEE.....	39
LEA's Criteria for an IEE.....	39
LEA's Obligation to Consider an IEE	41
Role of the ARD Committee: Eligibility Decision	42
Eligibility Decision.....	42
Analysis of Determinant Factors	43
Need for Special Education and Related Services.....	43
Resources	45

Welcome Letter

Dear Fellow Texas Educators,

Thank you for your service and dedication to all students in the Lone Star state! As a committed stakeholder in public education, you are charged with preparing all students for success in college, a career, or the military by providing students access to high-quality learning experiences, curriculum, and instruction.

The Texas Education Agency (TEA) Division of Special Education Programs is developing a series of [technical assistance guidance documents](#). These technical assistance guides are intended for use by Texas educators to support the implementation of services for students with or suspected of having disabilities.

There is so much useful information out there for school staff! Our goal with these guides is to gather and link information into one, easy-to-read resource. These guides help clarify TEA's recommendations for practice.

- While you can read the documents from beginning to end, you do not have to use them that way. The table of contents links each section, so you can click to skip directly to that area.
- There is also a resource page that provides links to the Texas SPED Support website, the TEA Special Education webpage, and other key state-level resources.

For a glossary of special education terms, please see: [The Legal Framework Glossary.](#)

If you ever have a question, concern, comment, suggestion, or find a broken link within these documents, please email the TEA Special Education Division at sped@tea.texas.gov.

Again, thank you for all you do, and we hope this document helps you in your journey of serving our students with disabilities and their families.

Sincerely,

The TEA Division of Special Education Programs, Technical Assistance Team

The Texas Education Agency has developed this document to provide technical assistance to local education agencies and parents. The intention of this document is to provide helpful, general information. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to a specific legal situation. This document may not include a complete rendition of federal law.

Guidance Document Terms, Key, and Revisions:

Terms:

“Parent or parents”:

Throughout this guide when the term “parent or parents” is used, the term includes the definition aligned to [34 CFR § 300.30](#). That definition includes biological or adoptive parent, foster parent, guardian, an individual acting in the place of a biological parent with whom the child lives or is legally responsible for the child’s welfare, or a surrogate parent as defined in [34 CFR § 300.519](#).

“A student identified as emergent bilingual” or “emergent bilingual”

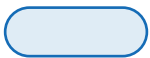
The federal language currently used to describe students as Limited English Proficient or English Language Learner is different from Texas regulations and language, which uses “a student identified as emergent bilingual” or Emergent Bilingual (EB). Throughout this guide the term “a student identified as emergent bilingual” or “emergent bilingual” will be used. The federal language currently used to describe students as Limited English Proficient or English Language Learner is different from Texas regulations and language, which uses “a student identified as emergent bilingual” or Emergent Bilingual (EB). Throughout this guide the term “a student identified as emergent bilingual or emergent bilingual” will be used.

Key:

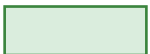
Included in the guide are requirements, links to resources, best practice tips, examples, and more. The following information will help you navigate the technical assistance guides:



- ▶ **NOTE:** “Notes” point out important reminders or considerations.



- ▶ **Best Practice Tips:** are highlighted with blue rectangle.



- ▶ **Tips for Working with Families:** are highlighted with green rectangle.



- ▶ **Changes/Updates:** Information that has been changed or updated since the last release.



- ▶ **New/Added:** Information that is new or has been added since the last release.

[links](#)

- ▶ **Informational Links:** Links that are in lowercase will take you to a related website, resource, or document that supports the information which you are reading.

[LINKS](#)

- ▶ **Legal Citation Links:** Links that use all capital letters will take you to a legal citation and definition.

RESOURCES

- ▶ **RESOURCES:** Various resources are linked within each section. All resources are provided in a categorized list at the end of the guide.

Revisions:

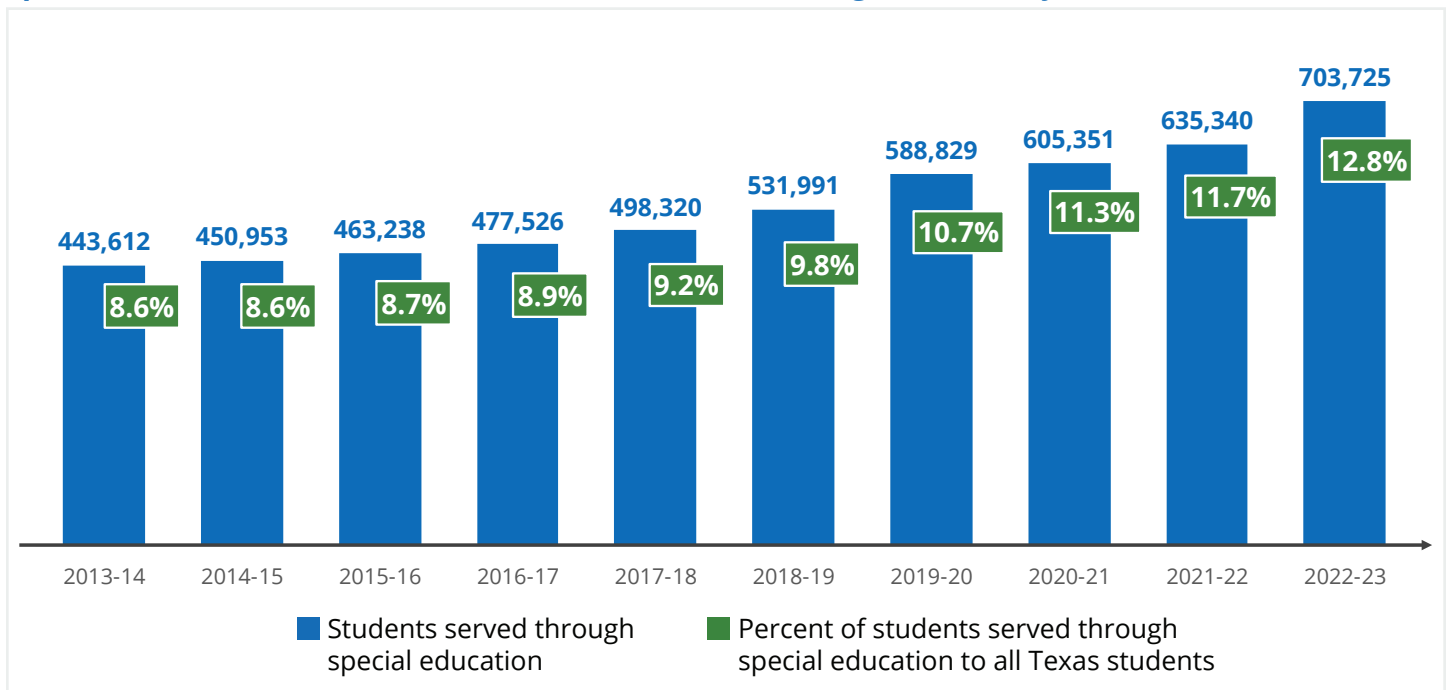
In addition to the changes/updates and new/added icons above, as each guide is updated, the following global revisions are also made:

- Broken links repaired, including updated Legal Framework and Texas SPED Support hyperlinks
- Updated Table of Contents, Welcome Letter, and added Guidance Document Terms, Key, and Revisions section
- Added additional resources to the “Resources” section and reorganized them into a list by category
- Made minor changes throughout the document to correct copyedit errors
- Deleted any outdated or irrelevant information
- Updated graphics throughout the guide

Child Find and Evaluation Overview

The Texas Education Agency (TEA) is providing this guidance to assist LEAs in meeting their obligations under state and federal laws and regulations regarding the responsibility to identify, locate, and evaluate all children suspected of having a disability and who are in need of special education and related services, commonly referred to as the Child Find obligation. To ensure that all children who may need special education and related services are identified, it is important that LEAs establish and implement continuing efforts to seek out these children and inform the public of services available to children and families. This guidance is intended to serve as a resource for professionals who serve in a range of roles in schools across the state as they design and implement Child Find policies, procedures, and practices. The following graph shows that special education identification in Texas continues to see growth each year.

Special education identification in Texas continues to see growth each year.



Source data: from a. Speced_dis_student23f by unique studentid total is and Windham submission. Dataset was collected as Enrollment in Oct Fall, 2022.

Child Find Overview

- Child Find refers to the federal requirement under the Individuals with Disabilities Education Act (IDEA) that all children in need of special education services are identified, located, and evaluated.
- LEAs are responsible for conducting Child Find and identifying all IDEA-eligible students that reside in their jurisdiction.
- Child Find is not a passive activity, but rather an active process.

All students in need of special education and related services are **identified, located, and evaluated.**

Evaluation Overview

- Whether it is a full and individual initial evaluation (FIIE) or a reevaluation, evaluation is a data-gathering process.
- The evaluation must be comprehensive and use a variety of assessment tools, sources of information, and strategies.
- The evaluation is completed by a multi-disciplinary team (MDT).

Evaluation Purpose

- Evaluation provides information to assist in determining:
 - whether the student has a disability;
 - the need for specially designed instruction and related services; and
 - the need for evidence-based interventions and how to monitor the student's progress.
- Evaluation provides much of the information for drafting present levels of academic achievement and functional performance (PLAAFP), goals, objectives, modifications, and accommodations in the Admission, Review and Dismissal (ARD) committee meeting.



Technical Assistance for Child Find, Evaluation, and ARD Supports

TEA has a variety of resources and trainings designed to assist LEAs with implementing effective Child Find practices, conducting comprehensive evaluations, and practicing collaborative ARD processes. The [Texas Sped Support \(TSS\) website](#) contains a wealth of resources and formation on these topics.

Referral for Possible Special Education and Related Services

Child Find: Federal Mandate under IDEA

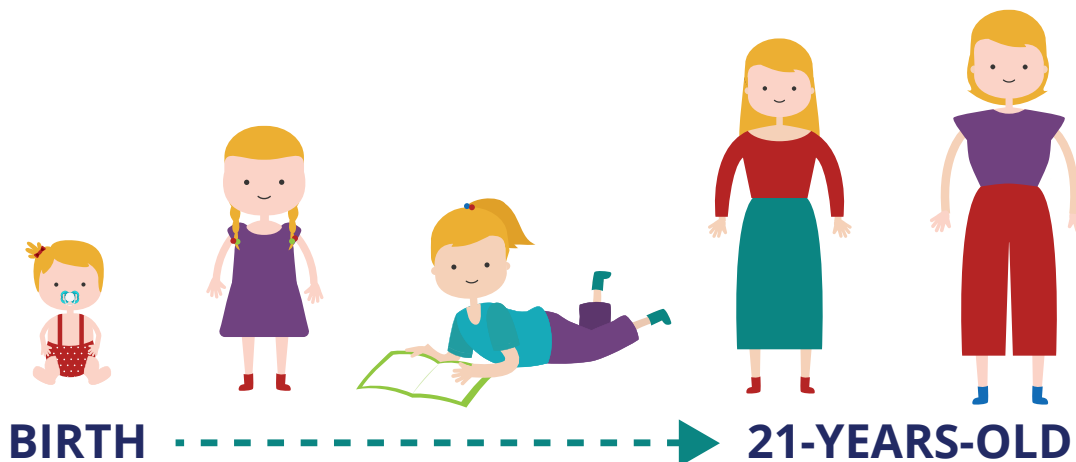
- [CHILD FIND](#) is the affirmative, ongoing obligation of LEAs to identify, locate and evaluate all children with disabilities residing within their jurisdictions who need special education and related services.
- A local education agency (LEA) may not take a passive approach and wait for others to refer students for special education services. The LEA must seek out IDEA eligible students.

Who is Covered under Child Find?

Every child, from birth through age 21, is covered by Child Find. Two important pieces of IDEA address school-aged children (3 through age 21), often referred to as Part B, and infants and toddlers (0 through age 2), often referred to as Part C. In Texas, the Child Find requirements for Part C are administered by the Texas Health and Human Services Commission, as the Commission runs the state's [Early Childhood Intervention \(ECI\) program](#). Individual LEAs, then, are responsible for administering Child Find requirements for Part B in their own jurisdictions, with TEA serving as the required state educational agency overseeing the efforts. However, LEAs do become involved in Child Find efforts for children 0 through age 2 because state law extends state education funding for those who are identified as deaf or hard of hearing (DHH), deaf-blind (DB), or who have a visual impairment (VI). LEAs should also keep the following in mind as well, since they are also covered under Child Find.

Every child from birth to age 21, including:

- Infants (Ages 0 through age 2 years) who may be DHH, DB, or have a VI.



- Students, including those who are homeschooled or [IN PRIVATE SCHOOLS](#)
- Students who are suspected of having a disability, even though advancing from grade to grade
- Students identified as gifted/talented but are suspected of having a disability and needing special education and related services
- Children who might be underserved:
 - Homeless
 - Highly mobile, including migrant
 - In foster care (may be wards of the state)
 - Involved in the criminal justice system
 - Reside in residential placements and/or nursing homes



Who Can Make a Referral for Special Education?

Parent Referrals

The student's parent or legal guardian, school personnel, or another person involved in the education or care of the student can make a referral for special education. An LEA may not deny a referral or delay an initial evaluation because pre-referral interventions have not been implemented with a student. If a parent makes a written request to the LEA's special education director or to an LEA administrative employee for an initial evaluation for special education and related services:



Student's Parents or
Legal Guardian



School Personnel



Another Person Involved
in the Education or Care
of the Student



- The LEA must respond no later than **15 SCHOOL DAYS** after receiving the request.
- The written request must be made to the LEA's special education director or to an LEA administrative employee for the 15-school day response requirement to apply.
- The written request can be made in a language other than English.
- At that time, the LEA must give the parent a prior written notice (PWN) of whether it agrees or refuses to evaluate the student, along with a copy of [Notice of Procedural Safeguards \(NPS\)](#).
- If the LEA agrees to evaluate the student, it must also give the parent the opportunity to give written consent for the evaluation.



NOTE:

- A request for a special education evaluation may be made verbally and is not required to be in writing. A verbal request does not require the LEA to respond within the 15-school day timeline.
- When requests are made verbally, LEAs must still comply with all federal PWN and procedural safeguard requirements.



Best Practice:

LEAs are encouraged to respond to all verbal requests for evaluation within 15 school days. It is best practice to ask someone who is making a verbal request to place the request in writing.

+ Annual Right to Information Statement

All LEAs must distribute written information to every enrolled student's family regarding IDEA's Child Find and Free Appropriate Public Education (FAPE) requirements to inform them of the options and requirements for helping students who have learning difficulties or who need, or may need, special education services. This statement is typically included in the LEA's [Student Handbook](#) or may be provided by another means as long as it is provided in writing each year.

+ Support Services Available to All Students

If a student who is not receiving special education services receives assistance from the LEA for learning difficulties, the LEA must notify the parent that it is providing this assistance to the student. The notification must be provided when the LEA begins providing the assistance and must also be provided [EACH SCHOOL YEAR](#). Students having trouble in the general education classroom should be considered for all support services available to all students, such as:

- Tutorial services
- Remedial services
- Compensatory services
- Multi-Tiered Systems of Support (MTSS), or other intervention programs
- Other academic or behavior support services




Multi-Tiered Systems of Support (MTSS)

[MTSS](#) is a school-wide framework that is meant to provide varying levels of support to meet the academic, behavioral, and social/emotional needs of students. MTSS includes the term response to intervention (RtI) for academics and/or behavior and other early intervention strategies. TEA has various resources and trainings about MTSS available at the [TSS website](#).

Do Not Delay or Deny

An LEA may not deny a referral or delay an initial evaluation because MTSS or other interventions have not been implemented with a student. If there is a basis for suspecting the student has a disability and needs special education, the student must be referred for an evaluation regardless of whether he or she has participated in an intervention program.



- +  **NOTE:** The Office of Special Education Programs issued a letter and two memos regarding denying or delaying a special education initial evaluation.

“(An) MTSS/RTI (approach) may not be used to delay or deny a full and individual evaluation under [34 CFR §300.304-300.311](#) for a child suspected of having a disability. With respect to preschool children, IDEA does not require or encourage a local or preschool program to use a MTSS approach prior to referral for evaluation or as part of determining whether a 3-, 4-, or 5-year-old is eligible for special education and related services. Once an LEA receives a referral from a preschool program, the LEA must initiate an evaluation process to determine if the child is a child with a disability.

Please note that the content of these memoranda reflects IDEA statutory and regulatory requirements.

- [OSEP Memorandum 11-07](#)--A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA) (January 21, 2011); and
- [OSEP Memorandum 16-07](#)--A Response to Intervention Process Cannot be Used to Delay-Deny an Evaluation for Preschool Education Services under the Individuals with Disabilities Education Act (April 29, 2016). "

Circumstances that May Indicate the Need for Evaluation (not an exhaustive list)

Multiple data sources must be considered, and the cumulative impact may rise to the level of suspecting a disability and need for special education services.

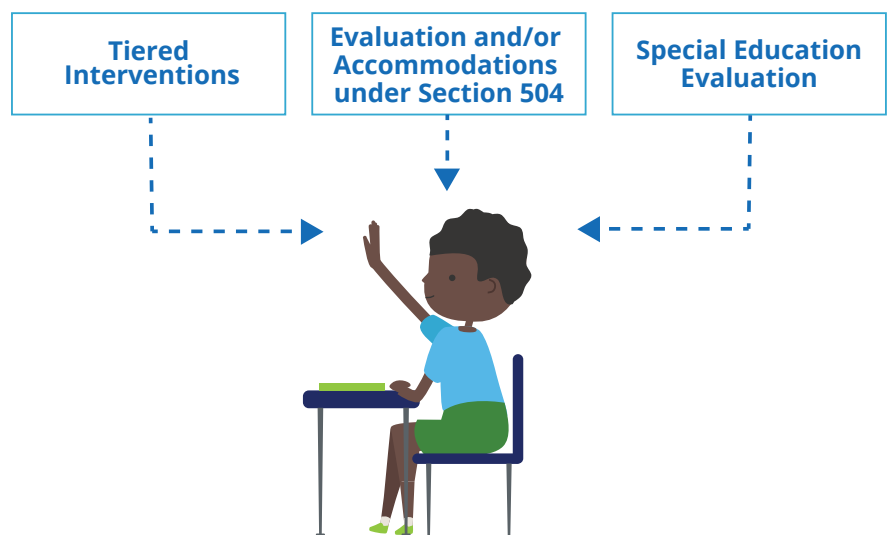
- Lack of expected gains during intervention progress monitoring
- Hospitalization
- More substantial supports needed as general education curriculum becomes more difficult
- Interfering behaviors and/or discipline referrals
- Outside evaluation/diagnosis provided by a parent
- Parental concerns regarding child's struggles
- Outside therapeutic services or tutoring
- Gap between expected academic growth and actual growth
- Chronic absenteeism
- Section 504 services not sufficient to address student needs

Making Data-based Decisions

- When making data-based decisions it is important to gather and systematically analyze information about students.

- **Consider:**

- **Tiered Interventions**
- **Evaluation for Services and/or Accommodations under Section 504**
- **Special Education Evaluation**



These considerations are NOT sequential processes. They should be simultaneous considerations.

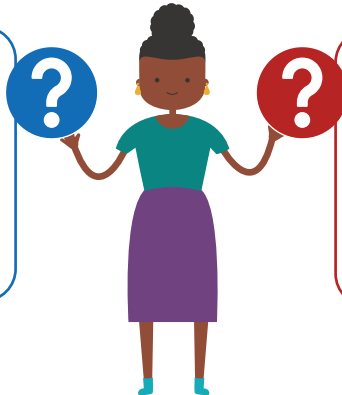
CHILD FIND AND EVALUATION

Knowledge or suspicion of a disability alone does not automatically trigger the need to refer a student for special education. The knowledge must be in addition to a reasonable suspicion that, because of the disability or suspected disability, the student may need special education and related services.

REMINDER

Two questions must be answered:

Is there a reason to suspect that the student has a disability?



Is there a reason to suspect that because of the disability the student needs special education and related services?

If "Yes" to both questions, refer the student for an FIIE.

Children Who Transfer

- If a child is in the process of being evaluated for special education eligibility and enrolls in a new LEA before the evaluation is completed, the new LEA **MUST** coordinate with the previous LEA to ensure prompt completion of the initial evaluation.
- If the child transfers from another LEA when an initial evaluation is pending, the timelines for conducting the evaluation apply to the new LEA unless:



- The new LEA is making sufficient progress to ensure a prompt completion of the evaluation; and
- The parent and the new LEA agree to a specific time when the evaluation will be completed.

Best Practice Tips:

- Provide Child Find orientation, training, and support for all campus staff.
- Identify factors that could trigger the need for referring a student for special education services.
- Coordinate and collaborate between general and special educators on effective instruction and evidence-based interventions.
- Establish training and a system that makes documentation easy, practical and automatic for staff, from Child Find through progress monitoring.

ADDITIONAL RESOURCES:

[TEA course: Child Find Duty - Everyone's Responsibility](#)

[Child Find Duty Quick Guide](#)

Age Ranges for Eligibility

Another responsibility of the LEA is to coordinate with other agencies, such as Early Childhood Intervention (ECI) programs. The LEA will ensure that a FAPE is made available to all eligible children with disabilities ages 3 through 21 under Part B of the Individuals with Disabilities Education Act (IDEA). A child can be referred to an early childhood intervention (ECI) agency beginning at birth through IDEA Part C.



Birth Through Age Two

The LEA and the local ECI contractor have developed a coordinated Child Find system. Both the ECI and the LEA have policies and procedures in effect to identify, locate, and evaluate children who need early intervention or special education services.

Early Childhood Intervention (ECI)

The Texas Health and Human Services Commission is the lead state agency for ECI. The following services are provided with no out-of-pocket payment from the parent: child find, evaluation and assessment; development of the Individualized Family Service Plan (IFSP); services to children with VI or who are DHH, including children with DB; case management; translation and interpreter services; and administrative and coordination activities related to the implementation of procedural safeguards and other components of the statewide system of early childhood intervention services.

It is important for families to know that a medical diagnosis or a doctor's referral is not needed to make a referral to ECI. **Anyone involved with the child – family members, caregivers, teachers, doctors, or friends – may make a referral.**

Family Members
& Care Givers

Teachers

Doctors

Friends

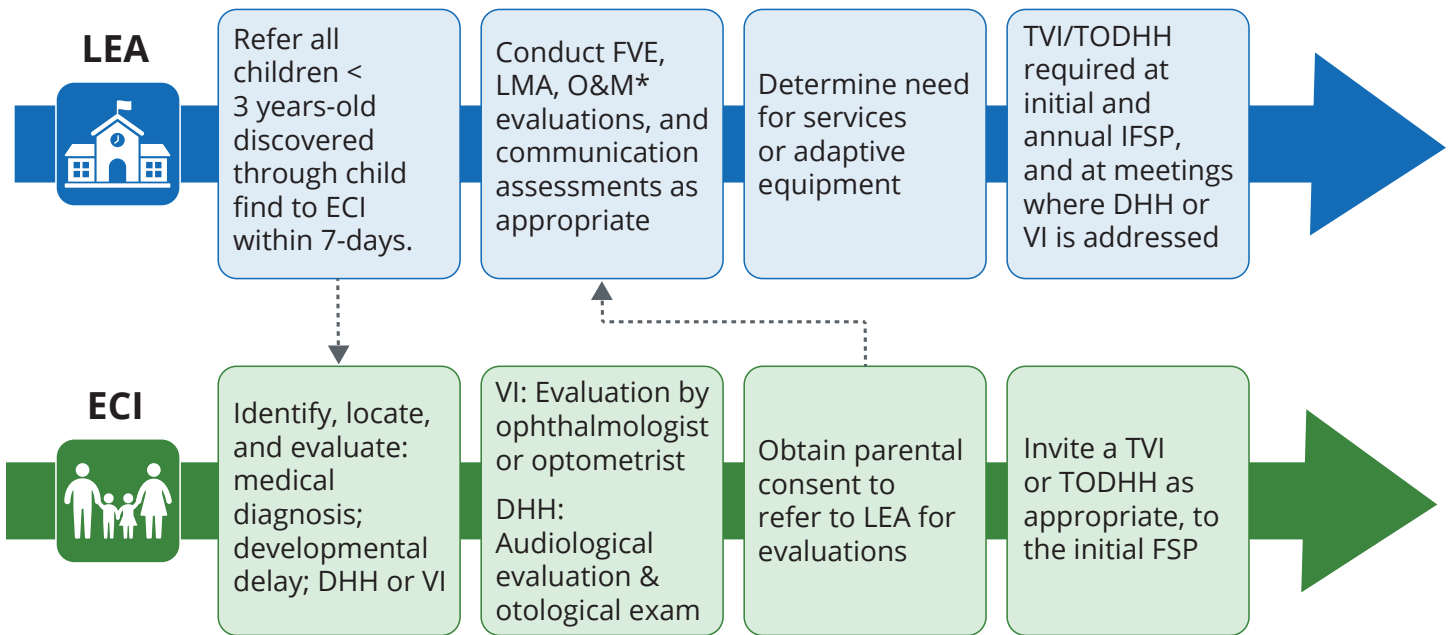


Anyone involved with the child may make a referral.



Sensory Impairments Birth Through Age 2

When a child from birth through age 2 with a suspected or documented VI is referred to an early intervention team, the LEA's teacher of students with visual impairment (TVI), and certified orientation & mobility specialist (COMS) are considered members of the interdisciplinary team. When a child from birth through age 2 with a suspected or documented hearing loss is referred to an early intervention team, the LEA's teacher of the deaf or hard of hearing (TODHH) is considered a member of this interdisciplinary team. Parental consent is required for ECI and the LEA to share information. With parental consent, a TVI or TODHH may be consulted for ways to obtain the required medical documentation leading to a full referral. Consultation may include phone calls, emails and/or home visits, if necessary. ECI must provide case management services for students with visual impairments or who are deaf or hard of hearing. An IFSP meeting will be held in place of an admission, review, and dismissal (ARD) committee meeting.



*Functional Vision Evaluation, Learning Media Assessment, Orientation and Mobility

Transition From IDEA-C ECI to IDEA-B Early Childhood Special Education (ECSE) Programs

At age three, children with disabilities may become eligible for special education services from an LEA. Not all children who receive ECI services qualify for services provided by an LEA. Therefore, at least 90 calendar days before a toddler receiving ECI services turns three years old, a meeting will be scheduled to help the family transition from ECI services to special education services, if appropriate. If the child qualifies for special education services, those services must be made available to the child on his or her third birthday.

- + IDEA requires a smooth and effective transition from one system to the next for children who receive services in ECI LEA Part C and are potentially eligible for Part B services. Both programs must work together in order to meet the IDEA requirement for public schools to develop and implement the Individualized Education Program (IEP) for each child that is eligible by his or her third birthday.

+ Ages 3 through 5

A child between the ages of 3 through 5 can be considered for any disability category. If the child meets eligibility criteria for an intellectual disability, an emotional disturbance, a specific learning disability, or autism, he or she may be eligible for special education services based on the [NONCATEGORICAL EARLY CHILDHOOD \(NCEC\)](#) disability category. Children who are eligible based on the NCEC category must be reevaluated prior to their sixth birthday to determine continued eligibility for special education services. The NCEC category cannot be used once the child turns six years old.

Child Find is designed to identify developmental delays in children aged 3 to 5 within the public school system. If a young child isn't meeting typical developmental milestones or if there are concerns about their growth or learning, a referral can be made to Child Find. Starting at age three, the responsibility for the Child Find process falls on local school districts, who collaborate closely with families to address their concerns and ensure the child's educational needs are met. This may involve gathering information from families and reviewing previous developmental screenings, conducting screenings, or completing evaluations. The primary aim is to determine if there is an educational disability requiring special education and related services to support the child's progress in preschool. It's important to note that Child Find services are provided to families at no cost.



🔄 Early Childhood Intervention Memorandum of Understanding

A Memorandum of Understanding or MOU is a document that describes the broad outlines of an agreement that two or more parties have reached. The Texas Health and Human Services Commission (HHSC) and the TEA created an [MOU](#) with the purpose to:

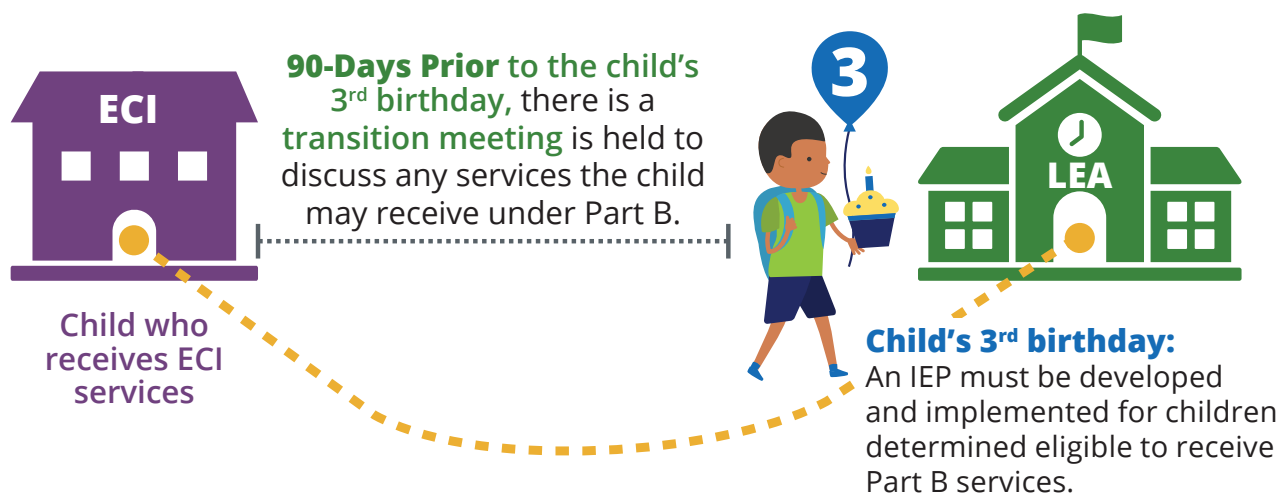
- define roles and responsibilities between the HHSC and TEA within the respective federal and state mandates
- enhance interagency collaboration and relationships; and
- coordinate an effective system of activities, policies, and procedures between TEA and ECI which guide and support the development and implementation of transition services for families of children with disabilities who are approaching age three.



CHILD FIND AND EVALUATION

For the child who may be eligible for early childhood special education services (ECSE), with the approval of the child's family, a transition conference among ECI, the family, and the LEA will be held. This meeting will occur at least 90 days, and not more than nine months, before the child's third birthday to discuss any services the child may receive under IDEA-B.

In the case of the child who was previously served under IDEA-C, at the request of the parent, the LEA will invite the IDEA-C service coordinator or other ECI representatives to the initial ARD committee meeting to assist with the smooth transition of services.



ADDITIONAL RESOURCES:

[A Guide to Early Transitions in Texas](#)

[Beyond ECI](#)

[ECI Transition Flowchart](#)

Evaluation Procedures

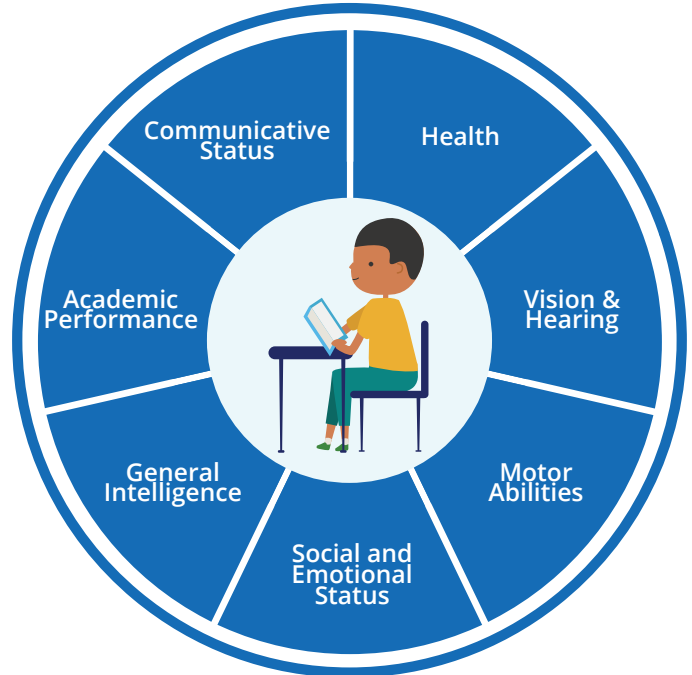
When conducting the full and individual initial evaluation (FIIE), the LEA must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining:

- Whether the child is a child with a disability in need of special education services; and
- The content of the child's individualized education program (IEP), including information related to enabling the child to be involved in and progress in the general education curriculum, or for the preschool child, to participate in appropriate activities.



Components of a Comprehensive Evaluation – A Data-Gathering Process

- Review existing relevant evaluations and data and determine what additional data are needed
- May not use any single measure or assessment as the sole criterion
- Must evaluate the child in all areas related to the suspected disability
- Must use technically sound instruments that are:
 - Racially and culturally fair, administered in native language
 - Used for purposes for which they are reliable and valid
 - Administered as designed by trained and knowledgeable personnel
 - Tailored to area of educational need, adapted to physical and sensory disabilities
- Data in the FIEE directly assist the ARD committee in determining the educational needs of the child
- The evaluation must be sufficiently comprehensive to identify the child's special education and related service needs, whether or not commonly linked to the identified disability category (Interventions may be provided that reflect the child's individual needs regardless of the eligibility category).



Evaluation Considerations

- **Least Restrictive Environment (LRE):** The evaluation must include information related to enabling the child to be involved in and progress in the general curriculum, or for a preschool child, to participate in appropriate activities.
- **Input data:** The evaluation must include all existing evaluation data, classroom observations, and information provided by teachers and families.
- 🔄 ■ **Independent or Private Evaluations:** Private or independent evaluations that parents share with schools must be considered. Information from these evaluations can help determine, what, if any additional data is needed to determine eligibility and , if appropriate, develop an IEP.
- **Medical diagnosis:** The identification of the disability itself is just one of the two main elements of an evaluation. The identification of a resulting need for special education and related services is the other. A medical diagnosis is only needed for certain disability conditions and may not address the need for special education services.
- **Language difference vs. disability:** The LEA administers assessments that differentiate between language proficiency and disability.

Investigating the Need for Special Education and Related Services

- When reviewing existing data, the evaluation team will report academic progress in the evaluation. While academic progress may indicate a child's need for special education services, academic progress alone is not the determinative factor. The evaluation should draw upon information from a variety of sources to make an eligibility recommendation.
- The evaluation should consider the supports a student is already receiving when making recommendations whether he or she requires special education. Data that shows a student is progressing towards closing the achievement gap with general education interventions is an indicator that he or she may not require special education.



Best Practice Tips

- Address in Special Education Operating Procedures local timelines for obtaining parent consent for evaluation after an LEA makes a special education referral or an oral parent request is made. (Remember: written parent requests to certain LEA personnel require a response within 15 school days.)
- Train evaluation staff about when parent consent is needed. Emphasize the difference between reviewing "existing data" and data used for focusing on the eligibility or educational and behavioral needs of a specific child.
- Encourage parents to actively participate in the evaluation process.
- Ask: "Does the data from parent information, school-based information and standardized assessment support the recommendations?" To ensure multiple sources of data from a variety of settings are used.
- Carefully review written evaluation reports from outside the LEA and outside the state of Texas. Check that federal requirements for all evaluations are met. Check for state requirements that are unique to Texas.

Evaluation Requirements

Review of Existing Evaluation Data Requirements

A [REVIEW OF EXISTING EVALUATION DATA](#) (REED) is the **process of looking at a student's existing data** to determine if additional data are needed as part of an FIIE, if appropriate, or as part of a reevaluation. A REED helps schools decide whether current information about a child can be used to determine a child's eligibility for special education.

A REED may be a part of an initial evaluation (if appropriate).

Examples of situations where a REED is appropriate:

- The parent of a child brings in an outside evaluation from a professional and the members of admission, review and dismissal (ARD) committee review this information to determine if additional evaluation by LEA personnel is needed.

CHILD FIND AND EVALUATION

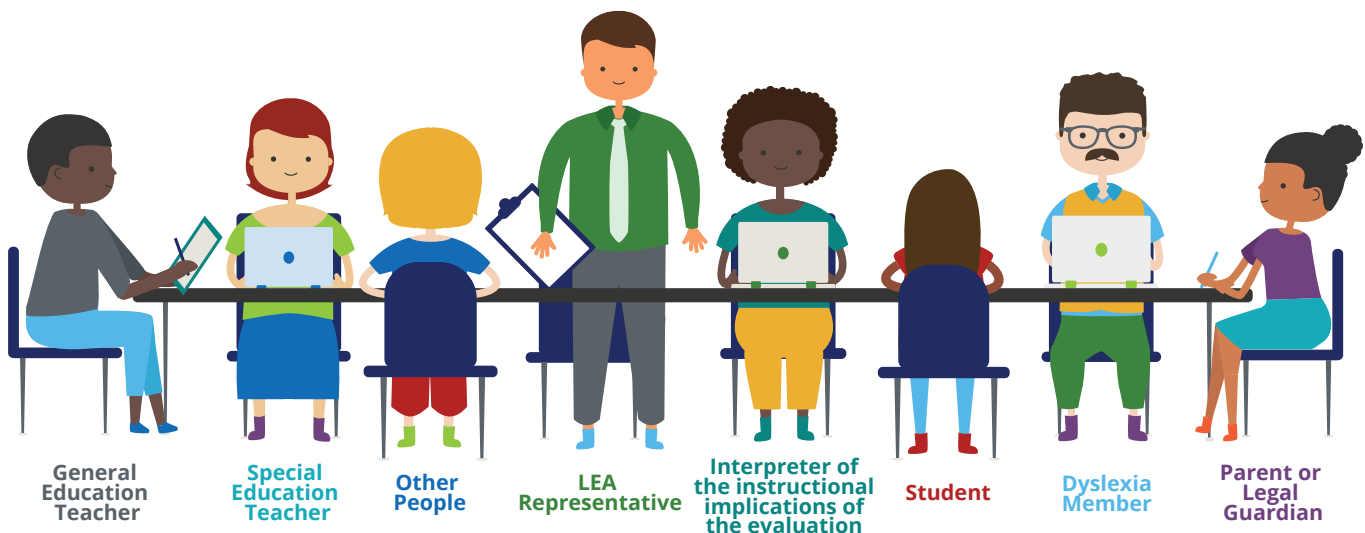
- A child attends a private preschool and the parent requests an evaluation. The members of the ARD committee meet to determine what data is available and what information is needed to complete the evaluation.

Best Practice Tip

It is best practice to collect and review all existing evaluation data on a child before beginning an initial evaluation to assist in determining eligibility.

+ NOTE:

The REED must be conducted by the members of the student's ARD committee, and others as appropriate. The members review the student's existing evaluation data to determine the scope of the evaluation. This review process does not have to take place in an ARD committee meeting. Prior to the REED, the LEA must issue to parents the prior written notice (PWN) (see next section) of its proposal to conduct an evaluation, a copy of the Notice of Procedural Safeguards (NPS), and the opportunity to consent to the evaluation [19 TAC §89.1011(b)(1)], or when the LEA issues to parents the PWN of its refusal to conduct an evaluation and a copy of the NPS [19 TAC §89.1011(b)(2)].



The REED Process Must Include

When the members of an ARD committee conduct a REED, the process must include:

Previous Evaluations:

Can be one or more evaluations

Evaluations and Information Provided by Parents:

e.g. Information from early childhood programs, outside evaluations, medical reports

Teacher Information:

e.g. Grades and attendance records - if possible, from multiple teachers

Classroom Based, Local, and State Assessments:

e.g. Intervention information and progress monitoring data, discipline reports, STAAR



NOTE:

The committee members must ensure that information obtained from these sources is documented and carefully considered.

Based on the REED, the group of qualified professionals which includes the parent, must determine what additional data, if any, are needed to determine whether the child is a child with a disability and the educational needs of the child.

Tips for Working with Families:

- Provide families with organized copies of all documents for their records.
- Ensure that parents and families are meaningfully included in the REED process.
- Explain to parents about the types of assessments and tests that will be used.
- Keep open lines of communication and encourage parents to ask questions throughout the process.



Prior Written Notice (PWN)

The special education regulations require that parents receive [PWN](#) at least five school days (unless the parent agrees to a shorter timeframe) before the LEA proposes or refuses to:

- Initiate or change the evaluation
- Initiate or change a student's identification
- Initiate or change the educational placement
- Initiate or change provision of a FAPE
- Cease the provision of special education and related services due to the parent's revocation of consent for services
- + ■ The LEA must inform the child's parents in writing if it proposes to evaluate the child for possible special education eligibility and services. The PWN must include, among other things, a statement of the parent rights, whom they should contact at the LEA for information, and the steps the district proposes or refuses to take.
- Child Find does not require schools to agree to conduct an FIE for every child. If a school does not agree with a request to conduct an FIE, it must provide PWN and explain why it refuses to evaluate.
- If the LEA proposes to conduct an evaluation, it must also include in the PWN a description of any evaluation procedure it proposes.
- The notice must be written in language that is understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent.
- The LEA should include a copy of the PWN in the student's education record.





NOTE: When dyslexia is suspected, the LEA must distribute the [Overview of Special Education for Parents Form](#) when the LEA issues to parents the PWN of its proposal to conduct an evaluation, a copy of the NPS, and the opportunity to consent to the evaluation [\[19 TAC §89.1011\(b\)\(1\)\]](#), or when the LEA issues to parents the PWN of its refusal to conduct an evaluation and a copy of the NPS [\[19 TAC §89.1011\(b\)\(2\)\]](#);

- TEA expects LEAs to incorporate the distribution of this form in the same circumstances as above to every parent, regardless of the disability that is suspected.
- Parents need to be asked to acknowledge receipt of the form by signing and dating the last page. Each LEA will need to retain evidence of the parent's signature or documentation that the parent refused to provide a signature.

The Seven Elements of Prior Written Notice:

- 1 Description of the action that the LEA proposes or refuses to take.
- 2 Explanation of why the LEA is proposing or refusing to take the action.
- 3 Description of each evaluation procedure, assessment, record or report the LEA used as a basis for the proposal or refusal.
- 4 A statement that the parent(s) of a child with a disability have protection under the procedural safeguards and if the PWN is not an initial referral for evaluation, an explanation of how a copy of the NPS may be obtained.
- 5 Resources for the parent to contact for help in understanding the IDEA and the related federal and Texas special education regulations.
- 6 Description of any other options that the team considered and the reasons why those options were rejected.
- 7 Description of any other factors that are relevant to the LEA proposal or refusal.

Consent for Initial Evaluation



When is consent required?

The LEA must obtain informed consent from the parent **before** conducting an initial evaluation.

The *informed consent* that LEA must obtain to conduct an initial evaluation means:

- The parent has been fully informed of all information relevant to the initial evaluation in the parent's native language or other mode of communication.
- The parent understands and agrees in writing to the LEA carrying out the initial evaluation and the consent describes the initial evaluation and lists the records, if any, that will be released and to whom.
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
- If the parent revokes consent, that revocation is not retroactive; therefore, it does not negate an action that has occurred after the consent was given and before the consent was revoked.

Signature



NOTE:

Parent consent is **not** required when:

- Reviewing existing data as part of the evaluation or reevaluation, or
- Administering a test or other evaluation administered to all children, unless parent consent is required for all children.



Parent consent **is** required prior to an initial evaluation even when part of a REED.

+ Counting Five School Days

When counting school days, do not include the day the notice of action (PWN) was sent as part of the five school days.

- Document the date the parent signed the consent.
- Document the date the LEA received the signed consent.
- Identify the date of the first instructional day after the LEA received the signed, written consent form from the child's parent.
- Use the first instructional day following the date on which the LEA received written consent to count days for the completion of the initial evaluation.
- See [SPP 11: Child Find \(Timely Initial Evaluation\) Frequently Asked Questions \(FAQs\)](#) for more information.



ADDITIONAL RESOURCES:

[Prior Written Notice Quick Guide](#)

[Prior Written Notice – Legal Requirements and Best Practices \(video\)](#)

[Informed Consent for Evaluation and Services Quick Guide](#)

[TSDS Child Find: Parental Consent Date Guidance \(updated 7/18/2022\)](#)

[Student Data Review Guide When Considering a Referral to Special Education and Summary of Responses Tools](#)

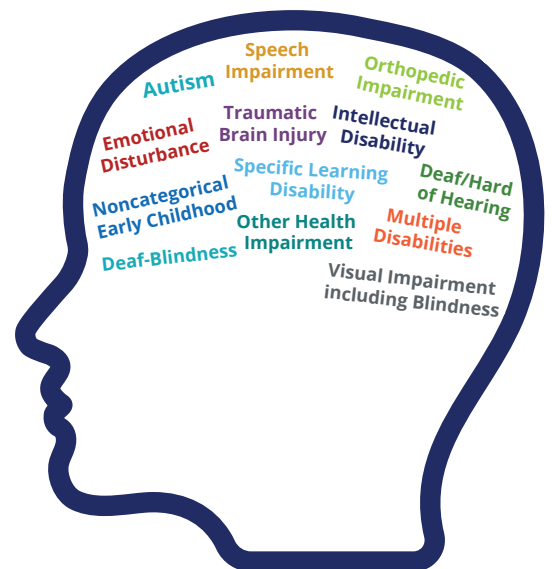
Thirteen Disabilities Identified Under IDEA

- 🕒 In Texas, there are 13 different disability categories under which children ages 3 through 21 may be eligible for special education services. Children who are DHH, DB, or have VI may be eligible to receive services from their LEA at birth.

? Who decides if a child is eligible for special education and related services?

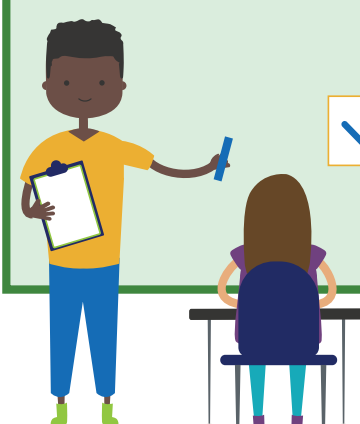
In Texas, the admission review and dismissal committee (ARD committee) makes the eligibility determination and decides the eligibility category.

To determine if a child is eligible for special education and related services under one of the 13 disability categories, an individualized evaluation, or assessment, of the child must be conducted. This evaluation is the [FULL INDIVIDUAL AND INITIAL EVALUATION](#).



CHILD FIND AND EVALUATION

There is a two-part test for determining whether a child is eligible for special education and related services.



A child is eligible to receive special education and/or related services if the child:

- Is determined to have a disability
- As a result of the disability, needs special education and related services



NOTE:

To meet the definition (and eligibility for special education and related services) as a [CHILD WITH A DISABILITY](#), the child must demonstrate an educational need for special education services.

To meet the first part of the two-part test for eligibility, a child must meet the criteria for one or more of the disability conditions defined below:

1. Autism (AU)

A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are:

- engagement in repetitive activities and stereotyped movements
- resistance to environmental change or change in daily routines and;
- unusual responses to sensory experiences.

The term autism does not apply if the child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in #4 below. A child who shows the characteristics of autism after age 3 could be diagnosed as having autism if the criteria above are satisfied.

2. Deaf or Hard of Hearing (DHH)

Is defined as meeting the criteria of deafness or hearing impairment:

- **Deafness** means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.
- **Hearing impairment** means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance, but that is not included under the definition of deafness in this section.

3. Deaf-Blindness (DB)

Having both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

4. Emotional Disturbance (ED)

A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- Inappropriate types of behavior or feelings under normal circumstances.
- A general pervasive mood of unhappiness or depression.
- A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disturbance does not apply to a child who is socially maladjusted unless the child also meets the criteria for having an emotional disturbance. Emotional disturbance includes schizophrenia.

5. Intellectual Disability (ID)

Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

6. Multiple Disabilities (MD)

Means two or more impairments occurring at the same time (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) and are expected to continue indefinitely. The combination causes such severe educational needs that it cannot be accommodated in special education programs solely for one of the impairments.

7. Noncategorical Early Childhood (NCEC)

In Texas, a child between the ages of 3 through 5 who is evaluated as having an intellectual disability, an emotional disturbance, a specific learning disability, or autism may be eligible within the noncategorical early childhood category.



NOTE:

Developmental changes often occur in very young children. With early intervention and appropriate services, children may not need special education by the time they reach six years of age. The noncategorical early childhood category allows a child between the ages of 3 through 5 who is evaluated as having an intellectual disability, an emotional disturbance, a specific learning disability, or autism to be described as noncategorical early childhood. Eligibility must be reconsidered before age 6.

8. Orthopedic Impairment (OI)

Means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

9. Other Health Impairment (OHI)

Means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that –

- is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
- adversely affects a child's educational performance.



NOTE:

- Evidence that a child has a medical diagnosis alone does not mean the child meets the criteria for special education. Texas regulations have expanded the required members of the multidisciplinary team to include an advanced practice registered nurse in addition to a licensed physician or a physician assistant.
- Medical conditions must meet the criteria of “impairing vitality, strength or alertness” at school causing the need for specially designed instruction to access the curriculum.
- The ARD committee, not a student's medical provider, makes the determination as to whether the student is eligible for special education and related services (although information from a medical provider is required for this eligibility category).

10. Specific Learning Disability (SLD)

A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken, or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The IDEA recognizes eight areas in which a student may qualify with an SLD. These eight areas include: listening comprehension, oral expression, basic reading skill, reading fluency, reading comprehension, written expression, mathematics calculation, and mathematics problem solving. These are not specific conditions, rather they describe areas where the student does not achieve adequately for his or her age or meet state-approved grade level standards.



Disorders not included - The term does not include a learning problem that is [primarily the result of](#) visual, hearing, or motor disabilities, an intellectual disability, an emotional disturbance, or environmental, cultural, or economic disadvantage. For more information, please review the [Dear Colleague Letter from October 2015](#).

Disorders included - Students identified as having dyslexia or related disorders may be identified through IDEA under the SLD category. Dyslexia is a specific learning disability (SLD). [TEC §29.0031](#) states dyslexia is an example of and meets the definition of a SLD under IDEA. This is in conformity with IDEA's federal regulations at [34 CFR §300.8\(c\)\(10\)](#), which specifically lists dyslexia as an example of an SLD. For more information see the [TEA Dyslexia and Related Disorders webpage](#).



NOTE:

Evaluation for dyslexia is a single pathway for identification under the IDEA. This means that anytime the LEA suspects that the student has dyslexia or related disorders and may need specially designed instruction, the LEA must seek parental consent to evaluate under the IDEA.

11. Speech Impairment (SI)

Means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

12. Traumatic Brain Injury (TBI)

Means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance.



NOTE:

- The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.
- The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

13. Visual Impairment (VI) Including Blindness

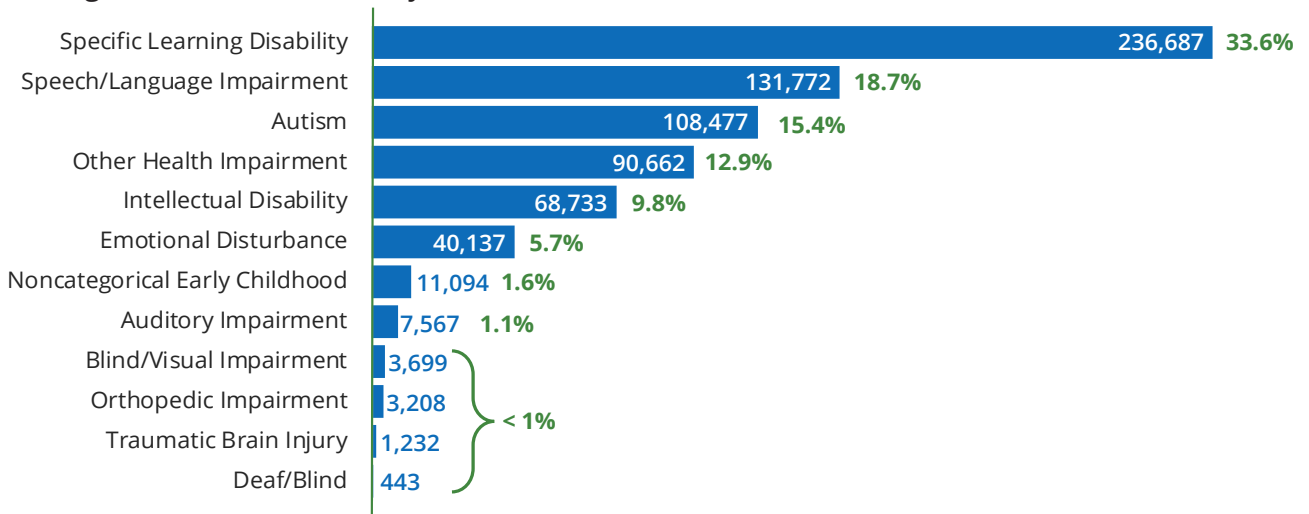
Means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

In Texas, children served within the category of DHH or VI (including DB) are eligible to receive services from birth.



Populations Served:

The following graph shows the number and percentage of Texas students with disabilities by eligibility category during the 2022-2023 school year.



Source data: from a. Speced_dis_student23f by unique student id total and Windham submission. Dataset was collected as Enrollment in Oct Fall, 2022.

ADDITIONAL RESOURCES:

[Deaf and Hard of Hearing Students \(DHH\): Eligibility for Special Education](#)

[Students with Visual Impairments: Eligibility for Special Education](#)

[Guidance for the Comprehensive Evaluation of Specific Learning Disabilities](#)

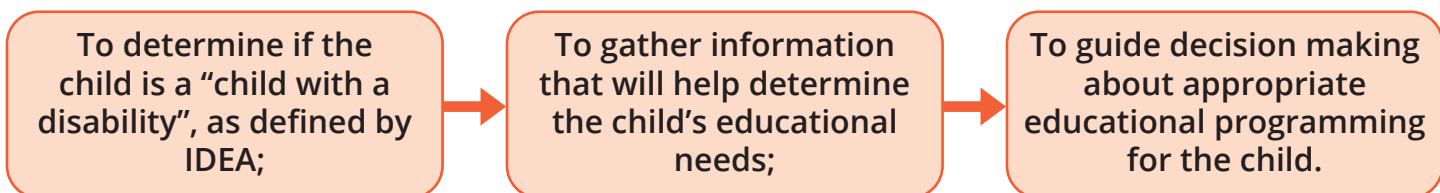
Full and Individual Initial Evaluation (FIE)

The evaluation process establishes a foundation for developing an appropriate educational program for a child. Evaluations assist in determining initial and continued eligibility for special education services, to determine a student's need for special education and related services, and to gather additional information for an Admission, Review and Dismissal (ARD) committee to use when developing or revising an IEP for a child.

When must a child have an FIE?

A child must have an FIE to determine whether he or she has a disability and may be eligible to receive special education services. An FIE must be completed before the provision of any special education or related services to a student.

The purposes of conducting this evaluation are:



NOTE: The LEA must obtain informed [CONSENT](#) from the parent before conducting an initial evaluation. Also,

[PWN](#) must be given to the parents of a child with a disability at least five school days before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, unless the parent agrees to a shorter timeframe.

After obtaining consent for an initial evaluation, the school must conduct an evaluation of the child in all areas of suspected disability to determine if the child has a disability and to determine his or her educational needs.

Tip for Working with Families:

When parents request an evaluation encourage them to put the request in writing, include a date and signature, provide it to a school administrator, and keep a copy.



Evaluation Procedures

Child is identified as possibly needing special education and related services.

PWN is given and parental consent is obtained.

Child is evaluated and written report is completed.

ARD meeting is scheduled and held.*

Eligibility is decided.

If eligible, IEP is written.

*The Parent's Guide to the ARD Process must go to parents at least five school days before the initial ARD.

The evaluation process for the child must:

Include information about the child's academic, developmental, and functional performance.	Be administered by trained and knowledgeable personnel in accordance with standard administration.	Be administered in the child's native language or other mode of communication.	Be unbiased and given in such a way so as not to discriminate against the child.	Be used for the purposes for which the assessments are valid and reliable.
1	2	3	4	5

Timeline



For children ages 3 through 21, the [FIE](#) and resulting report must be completed no later than 45 school days from the day the school receives written consent. However, if the child has been absent from school during the evaluation period on three or more school days, the evaluation period may be extended by the number of school days equal to the number of school days that the child has been absent.

When written consent for evaluation is received with less than 35 school days before the last instructional day of the year, the 45-school day evaluation timeline extends into the following school year.

If a child is under five years of age by September 1 of the school year and not enrolled in public school or is enrolled in a private or home school setting regardless of age, the initial evaluation and the resulting report must be completed no later than 45 school days from the day the school receives written parental consent.

CHILD FIND AND EVALUATION

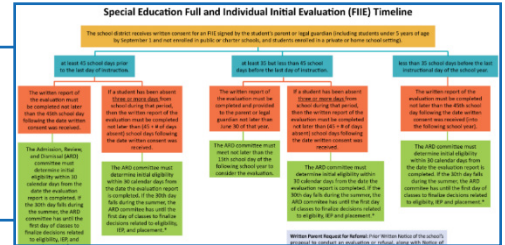


NOTE: There is an additional exception to the 45-school day timeline – If the school receives the written consent for the initial evaluation request at least 35 but less than 45 school days before the last instructional day of the school year, the written report of the FIIE must be completed and provided to the parent by June 30th of that year. However, if the child is absent from school on three or more days during this evaluation period, the June 30th due date no longer applies. Instead, the general timeline of 45 school days plus extensions for absences of three or more days will apply.

If the parent does not consent to the initial evaluation, the school may, but is not required to, pursue the evaluation by asking for mediation or requesting a due process hearing. If the school decides not to pursue the evaluation, the school does not violate the IDEA Child Find duty.



Visit this website to view the PDF of the **Special Education FIIE Timeline**

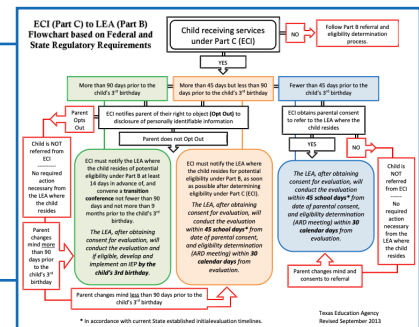


For Children Previously Served in Part C Early Childhood Intervention (ECI) Ages 0 through 2

For children served in ECI, the LEA, after obtaining consent, will conduct an evaluation. If the child meets eligibility requirements, an IEP will be developed and implemented **by the child's third birthday** as required by federal law. The Admission, Review, and Dismissal (ARD) committee will make an eligibility determination at the initial ARD meeting.



Visit this website to view the PDF of the **ECI Transition Flowchart**



Adobe Stock Photo

Reevaluation



WHEN?

When must you conduct a reevaluation?

A reevaluation must be conducted not more often than once a year, unless the parent and the LEA agree otherwise and at least every 3 years, unless the parent and the LEA agree that reevaluation isn't necessary. The reevaluation must be conducted if the LEA determines that a reevaluation is warranted based on the student's educational or related services needs, or if the child's parent or teacher requests one. Additionally, the local educational agency shall evaluate a child with a disability before determining that the child is no longer a child with a disability.

WHO?

Who can request a reevaluation?

Reevaluations may be requested by any member of the ARD committee, including parents and teachers, prior to the triennial due date.

WHAT?

What is a reevaluation process?

A reevaluation includes a review of existing evaluation data (REED), as well as current input from a child's parents and teachers so that a decision can be made regarding continued eligibility or need for further assessments.

A [REVIEW OF EXISTING EVALUATION DATA](#) (REED) is required as part of any reevaluation.

Based on the REED, the ARD committee, which includes the parent, as well as other qualified professionals as appropriate, must determine what additional data, if any, are needed to determine whether the child continues to be a child with a disability and whether the child continues to need special education and/or related services.

Based on the REED, the team must identify any additional data needed to determine:

- Whether the child continues to have a disability;
- Whether the child continues to need special education and related services;
- The present levels of academic achievement and functional performance of the child (PLAAFP); and related developmental needs of the child;
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in his or her IEP and to participate, as appropriate, in the general education curriculum.



Additional data not needed:

If the ARD committee determines that no additional data are needed beyond the REED to complete the reevaluation, the LEA must inform the parent in writing of this decision and the reasons for the determination and that the parent has the right to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs. This is called [PWN](#).

If the parent does not request additional evaluation, the LEA is not required to conduct further evaluation, and the REED may constitute the student's reevaluation. The date of the REED establishes the new three-year anniversary date.



Additional data needed:

Based on the REED, if the ARD committee determine that additional data are needed, the team must indicate what additional data is needed and obtain informed parent consent. To meet federal requirements, the ARD committee members must document what data was reviewed and based on that review, what data is needed.

Then the LEA **must**:

- Notify the parent in writing (PWN);
- Develop an evaluation plan which includes assessment areas and information needed; and
- Obtain informed consent.

When assessments are complete, the ARD committee will convene to review evaluation results and make any necessary eligibility determinations or changes to the child's IEP.

Best Practice Tip

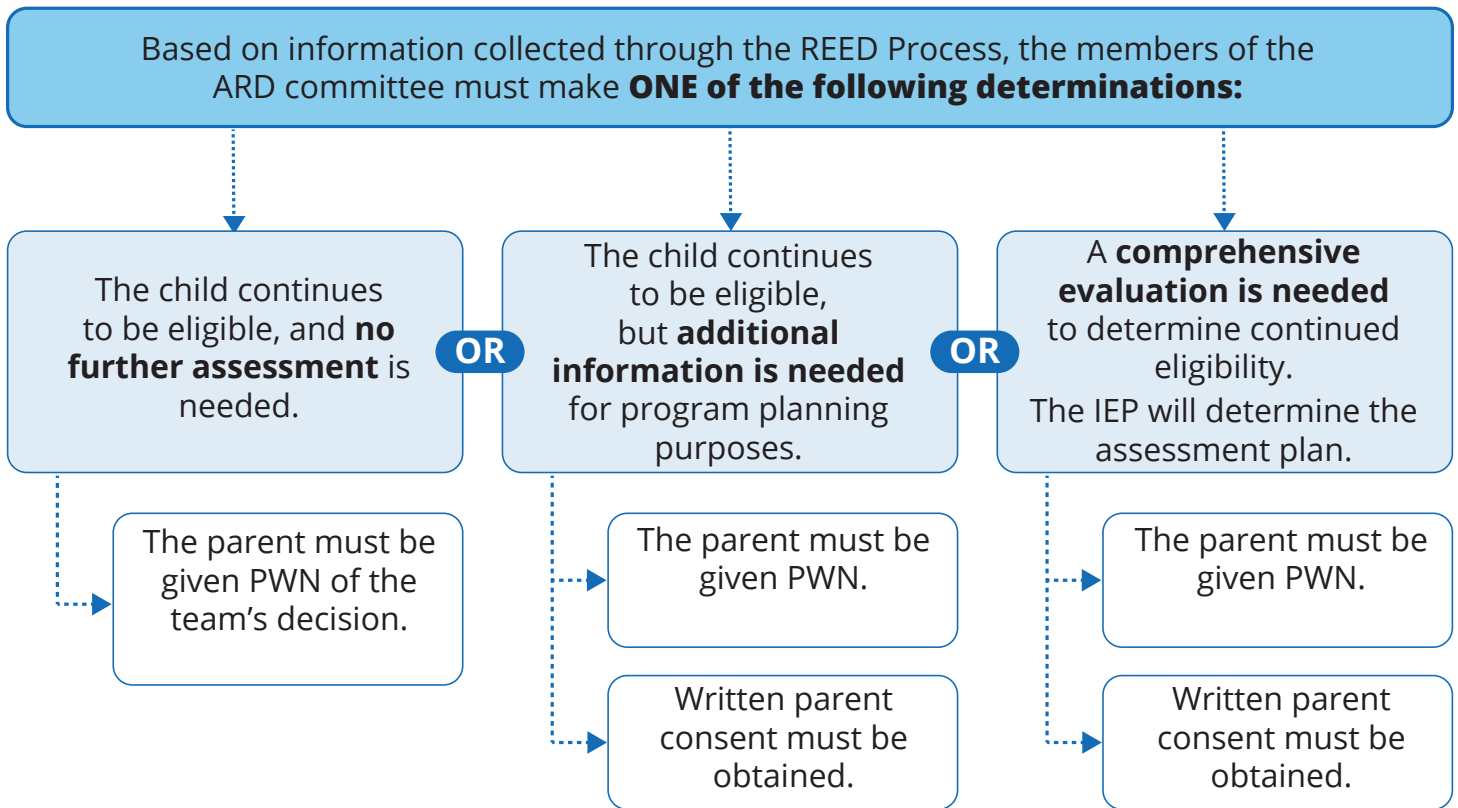
A REED should be completed at least 45 school days before the three-year anniversary date. If additional data is needed, the information must be obtained prior to the reevaluation due date.

Reevaluation Procedures



NOTE:

- The REED must be conducted by the members of the student's ARD committee, and others as appropriate. However, this review process does not have to take place in an ARD committee meeting.
- A REED may or may not lead to additional testing/assessment procedures.
- The LEA must make reasonable efforts to obtain informed consent for a reevaluation. If the parent does not respond, despite reasonable efforts, the reevaluation can proceed.



If the parent refuses to consent to the reevaluation:

- The LEA may pursue the reevaluation using mediation or due process procedures.
- The LEA does not violate its obligation under the [CHILD FIND DUTY](#) and the [EVALUATION PROCEDURES](#) requirements if it declines to pursue the reevaluation.



NOTE:

The LEA must maintain documentation of [RECORDS OF ATTEMPTS](#) to obtain parental consent. Those procedures include detailed records of phone calls, copies of correspondence, and detailed records of visits to the parents' home or job.

ADDITIONAL RESOURCES:

[Question and Answer Document: Review of Existing Evaluation Data and Reevaluation](#)

[Guidance Related to Evaluations: REED and Reevaluation](#)

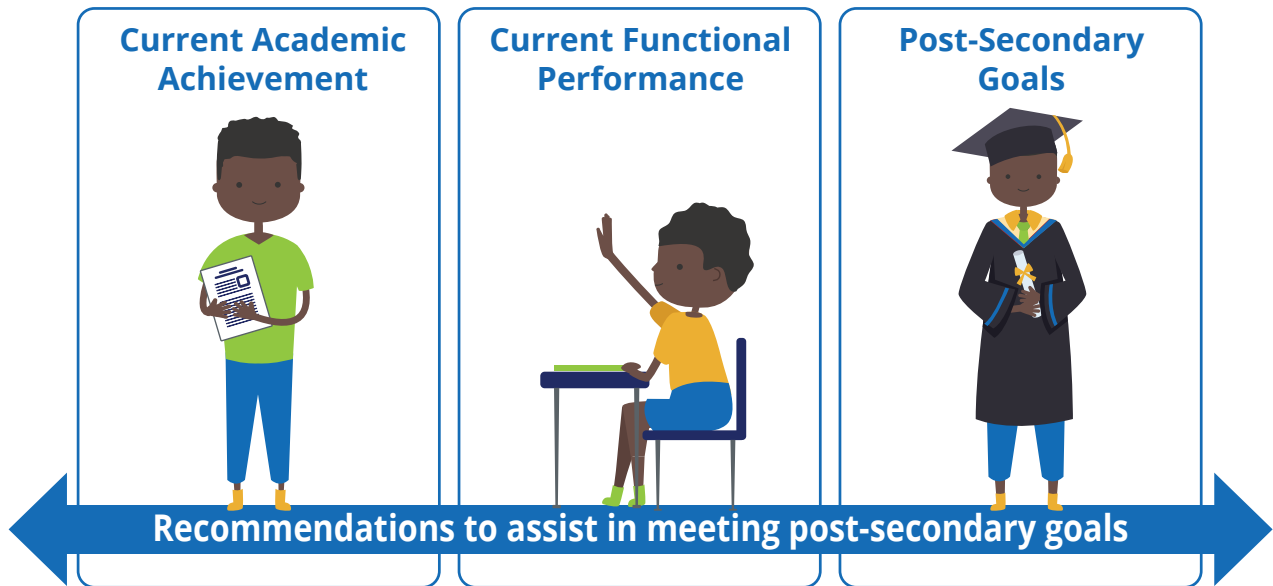
Summary of Performance and Evaluation

What is the Summary of Performance (SOP) and its purpose?

SUMMARY OF PERFORMANCE refers to a document that is intended to be a useful resource for students, families, and employers or educators in post-secondary settings. It must include a summary of the student's academic achievement and functional performance, as well as recommendations about ways to help the student achieve post-secondary goals. It must consider, as appropriate, the views of the parent and student, as well as written recommendations from adult service agencies on how to assist the student in achieving post-secondary goals.

The SOP should include information about accommodations that have been necessary and/or helpful to the student in performing academic and functional tasks. The overriding purpose of the SOP is to facilitate the student's post-secondary transition success.

The SOP includes information about:



The SOP must consider, as appropriate:





Which students must have an SOP?

Completion of the SOP is a legal requirement for all students receiving special education services who are [graduating](#) or are exiting public school due to age.



When must an evaluation be included in the SOP?

An evaluation must be included as part of the SOP for students graduating under the Foundation High School Program or the Minimum High School Program with at least one course containing modified curriculum. How the evaluation is included in the SOP is left to the discretion of the LEA.



Is the LEA required to conduct a new evaluation as a part of the SOP?

If the student's evaluation is current, there is not a requirement to conduct a new evaluation. The current evaluation will be one of the sources of data utilized in writing the SOP.

Best Practice Tip

- The SOP is most useful when completed with the student's active participation during the transition process.
- Be specific in describing how accommodations have helped the student's functioning in relevant settings.
- Include the most current information about the student's abilities and aspirations.
- Ensure that the student receives a copy of their current evaluation with the SOP and understands the information.
- Encourage the student to "own" the SOP to facilitate self-advocacy.
- A well written SOP will make the reader feel like they know the student.

Tips for Working with Families:

- Ensure families have a meaningful opportunity to provide information about their student.
- Encourage families to maintain a copy of the SOP for future educational and employment settings.



ADDITIONAL RESOURCES:

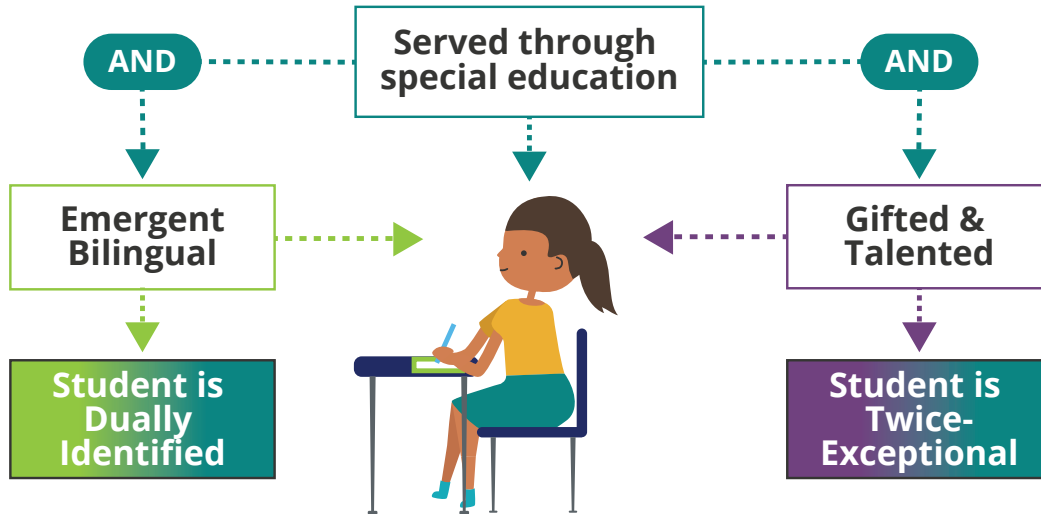
[Summary of Performance Fact Sheet](#)

[Graduation Toolkit](#)

Special Circumstances Evaluation Areas

Texas students speak more than 120 different languages.

Children enrolled in Texas schools speak more than 120 different languages. Consequently, in Texas many children with disabilities are also identified as students who are emergent bilingual. Children with disabilities may also be identified as gifted in comparison to same-aged peers.



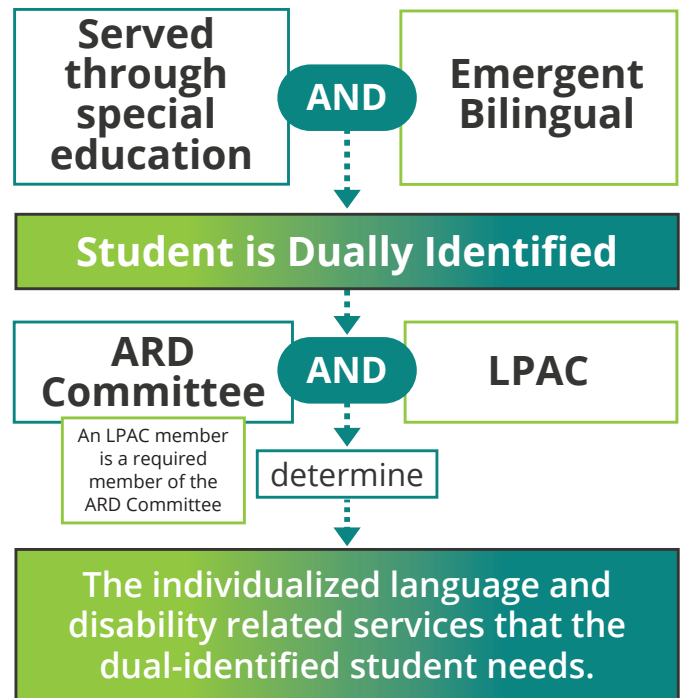
Emergent Bilingual (EB) Students

When a child with a disability is, or might be, identified as EB, the child’s ARD committee must work in conjunction with the language proficiency assessment committee (LPAC) for all decision making regarding the whole child.

Important topics for members of the ARD and LPAC committees who work directly with the student include:

- the student's cognitive and linguistic abilities, and affective needs;
- linguistic accommodations that will help the student access the general curriculum; and
- interaction of language and disability related needs.

Continuous communication and ongoing coordination between both the LPAC and ARD committees is best practice.



Assessment Instruments

For students with disabilities, school districts shall utilize the state's criteria for identification of emergent bilingual students as described in [TAC §89.1226\(f\)](#) of this title (relating to Testing and Classification of Students) and shall establish placement procedures that ensure that the placement recommendation by the LPAC committee, in conjunction with the ARD committee, in a bilingual education or English as a second language program is not refused based on the student's disabling condition.

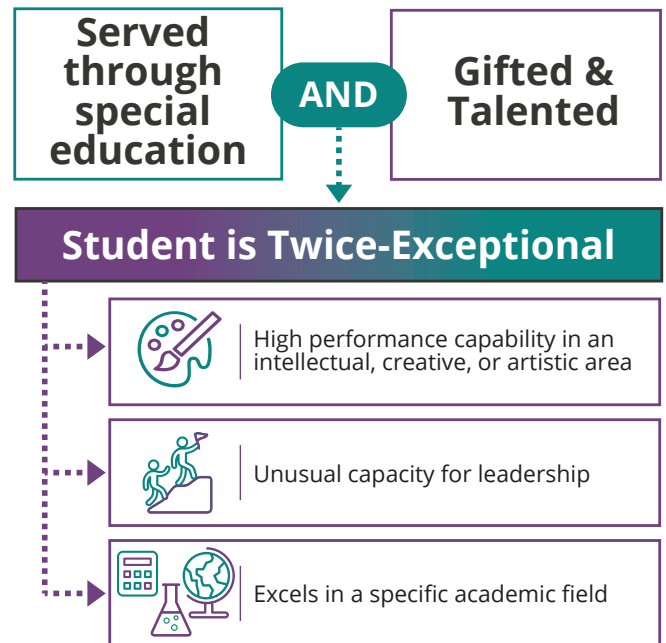
Twice-Exceptional Learner

A twice-exceptional learner is a child who is [GIFTED AND TALENTED](#) and qualifies for special education services. Based on LEA criteria, a child may be gifted and talented if he or she performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

- exhibits high performance capability in an intellectual, creative, or artistic area;
- possesses an unusual capacity for leadership; or
- excels in a specific academic field.

Twice-exceptional children tend to fall into one of these three categories, complicating identification:

- Students whose giftedness masks their learning and attention issues.
- Students whose learning and attention issues mask their giftedness.
- Students whose learning and attention issues and giftedness mask each other.



Assistive Technology



The ARD committee must consider whether the child needs [ASSISTIVE TECHNOLOGY](#) devices or services.

The term *assistive technology device* (ATD) is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of the child with a disability. The term ATD does not include a medical device that is surgically implanted, or the replacement of such device.

The term *assistive technology service* means any service that directly assists the child with a disability in the selection, acquisition, or use of an ATD and includes the evaluation of the needs of the child, including a functional evaluation of

the child in the child's customary environment. Rather than a one-time "event" conducted by a specialist, assistive technology assessment is best thought of as a collaborative process by which a team (e.g., ARD Committee) determines what technologies would improve a student's performance, participation, and independence.

The consideration of assistive technology devices and services is required during the development of every Individualized Educational Program (IEP) and every Individual Family Service Plan (IFSP) for children from birth to school age.

Best Practice Tips

The Quality Indicators for Assessment of Assistive Technology Needs (listed 1-7 below), is a process used to identify tools and strategies to address a student's specific need(s):

1. Assistive technology assessment procedures are clearly defined and consistently used.
2. Assistive technology assessments are conducted by a multidisciplinary team that actively involves the student and family or caregivers.
3. Assistive technology assessments are conducted in the student's customary environments.
4. Assistive technology assessments, including needed trials, are completed within reasonable timelines.
5. Recommendations from assistive technology assessments are based on data about the student, environments and tasks.
6. The assessment provides the ARD committee with documented recommendations about assistive technology devices and services.
7. Assistive technology needs are reassessed by request or as needed based on changes in the student, environments and/or tasks.

ADDITIONAL RESOURCES:

["Appropriate Special Education Referrals of Culturally and Linguistically Diverse Learners"](#) (recorded webinar)

[Guidance Related to ARD Committee and LPAC Collaboration](#)

[Bilingual and English as a Second Language Education Programs](#)

[Students Served by Special Education and Identified as Gifted and Talented](#)

[Dual-Identified Students](#)

[Considering Assistive Technology \(AT\) in the Individualized Education Program \(IEP\) Process](#)

[Guidelines When Considering an Initial Referral for Special Education for Emergent Bilingual Students Supplemental Response Form to the Student Data Review Guide](#)

Independent Educational Evaluation (IEE)



What is an IEE?

An [INDEPENDENT EDUCATIONAL EVALUATION \(IEE\)](#) means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child. A parent's right to request an IEE is a procedural safeguard described in the NPS.

Parent Request for an IEE

- Parents have the right to obtain an IEE of their child at their own expense.
- Parents have the right to an IEE at the LEA's expense if they disagree with an evaluation provided by the LEA, unless the LEA:
 - Demonstrates at a due process hearing that its own evaluation of the child was appropriate; or
 - Demonstrates at a due process hearing that the evaluation obtained by the parents did not meet LEA criteria.
- Parents are entitled to only one IEE at public expense each time an LEA conducts an evaluation with which the parent disagrees.
- Parents may forfeit their right to an IEE at public expense if they fail to give consent for an LEA to conduct an evaluation.



+ LEA's Response to Parent's Request for an IEE

If a parent requests an IEE at LEA expense, the LEA must provide information about where one may be obtained ([34 CFR 300.502\(a\)\(2\)](#)), and without unreasonable delay, either:

1. provide the parents with information about the LEA's criteria for IEEs, and ensure that a publicly funded IEE is provided,
2. file a due process hearing request to ask a hearing officer to determine whether the evaluation the LEA conducted was appropriate, or
3. demonstrate in a hearing that the IEE the parent obtained did not meet the LEA's criteria.



NOTE:

- An LEA may ask the parents why they want their child to be independently evaluated, but the parents are not required to answer.
- LEAs may not reevaluate or conduct a missing assessment instead of responding to an IEE request.
- If a due process hearing officer determines that the LEA's evaluation is appropriate, the parent still has a right to an IEE, but not at public expense.
- If a hearing officer requests an IEE as part of a hearing or a due process complaint, the cost of the evaluation must be the responsibility of the LEA.

↻ LEA's Criteria for an IEE

LEAs must not impose criteria or requirements that constitute barriers for families in obtaining an IEE at public expense. Examples of criteria that could constitute barriers are things such as unreasonably restricting evaluation costs or requiring families to cover associated costs up front and later be reimbursed by the LEA. In addition, LEAs may not require parents to submit bills for the cost of an IEE to their private insurance companies. These practices can incur costs to the parents that are not readily apparent, such as increased insurance premiums or a decrease in available lifetime coverage.

An LEA's criteria for an IEE may:

- state that parents should check with their insurance provider to better understand possible future financial costs to them; and
- inform parents that their refusal to do so will not relieve the LEA of its duty to ensure that all required services are provided at no cost to the parent.



The LEA's criteria for IEE must be the same as the criteria that the LEA uses for its own evaluations. The criteria must be consistent with a parent's right to an IEE, and the LEA may not impose additional conditions or timelines related to obtaining an IEE at public expense. Parents must be given an opportunity to demonstrate unique circumstances that allow for a deviation from the criteria established by the LEA. The location of where the evaluation is conducted as well as qualifications of the examiner are criteria outlined by [FEDERAL LAW](#).



Location of where the evaluation is conducted – may include, for example, a statement that the independent evaluator must be located within a 125-mile radius of the LEA.



Qualifications of the examiner – may include, for example, that the independent evaluator will have the same qualifications required for LEA evaluation personnel, such as, school psychologist or licensed specialist in school psychology (LSSP) for a psychological evaluation.



NOTE:

LEAs should maintain a list of qualified evaluators to provide parents, along with information on how and where to obtain an IEE. An LEA's regional education service center (ESC) can assist with compiling such a list. Parents are free to select an evaluator who is not on the list as long as the evaluator meets other LEA criteria, unless the criteria would limit a parent's right to obtain an IEE at public expense.



State/federal requirements applicable for all evaluations apply for the IEE, including provision of a written report.



Cost Criteria: Means that LEAs are not required to pay unreasonable fees for an IEE. However, when addressing the cost of the IEE, LEAs must be prepared to recognize unique circumstances affecting IEE cost. Those circumstance may justify a more expensive evaluation. While it is permissible to set reasonable pricing thresholds, LEAs need to be flexible depending on the nature of the requested IEE. The threshold cannot prevent the parent from obtaining an IEE at public expense.



Payment Procedures: must ensure that the parent's personal finances do not create a barrier to obtaining an IEE. For some parents, a rigid procedure that requires parents to pay an evaluator directly may be found to deny a parent the right to a publicly funded IEE.



NOTE:

- LEAs should provide the same access for classroom observations to IEE providers as given to LEA staff.
- Parents must sign consent for release of confidential information about their child to the IEE provider in order for the LEA to provide access to the child's educational records.
- LEAs should share current evaluations with the IEE providers since some assessments would become invalid if used too often.

LEA's Obligation to Consider an IEE

- If the parent obtains an IEE at the LEA's expense or shares an evaluation obtained at private expense, the ARD committee must consider the results of that evaluation when making decisions involving the provision of a FAPE to the child.
- The ARD committee must include an individual from the LEA who can interpret the instructional implications of evaluation results.
- While the ARD committee, including the parents, must consider the results of an IEE, the committee is not required by law to adopt the IEE provider's recommendations or conclusions.

The ARD committee must consider the results of an IEE when making decisions involving FAPE.



Best Practice Tips

- LEA's should address the criteria for an IEE in its Special Education Operating Procedures. Do not wait until an IEE is requested to assemble a list of evaluators and evaluation criteria.
- LEA special education and finance offices should work together closely as there should be a mutual understanding between special education and the finance office of the process for contracting between the LEA and an IEE provider. This will expedite the process when parents make a request for an IEE. LEAs are encouraged to contract directly with IEE providers. Payment for services can be delivered within a defined time limit after receipt of the written IEE report.
- The LEA should explain to the parent that the parent has a right to an IEE at public expense if the parent disagrees with an evaluation already obtained by the LEA. This means that the LEA has the right to conduct its own evaluation prior to paying for an IEE.
- Make sure the LEA's evaluation is comprehensive, and the child is evaluated in all areas of suspected disability.
- LEAs should carefully review the IEE, explaining any areas of agreement or disagreement with the parent.
- Request that parents notify the LEA of specific areas of disagreement and questions to be addressed by the IEE. Remember, however, that parents are not required to provide an explanation.

Role of the ARD Committee: Eligibility Decision

Eligibility Decision

Upon completion of the [FIIE](#), the ARD committee must determine whether:

- The child is a child with a disability; and
- By reason of the disability, the child needs special education and related services.

The MDT makes **recommendations** about eligibility in the FIIE. Only the ARD committee has authority to make eligibility decisions.



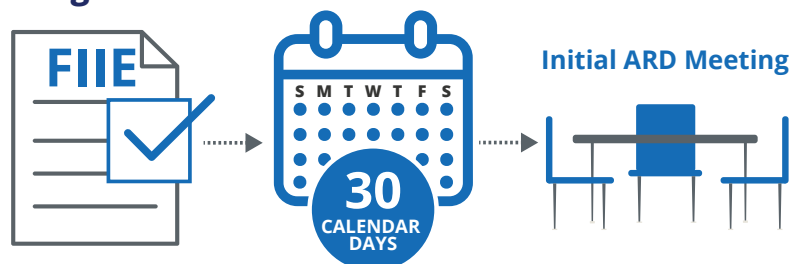
+ Texas state laws have expanded the required members of the MDT and any subsequent team convened to determine a student's eligibility for special education and related services when dyslexia is a suspected disability to include at least one member with specific knowledge of the reading process, dyslexia and related disorders, and dyslexia instruction.

The member must:

- Hold a licensed dyslexia therapist (LDT) license under Chapter 403, Occupations Code;
- Hold the most advanced dyslexia-related certification issued by an association recognized by the SBOE; or
- If neither of these is available, the member must meet the training requirements adopted by the SBOE.

Timeline for Initial ARD Committee Meeting

The ARD committee must make its decisions regarding the child's initial eligibility determination and, if appropriate, IEP and placement within 30 calendar days from the date of the completion of the written FIIE report unless one of the following situations applies:



- If the 30th day falls during the summer and school is not in session, the ARD committee has until the first day of classes in the fall to finalize its decisions, unless the initial evaluation indicates that the child will need extended school year services during that summer; or
- If the LEA received the written consent for the evaluation from the parent at least 35 but fewer than 45 school days before the last instructional day of the school year and the child was not absent from school three or more days between the time that the LEA received written consent and the last instructional day of the school year, the ARD committee must meet not later than the 15th school day of the following school year, unless the initial evaluation indicates that the child will need extended school year services during that summer.

Analysis of Determinant Factors

A child must **not** be determined to be a child with a disability, if a child is determined to have one of the following causal factors:

- Lack of appropriate instruction in reading, including the essential components of reading instruction which means explicit and systemic instruction in:
 - Phonemic awareness
 - Phonics
 - Vocabulary development
 - Reading fluency, including oral reading skills and
 - Reading comprehension strategies, and/or
- Lack of appropriate instruction in math; or
- Limited English proficiency; and
- If the child does not meet eligibility criteria under [34 CFR §300.8\(a\)](#)

Need for Special Education and Related Services

If a child has one of the 13 disabilities identified in Texas, but only needs [RELATED SERVICES](#) and not special education services, the child is not a child with a disability under the Individuals with Disabilities Education Act (IDEA).



NOTE:

Upon completion of the evaluation the LEA must provide a copy of the evaluation report at no cost to the parent.

Parents have access rights which are the general right to inspect and review any education records for their child. When the parent requests access to the education records, the LEA must comply without [UNECESSARY DELAY](#).



TEA Photo Library

Tip for Working with Families:

- Review the FIEE with the parent and provide a copy prior to the ARD committee meeting to give them time to review and prepare.
- Ensure the parent has an opportunity for meaningful input in the ARD process. Explain to the parent that the determination of eligibility is one of the first decisions made with the parent's input.



Best Practice Tip

Remember, the fact that a student performs well academically does not necessarily make him ineligible for special education services. Carefully consider any factors, such as behaviors, that interfere with learning.

ADDITIONAL RESOURCES:

[Admission, Review, and Dismissal \(ARD\) Committee Manager Training](#)

[Standards Based IEP Process Training](#)

[ARD Committee Manager Quick Guide](#)

[ARD Supports Resources](#)



Resources

ARD	45
Child Find	45
Dyslexia.....	45
Early Childhood	45
Evaluation.....	46
Federal State Rules, Regulations, and Guidance	46
Gifted and Talented.....	47
Students who are Identified as Emergent Bilingual	47
Transition.....	47
MTSS/RTI	47
Other	47

ARD

- [Admission, Review, and Dismissal \(ARD\) Committee Manager Training](#)
- [Prior Written Notice Quick Guide](#)

Child Find

- [Child Find Duty](#)
- [Child Find Duty - Everyone's Responsibility](#)
- [SPP 11: Child Find \(Timely Initial Evaluation\) Frequently Asked Questions](#)

Dyslexia

- [The TEA Dyslexia and Related Disorders Webpage](#)
- [The Dyslexia Handbook 2021 \(English\)](#)
- [The Dyslexia Handbook 2021 \(Spanish\)](#)

Early Childhood

- [Early Childhood Intervention Services](#)
- [Early Childhood Intervention for Students with Auditory or Visual Impairments](#)
- [Early Childhood Intervention Memorandum of Understanding](#)
- [Beyond ECI](#)
- [Health and Human Services ECI Parent Handbook](#)
- [ECI Transition Flowchart](#)
- [Noncategorical Early Childhood \(NCEC\)](#)

Evaluation

[Review of Existing Evaluation Data](#)

[Child with a Disability Defined](#)

[Children who Transfer During the Evaluation Process](#)

[Special Education Informed Consent Quick Guide](#)

[TSDS Child Find: Parental Consent Date Guidance \(updated 7/18/2022\)](#)

[Full and Individual Initial Evaluation \(Evaluation Procedures\)](#)

[Full and Individual Initial Evaluation Timeline](#)

[Special Education Initial Referral Timeline](#)

[Parent Request for Evaluation](#)

[Review of Existing Evaluation Data \(REED\)](#)

[Question and Answer Document: Review of Existing Evaluation Data and Reevaluation](#)

[Reevaluations: From Review of Existing Evaluation Data \(REED\) to Evaluation recorded webinar](#)

[Student Data Review Guide When Considering a Referral to Special Education](#)

[Student Data Review Guide Summary of Responses](#)

[Guidelines When Considering an Initial Referral for Special Education for Emergent Bilingual Students Supplemental Response Form to the Student Data Review Guide](#)

[Special Education Referral for an Initial Evaluation Process Quick Guide](#)

[Independent Educational Evaluation \(IEE\)](#)

Federal State Rules, Regulations, and Guidance

[The Texas Legal Framework](#)

[The Texas Legal Framework - Glossary](#)

[Requirement for Assistive Technology Devices and Services](#)

[15 School Days](#)

[Prior Written Notice \(PWN\)](#)

[Evaluation Procedures \(34 C.F.R. §§300.304-300.311\)](#)

[Evaluation Procedures](#)

[Notice of Procedural Safeguards \(NPS\)](#)

[OSEP Memorandum 11-07](#)

[OSEP Memorandum 16-07](#)

[Children who Transfer](#)

[Review of Existing Evaluation Data \(REED\)](#)

[Evaluation](#)

[Child with a Disability](#)

[Full Individual and Initial Evaluation](#)

[State and Districtwide Assessments](#)

[Assistive Technology](#)

[Related Services](#)

Gifted and Talented

[Gifted and Talented Frequently Asked Questions](#)

[Gifted Talented Education Website \(TEA\)](#)

[Students Served by Special Education and Identified as Gifted and Talented](#)

[Dual-Identified Students](#)

Students who are Identified as Emergent Bilingual

[Bilingual Education/English as a Second Language program](#)

[Guidance Related to ARD Committee and LPAC Collaboration](#)

[“Appropriate Special Education referrals of Culturally and Linguistically Diverse Learners” webinar](#)

Transition

[Graduation Guidance](#)

[Summary of Performance](#)

[Summary of Performance Fact Sheet](#)

[Graduation Toolkit](#)

[A Guide to Early Transitions in Texas](#)

MTSS/RTI

[Multi-Tiered Systems of Support Overview](#)

[Multi-Tiered Systems of Support](#)

Other

[Texas Sped Support Website](#)

[Deaf and Hard of Hearing Students \(DHH\): Eligibility for Special Education](#)

[Students with Visual Impairments: Eligibility for Special Education](#)

[Children in Private Schools](#)

[SPEDTex Notice of Procedural Safeguards](#)

[SPEDTEX](#)

[Student Handbook Statement](#)

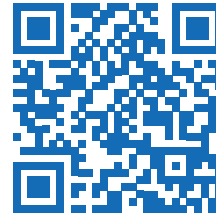
[Considering Assistive Technology \(AT\) in the Individualized Education Program \(IEP\) Process](#)

Click on the title of each to visit the websites or scan the QR codes below.

Texas Special Education Educator Resources:



Texas SPED Support



spedsupport.tea.texas.gov

Department of Special Education:



TEA Special Education
[Website](#)



Sped@tea.texas.gov



512-463-9414

Additional Special Education Resources:

The Texas Legal Framework



TEA Special Education Page



Special Education Resources for Parents and Families:

SPEDTex



Partners Resource Network





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Texas Education Agency

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Notice of Procedural Safeguards

September 2022



[Link to The Legal Framework](#)



[Link to TEA Special Education](#)

Table of Contents

Notice of Procedural Safeguards.....	1
Rights of Parents of Children with Disabilities	1
Procedural Safeguards in Special Education	1
Foster Parent as Parent	1
Surrogate Parent	1
Child Find	2
Prior Written Notice.....	2
Parental Consent	3
Procedures When Disciplining Children with Disabilities.....	5
Voluntary Private School Placements by Parents	10
Transfer of Parental Rights.....	11
Special Education Information	12
Resolving Disagreements.....	12
State IEP Facilitation.....	12
Mediation Services.....	12
Special Education Complaint Resolution Process	13
Due Process Procedures.....	14
Contact Information.....	22
Dispute Resolution Contact Information.....	22

SPEDTex is a great resource for families!

Contact SPEDTex, the Special Education Information Center.



www.spedtex.org

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Notice of Procedural Safeguards

Rights of Parents of Children with Disabilities

The Individuals with Disabilities Education Act (**IDEA**), as amended in 2004, requires schools to provide parents of a child with a disability with a notice containing a full explanation of the procedural safeguards available under IDEA and its implementing regulations. This document, produced by the Texas Education Agency (**TEA**), is intended to meet this notice requirement and help parents of children with disabilities understand their rights under IDEA.

Procedural Safeguards in Special Education

Under IDEA, the term *parent* means a biological parent, an adoptive parent, a foster parent who meets state requirements, a guardian, an individual acting in the place of a biological or adoptive parent including a grandparent, stepparent, or other relative with whom the child lives, an individual who is legally responsible for the child's welfare, or a surrogate parent.

The term *native language* when used with someone who has limited English proficiency means the language normally used by that person. When used for people who are deaf or hard of hearing, native language is the mode of communication normally used by the person.

The school is required to give you this *Notice of Procedural Safeguards* only one time a school year, except that the school must give you another copy of the document: upon initial referral or your request for evaluation; upon receipt of the first special education complaint filed with the TEA; upon receipt of the first due process hearing complaint in a school year; when a decision is made to take disciplinary action that constitutes a change of placement; or upon your request.

You and the school make decisions about your child's educational program through an admission, review, and dismissal (**ARD**) committee. The ARD committee determines whether your child qualifies for special education and related services. The ARD committee develops, reviews, and revises your child's individualized educational program (**IEP**) and determines your child's educational placement. Additional information regarding the role of the ARD committee and

IDEA is available from your school in a companion document [Parent's Guide to the Admission, Review, and Dismissal Process \(Link: fw.escapps.net\)](https://www.escapps.net).

Foster Parent as Parent

Under IDEA, a foster parent may act as the parent unless state law or rule prohibits it or unless contractual obligations with a state or local entity prohibit a foster parent from acting as the parent. In Texas, if you are a foster parent for a child with a disability, you may serve as the parent if you agree to participate in making special education decisions and if you complete the required training program before the child's next ARD committee meeting, but not later than the 90th day after you begin acting as the parent for the purpose of making special education decisions for the child. Once you have completed an approved training program, you do not have to retake a training program to act as a parent for the same child or to serve as a parent or as a surrogate parent for another child. If the school decides not to appoint you as a parent for the purposes of special education decision-making, it must give you written notice within seven calendar days after the date on which the decision is made. The notice must explain the local educational agency's (**LEA's**) reasons for its decision and must inform you that you may file a special education complaint with the TEA.

Surrogate Parent

If, after reasonable efforts, the school cannot identify or find a parent of a child, the foster parent is unwilling or unable to serve as a parent, the child does not reside in a foster home setting, or the child is a ward of the state, the school must appoint a surrogate parent to act in place of the child's parent, unless the child is a ward of the state and a court has appointed a surrogate parent. The school must also appoint a surrogate parent for an unaccompanied homeless youth as defined in the McKinney-Vento Homeless Assistance Act. As soon as practicable after appointing a surrogate parent for a child who is homeless or in substitute care, the school must provide written notice of the appointment to the child's educational decision-maker and case worker.

For more information, visit [Children and Youth Experiencing Homelessness \(Link: bit.ly/39v6KzG\)](https://bit.ly/39v6KzG).

To be eligible to serve as a surrogate parent, you must not be an employee of the TEA, the school, or any agency that is involved in the education or care of the child, and you must not have any interest that conflicts with the interest of the child. A person appointed as a surrogate parent must have adequate knowledge and skills, be willing to serve, exercise independent judgment in pursuing the child's interest, ensure that the child's due process rights are not violated, visit the child and the school, review the child's education records, consult with any person involved in the child's education, attend ARD committee meetings, and complete a training program. The person appointed by a school to act as a surrogate parent must complete the training program before the child's next scheduled ARD committee meeting but not later than the 90th day after the date of initial appointment as a surrogate parent. Once you have completed an approved training program, you do not have to retake a training program to act as a parent for the same child or to serve as a parent or as a surrogate parent for another child.

For additional requirements regarding surrogate parents, please see [19 TAC §89.1047 \(Link: bit.ly/39B7jla\)](https://bit.ly/39B7jla).

Child Find

All children with disabilities residing in the state, who are in need of special education and related services, including children with disabilities who are homeless children or who are wards of the state and children with disabilities attending private schools, regardless of the severity of their disability, must be identified, located, and evaluated. This process is called *Child Find*.

As part of its Child Find activities, an LEA must publish or announce a notice in newspapers or other media, or both, with circulation adequate to notify parents of the activity to locate, identify, and evaluate children in need of special education and related services.

For a fuller description of Child Find requirements, please refer to [The Legal Framework for the Child-Centered Special Education Process \(Link: fw.escapps.net\)](https://fw.escapps.net).

Notice of Procedural Safeguards

Texas Education Agency | Department of Special Education
September 2022

Prior Written Notice

You have the right to be given written information about the school's actions relating to your child's special education needs. The school must give you prior written notice a reasonable time before it proposes to initiate or change the identification, evaluation, or educational placement of your child or the free appropriate public education (FAPE) provided to your child. You also have a right to prior written notice before the school refuses to initiate or change the identification, evaluation, or educational placement of your child or the FAPE provided to your child. The school must provide the prior written notice regardless of whether you agreed to the change or requested the change.

In Texas, the school must give you prior written notice at least five school days before it proposes or refuses the action unless you agree to a shorter timeframe.

The school must include in the prior written notice: a description of the actions the school proposes or refuses to take; an explanation of why the school is proposing or refusing the action; a description of each evaluation procedure, assessment, record, or report the school used in deciding to propose or refuse the action; a statement that you have protections under the procedural safeguards of IDEA; an explanation of how to get a copy of this *Notice of Procedural Safeguards*; contact information for individuals or organizations that can help you in understanding IDEA; a description of other choices that your child's ARD committee considered and the reasons why those choices were rejected; and a description of other reasons why the school proposes or refuses the action.

The notice must be written in language understandable to the general public and must be translated into your native language or other mode of communication unless it clearly is not feasible to do so.

If your native language or other mode of communication is not a written language, the school must translate the notice orally or by other means in your native language or other mode of communication so that you understand it. The school must have written evidence that this has been done.

If, at any time after the school begins providing special education and related services to your child, you revoke your consent for services, the school must discontinue providing

special education and related services to your child. Before discontinuing services; however, the school must give you prior written notice at least five school days before services end unless you agree to a shorter timeframe.

Electronic Mail

A parent of a child with a disability may elect to receive written notices by electronic mail if the school makes such an option available.

Parental Consent

The school must obtain your informed consent before it may do certain things. Your informed consent means that: you have been given all the information related to the action for which your permission is sought in your native language or other mode of communication; you understand and agree in writing to the activity for which your permission is sought, and the written consent describes the activity and lists any records that will be released and to whom; and you understand that the granting of your consent is voluntary and may be withdrawn at any time. If you wish to revoke your consent for the continued provision of special education and related services, you must do so in writing. If you give consent and then revoke it, your revocation will not be retroactive.

The school must maintain documentation of reasonable efforts to obtain parental consent. The documentation must include a record of a school's attempts to obtain consent such as detailed telephone records, copies of correspondence, and detailed records of visits made to your home or place of employment.

Initial Evaluation

Before conducting an initial evaluation of your child to determine if your child qualifies as a child with a disability under the IDEA, the school must give you a copy of the *Notice of Procedural Safeguards* and prior written notice of the proposed evaluation and get your informed consent. The school must make reasonable efforts to obtain your consent for an initial evaluation. Your consent for initial evaluation does not mean that you have also given your consent for the school to start providing special education and related services to your child. If your child is a ward of the state and is not residing with you, the school is not required to obtain your consent if they cannot find you or if your parental rights have been terminated or assigned to someone else by a court order.

Notice of Procedural Safeguards

Texas Education Agency | Department of Special Education
September 2022

Initial Services

Your school must obtain your informed consent before providing special education and related services to your child for the first time. The school must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time. If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent or later revoke (cancel) your consent in writing, your school may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services recommended by your child's ARD committee may be provided to your child without your consent.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent or later revoke (cancel) your consent in writing and the school does not provide your child with the special education and related services for which it sought your consent, your school is not in violation of the requirement to make a FAPE available to your child for its failure to provide those services to your child; and is not required to have an ARD committee meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

If you revoke (cancel) your consent in writing at any point after your child is first provided special education and related services, then the school may not continue to provide such services, but must provide you with prior written notice, as described under the heading Prior Written Notice, before discontinuing those services.

Reevaluation

The school must get your consent to reevaluate your child unless it can demonstrate that it took reasonable measures to obtain your consent and you failed to respond.

Override Procedures— If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your school may, but is not required to, seek to conduct an initial

evaluation of your child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school will not violate its obligations to locate, identify, and evaluate your child (child find obligation) if it does not pursue an evaluation of your child in these circumstances.

If you refuse to consent to your child's reevaluation, the school may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school does not violate its obligation under IDEA if it declines to pursue the reevaluation in this manner.

If a parent of a child who is homeschooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation or the parent fails to respond to a request to provide consent, the school may not use IDEA's consent override procedures described above. The school district is also not required to consider your child as eligible to receive equitable services (services made available to some parentally-placed private school children with disabilities).

Your consent is not required before the school reviews existing data as part of your child's evaluation or reevaluation or gives your child a test or other evaluation that is given to all children unless parental consent is required for all children. The school may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

Independent Educational Evaluation

An independent educational evaluation (IEE) is an evaluation conducted by a qualified person who is not employed by the school. You have the right to obtain an IEE of your child if you disagree with the evaluation of your child that was obtained by your school. When you ask for an IEE, the school must give you information about its evaluation criteria and where to get an IEE.

IEE at Public Expense

If you disagree with an evaluation provided by the school, you have the right to request that your child be evaluated, at public expense, by someone who does not work for the school.

Public expense means that the school either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you.

If you request an IEE of your child at public expense, your school must, without unnecessary delay, **either**: (a) File a due process complaint to request a hearing to show that its evaluation of your child is appropriate; **or** (b) Provide an IEE at public expense, unless the school demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school's criteria.

You are entitled to only one IEE at public expense each time the school conducts an evaluation with which you disagree.

If you request an IEE of your child, the school may ask why you object to the evaluation of your child obtained by your school. However, your school may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the school's evaluation of your child.

IEE Criteria

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school uses when it initiates an evaluation to the extent those criteria are consistent with your right to an IEE. Except for the preceding criteria, a school may not impose conditions or timelines related to obtaining an IEE at public expense.

Hearing Officer Determination

If the school files a due process complaint to request a due process hearing and a hearing officer determines that the school's evaluation is appropriate or that the IEE you obtained does not meet the school's IEE criteria, the school does not have to pay for the IEE.

IEE at Private Expense

You always have the right to get an IEE at your own expense. No matter who pays for it, the school must consider the IEE in any decision about providing FAPE to your child if the IEE meets the school's criteria. You may also present an IEE as evidence in a due process hearing.

IEE Ordered by a Hearing Officer

If a hearing officer orders an IEE as part of a due process hearing, the school must pay for it.

Procedures When Disciplining Children with Disabilities

Authority of School Personnel

Case-by-Case Determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than 10 school days in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting (IAES), another setting, or suspension. School personnel may also impose additional removals of the child of not more than 10 school days in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see the heading Change of Placement Because of Disciplinary Removals for the definition). Once a child with a disability has been removed from his or her current placement for a total of 10 school days in the same school year, the school must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading Services.

Additional Authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability, and the disciplinary change of placement would exceed 10 school days in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under Services. The child's ARD committee determines the IAES for such services.

Notice of Procedural Safeguards

Texas Education Agency | Department of Special Education
September 2022

Services

The school district does not provide services to a child with a disability or a child without a disability who has been removed from his or her current placement for 10 school days or less in that school year.

A child with a disability who is removed from the child's current placement for more than 10 school days and the behavior is not a manifestation of the child's disability or who is removed under special circumstances must:

- Continue to receive educational services (have available a FAPE), so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an IAES), and to progress toward meeting the goals set out in the child's IEP; and
- Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for 10 school days in that same school year, and if the current removal is for 10 school days in a row or less and if the removal is not a change of placement (see definition below), then school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement, the child's ARD committee determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an IAES), and to progress toward meeting the goals set out in the child's IEP.

Manifestation Determination

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for 10 school days in a row or less and not a change of placement), the school, you, and relevant members of the ARD committee (as determined by you and the school) must

review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by you to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the school's failure to implement the child's IEP.

If the school, you, and relevant members of the ARD committee determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school, you, and relevant members of the child's ARD committee determine that the conduct in question was the direct result of the school's failure to implement the IEP, the school must take immediate action to remedy those deficiencies.

Determination that Behavior was a Manifestation of the Child's Disability

If the school, you, and relevant members of the ARD committee determine that the conduct was a manifestation of the child's disability, the ARD committee must either:

- Conduct a functional behavioral assessment, unless the school had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
- If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the section Special Circumstances, the school must return your child to the placement from which your child was removed, unless you and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

Special Circumstances

Whether or not the behavior was a manifestation of your child's disability, school personnel may remove a student to an IAES (determined by the child's ARD committee) for not more than 45 school days, if your child:

- Carries a weapon (see the definition below) to school or has a weapon at school, on school premises, or at

a school function under the jurisdiction of the TEA or a school;

- Knowingly has or uses illegal drugs (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of the TEA or a school; or
- Has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the TEA or a school.

Definitions

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

Illegal drug means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

Serious bodily injury has the meaning given the term *serious bodily injury* under paragraph (3) of subsection (h) of Section 1365 of Title 18, United States Code.

Weapon has the meaning given the term *dangerous weapon* under paragraph (2) of the first subsection (g) of Section 930 of Title 18, United States Code.

Notification

On the date that it makes the decision to make a removal that is a change of placement of your child because of a violation of a code of student conduct, the school district must notify you of that decision, and provide you with a procedural safeguards notice.

Change of Placement Because of Disciplinary Removals

A removal of your child with a disability from your child's current educational placement is a change of placement if:

- The removal is for more than 10 school days in a row; or

- Your child has been subjected to a series of removals that constitute a pattern because:
 - The series of removals total more than 10 school days in a school year;
 - Your child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and
 - Of such additional factors as the length of each removal, the total amount of time your child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school and, if challenged, is subject to review through due process and judicial proceedings.

Determination of Setting

The ARD committee determines the IAES for removals that are changes of placement, and removals in the Additional Authority and Special Circumstances sections.

Appeal

General

You may file a due process complaint to request a due process hearing if you disagree with:

- Any decision regarding placement made under these discipline provisions; or
- The manifestation determination described above.

The school may file a due process complaint to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

Authority of Hearing Officer

A hearing officer that meets requirement described in the section on Due Process Procedures below must conduct the due process hearing and make a decision. The hearing officer may:

- Return your child with a disability to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading Authority of School Personnel, or that your child’s

behavior was a manifestation of your child’s disability; or

- Order a change of placement of your child with a disability to an appropriate IAES for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

Whenever you or a school files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described in the section on Due Process Procedures below, except as follows:

- The TEA or school must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is requested and must result in a determination within 10 school days after the hearing.
- Unless you and the school agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within seven calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.
- A state may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but except for the timelines, those rules must be consistent with the rules in this document regarding due process hearings.

You or the school may appeal the decision in an expedited due process hearing in the same manner as decisions in other due process hearings, as described in the section on Civil Actions, below.

Placement During Appeals

When, as described above, you or the school file a due process complaint related to disciplinary matters, your child must (unless you and the TEA or the school agree otherwise) remain in the IAES pending the decision of the hearing

officer, or until the expiration of the time period of removal as provided for and described under the heading Authority of School Personnel, whichever occurs first.

Protections for Children Not Yet Eligible for Special Education and Related Services

General

If your child has not yet been determined eligible for special education and related services and violates a code of student conduct, but the school had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred that your child was a child with a disability, then your child may assert any of the protections described in this notice.

Basis of Knowledge for Disciplinary Matters

A school will be deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

- You expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or to your child's teacher that your child is in need of special education and related services;
- You requested an evaluation related to eligibility for special education and related services under IDEA Part B; or
- Your child's teacher or other school personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the school's director of special education or to other supervisory personnel of the school.

Exception – A school would not be deemed to have such knowledge if:

- You have not allowed an evaluation of your child or have refused special education services; or
- Your child has been evaluated and determined to not be a child with a disability under IDEA Part B.

Conditions that Apply if there is No Basis of Knowledge

If prior to taking disciplinary measures against your child, a school does not have knowledge that your child is a child with a disability as described above in Basis of Knowledge for Disciplinary Matters and Exception, your child may be subjected to the disciplinary measures that are applied to

children without disabilities who engage in comparable behaviors. However, if a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school and information provided by you, the school must provide special education and related services in accordance with IDEA Part B, including the disciplinary requirements described above.

Referral to and Action by Law Enforcement and Judicial Authorities

IDEA Part B does not:

- Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
- Prevent Texas law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

Transmittal of Records

If a school reports a crime committed by a child with a disability, the school:

- Must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and
- May transmit copies of the child's special education and disciplinary records only to the extent permitted by the Family Educational Rights and Privacy Act (**FERPA**).

Confidentiality of Information

As used in this section:

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of *education records* as described in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act (FERPA) of 1974, 20 U.S.C. 1232g).

Participating agency means any school district, agency, or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under IDEA Part B.

Personally identifiable information includes: your child's name, your name as a parent, or the name of another family member; your child's address; a personal identifier like your child's Social Security number; or a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

You have the right to review your child's entire education record including the parts that are related to special education. The school may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. You can also give permission for someone else to review your child's record. When you ask to review the records, the school must make them available without unnecessary delay and before any meeting regarding your child's IEP, before any due process hearing or resolution session, and in no case more than 45 calendar days after the date of the request.

Clarification, Copies, and Fees

If you ask, the school must explain and interpret the records, within reason. The school must make you copies if that is the only way you will be able to inspect and review the records. The school may not charge a fee to search for or to retrieve any education record about your child. However, it may charge a fee for copying if the fee does not keep you from being able to inspect and review the records.

Information on More than One Child

If any education record includes information on more than one child, you have the right to inspect and review only the information relating to your child or to be informed of that specific information.

You have the right to request and obtain a list of the types and locations of education records collected, maintained, or used by the school.

Consent for Disclosure of Personally Identifiable Information

Unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of IDEA Part B.

Your consent, or the consent of an eligible child who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is enrolled, or is going to enroll, in a private school that is not located in the same school district where you reside, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

The school must keep a log of everyone, except for you and authorized school officials, who reviews your child's special education records, unless you provided consent for the disclosure. This log must include the name of the person, the date access was given, and the purpose for which the person is authorized to use the records.

One official at the school must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures regarding confidentiality under IDEA and FERPA. Each school must maintain, for public inspection, a current listing of the names and positions of those employees within the school who may have access to personally identifiable information.

Amending Records

If you believe that your child's education records are inaccurate, misleading, or violate your child's rights, you may ask the school to amend the information. Within a reasonable time, the school must decide whether to amend the information. If the school refuses to amend the information as requested, it must inform you of the refusal and of your right to a hearing to challenge the information in the records. This type of hearing is a local hearing under FERPA and is not an IDEA due process hearing held before an impartial hearing officer.

If, as a result of the hearing, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must change the information and inform you in writing. If, as a result of the hearing, the school decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, you must be informed of your right to place a statement commenting on the information in your child's records for as long as the record or contested portion is maintained by the school.

If you revoke your consent in writing for your child's receipt of special education and related services after the school initially provided services to your child, the school is not required to amend your child's education records to remove any references to your child's previous receipt of special education and related services. However, you still have the right to ask the school to amend your child's records if you believe the records are inaccurate, misleading, or violate your child's rights.

Safeguards and Destruction

The school must protect the confidentiality of your child's records at collection, storage, disclosure, and destruction stages. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. The school must inform you when information in your child's records is no longer needed to provide educational services to your child. The information must be destroyed at your request except for name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.

Notice to Parents

The TEA will give notice that is adequate to fully inform parents about confidentiality of personally identifiable information,

Notice of Procedural Safeguards

Texas Education Agency | Department of Special Education
September 2022

including: a description of the extent to which the notice is given in the native languages of the various population groups in the state; a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods to be used in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information; a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and a description of all of the rights of parents and children regarding this information, including the rights under FERPA and its implementing regulations in 34 CFR Part 99.

Voluntary Private School Placements by Parents

You have specific rights when you voluntarily place your child in a private school. IDEA does not require a public school to pay for the cost of education, including special education and related services, for your child with a disability at a private school or facility if the public school made FAPE available to your child and you choose to place the child in a private school or facility. However, the public school where the private school is located must include your child in the population whose needs are addressed under IDEA provisions regarding children who have been placed by their parents in a private school.

Requirements for Unilateral Placement by Parents of Children in Private Schools at Public Expense

You have specific rights when you place your child in a private school because you disagree with the public school regarding the availability of a program appropriate for your child.

If your child previously received special education and related services under the authority of a public school and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the public school, a court or a hearing officer may require the public school to reimburse you for the cost of that enrollment if the court or hearing officer finds that the public school had not made FAPE available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate even if the placement

does not meet the state standards that apply to education provided by the TEA and schools.

Limitation on Reimbursement

The cost of reimbursement described in the paragraph preceding may be reduced or denied if: at the most recent ARD committee meeting that you attended before your removal of your child from the public school, you did not inform the ARD committee that you were rejecting the placement proposed by the public school to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or at least 10 business days, including any holidays that occur on a business day, before your removal of your child from the public school, you did not give written notice to the public school of that information; or, before your removal of your child from the public school, the public school provided prior written notice to you of its intent to evaluate your child, including a statement of the purpose of the evaluation that was appropriate and reasonable, but you did not make the child available for the evaluation; or a court finds that your actions were unreasonable.

However, the cost of reimbursement must not be reduced or denied for failure to provide the notice if: the public school prevented you from providing the notice; you had not received notice of your responsibility to provide the notice described; or compliance with the preceding requirements would likely result in physical harm to your child. At the discretion of the court or a hearing officer, the cost of reimbursement may not be reduced or denied for your failure to provide the required notice if you are not literate or cannot write in English, or compliance with the preceding requirement would likely result in serious emotional harm to your child.

Transfer of Parental Rights

All parental rights under IDEA transfer to the child when the child reaches the age of majority. The age of majority under Texas law is age 18. For most children, all of the parental rights discussed in this document will transfer to the child at 18 years of age. When parental rights transfer to your adult student, he or she has the right to make educational decisions, although the public school must still provide you with notices of ARD committee meetings and prior written notices. You, however, may not attend meetings unless specifically invited by the

adult student or the school or unless your adult student gives you that right in a supported decision-making agreement.

Court-Appointed Guardian for an Adult Student

If a court has appointed you or another person as the adult student's legal guardian, the rights under IDEA will not transfer to the adult student. The legally appointed guardian will receive the rights.

Incarcerated Adult Student

If the adult student is incarcerated, all of IDEA rights will transfer to the adult student at age 18. You will not keep the right to receive prior written notices related to special education.

Adult Students before Age of 18

There are certain conditions described in Chapter 31 of the Texas Family Code that result in a child becoming an adult before age 18. If your child is determined to be an adult under this chapter, the rights under IDEA will transfer to your child at that time.

Alternatives to Guardianship

The public school must honor a valid power of attorney or a valid supported decision-making agreement that is executed by your adult student.

Required Notices and Information

On or before your child's 17th birthday, the public school must provide you and your child written notice describing the transfer of parental rights and include information about guardianship and alternatives to guardianship, including supported decision-making agreements, and other supports and services that may assist your child in living independently. Your child's IEP must also state that the public school provided this information.

At your child's 18th birthday, the public school must provide you and your child written notice that parental rights transferred to the adult student. This written notice must include information and resources about guardianship and alternatives to guardianship, including supported decision-making agreements, and other supports and services that may assist your child in living independently. This written notice must also include contact information to use in seeking additional information.

Notice of Procedural Safeguards

Special Education Information

If you need information about special education issues, you may call the Special Education Information Center at 1-855-SPEDTEX (1-855-773-3839). If you call this number and leave a message, someone will return your call during normal business hours. Individuals who are deaf or hard of hearing may call the SPEDTEX number using Relay Texas at 7-1-1.

Resolving Disagreements

There may be times when you disagree with the actions taken by the school related to your child's special education and related services. You are strongly encouraged to work with school personnel to resolve differences as they occur. You may ask the school about what dispute resolution options it offers for parents. The TEA offers four formal options for resolving special education disagreements: state IEP facilitation, mediation services, the special education complaint resolution process, and the due process hearing program.

Differences Between the Procedures for Due Process Complaints and Hearings and Special Education Complaints

Federal special education regulations set forth separate procedures for special education complaints and for due process complaints and hearings. As explained above, any individual or organization, including one from out of state, may file a special education complaint alleging a violation of any IDEA Part B requirement by a school, the TEA, or any other public agency. Only you or a school may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child. While the TEA generally must resolve a special education complaint within a 60 calendar-day timeline, unless the timeline is properly extended, an impartial due process hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45 calendar-days after the end of the resolution period, as described in this document under the heading Resolution Process, unless the hearing officer grants a specific extension of the timeline at your request or the school's request.

State IEP Facilitation

As required by state law, the TEA has established a state IEP facilitation project to provide independent IEP facilitators to assist with an ARD committee meeting for parties who are in dispute about decisions relating to the provision of FAPE to a child with a disability. The conditions that must be met for the TEA to provide an independent facilitator are as follows:

- The required request form must be completed and signed by both you and the school. This form is available in English and Spanish, online at [Individualized Education Program Facilitation \(Link: bit.ly/3spluIV\)](https://bit.ly/3spluIV). It is also available upon request from the TEA.
- The dispute must relate to an ARD committee meeting in which mutual agreement about one or more of the required elements of the IEP was not reached and the ARD committee agreed to recess and reconvene the meeting.
- You and the school must have filed the required request form within ten calendar days of the ARD committee meeting that ended in disagreement, and a facilitator must be available on the date set for reconvening the meeting.
- The dispute must not relate to a manifestation determination or determination of an IAES placement.
- You and the school must not be concurrently involved in special education mediation.
- The issues in dispute must not be the subject of a special education complaint or a special education due process hearing.
- You and the school must not have participated in IEP facilitation concerning the same child within the same school year of the filing of the current request for IEP facilitation.
- State rule related to the state's IEP facilitation program can be found at [19 TAC §89.1197 \(Link: bit.ly/3bCULCL\)](https://www.texas.gov/legislation/tac/19-tac-89.1197).

Mediation Services

Mediation must be available to resolve disputes regarding any matter under IDEA Part B, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under IDEA Part B whether or not you have filed a due process complaint to request a due

process hearing as described under the heading Due Process Procedures. Mediation is not limited to disputes between parents and schools regarding the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child.

Mediation is a voluntary process. Thus, if both you and the school voluntarily agree to participate in mediation, the TEA makes the arrangements and pays for the mediation. Mediation may not be used to delay or deny you a due process hearing or any other rights under IDEA.

The TEA automatically offers mediation services each time a due process hearing is requested. But, you may ask for mediation services any time you and the school have a disagreement about any matter under IDEA Part B.

The mediators are not employees of the TEA or of the school district that is involved in the education or care of the child who is the subject of the mediation process, and they cannot have any personal or professional interest that would conflict with their objectivity. A person who otherwise qualifies as a mediator is not an employee of a school district or of the TEA solely because he or she is paid by the TEA to serve as the mediator. The mediators are professionals who are qualified and trained in resolving disputes and who have knowledge of special education laws. The mediator's role is to be objective and not take the side of either party at the mediation. The goal of mediation is to assist you and the school in reaching an agreement that satisfies both of you.

A link to a current list of mediators can be found at [Office of General Counsel, Special Mediation Program \(Link: bit.ly/39yQTjK\)](https://www.tea.texas.gov/about-tea/office-of-general-counsel/special-mediation-program).

If you and the school agree to mediate, you can agree to use a specific mediator, or a mediator will be randomly assigned. In either case, the mediator will contact you promptly to schedule the mediation session at a place and time convenient to you and the school.

The discussions that occur during the mediation process must be confidential. They cannot be used as evidence in a future due process hearing or civil proceeding of any federal court or state court of a state that receives assistance under IDEA Part B.

If you and the school resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution. The agreement must state that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The agreement must also be signed by both you and a representative of the school district who has the authority to bind the school district. The written, signed mediation agreement is legally binding and enforceable in any court that has authority under state law to hear this type of case or in a federal district court.

You can find more information about the mediation process on the TEA website at [Office of General Counsel, Special Mediation Program \(Link: bit.ly/39yQTjK\)](https://www.tea.texas.gov/about-tea/office-of-general-counsel/special-mediation-program).

State rule related to the special education mediation process can be found at [19 TAC §89.1193 \(Link: bit.ly/35Dyrp2\)](https://www.ecn.state.tx.us/rule/19TAC%20%2689.1193).

Special Education Complaint Resolution Process

Another option for resolving special education disputes is the TEA's special education complaint resolution process. In this document, the term *special education complaint* refers to a state complaint under IDEA and its implementing regulations. If you believe a public agency has violated a special education requirement, or if you believe that a public agency is not implementing a due process hearing decision, you may send a written complaint to the TEA. You must also send your complaint to the entity against whom the complaint is filed at the same time you send your complaint to the TEA. Any organization or individual, including one from another state, may file a special education complaint with the TEA. The complaint timeline will start the next business day after the day that the TEA receives the complaint.

The TEA has developed a model form to assist parents and other parties in filing a special education complaint. A party filing a special education complaint can use the state's model form or any other document so long as the complaint includes all required information.

Your written complaint must describe a violation that occurred not more than one year before the date that the complaint is received. The complaint must include: a

statement that the public agency has violated a special education requirement, the facts upon which the statement is based, and your signature and contact information. If the complaint concerns a specific child, the complaint must also include: the child's name and address or available contact information if the child is homeless, the name of the child's school, and a description of the nature of the problem of the child, including facts relating to the problem to the extent known and available to you at the time. The complaint must also include a proposed resolution of the problem to the extent known and available to the complainant at the time the complaint is filed.

Upon the filing of a special education complaint, the TEA will give the complainant the opportunity to submit additional information regarding the allegations in the complaint, either orally or in writing. The TEA will also give the public agency an opportunity to respond to the complaint and the opportunity to submit a proposal to resolve the complaint. Also, the TEA will give the parent who filed the complaint and the public agency the opportunity to engage in mediation.

Within 60 calendar days after receiving a special education complaint, the TEA will conduct an investigation, including an on-site investigation if necessary. The 60 calendar-day timeline for resolving the complaint may be extended due to exceptional circumstances with respect to a particular complaint or if both parties to a special education complaint agree to an extension to engage in mediation or other alternative means of dispute resolution.

In conducting the investigation, the TEA will review all relevant information and make an independent determination as to whether the public agency has violated federal or state special education requirements. The TEA will issue a written decision addressing each of the allegations including findings of fact, conclusions, and reasons for the TEA's decision.

In resolving a complaint in which the TEA has found a failure to provide appropriate services, the TEA must address the failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement) and appropriate future provision of services for all children with disabilities.

The TEA's decision regarding a special education complaint is final and may not be appealed.

Notice of Procedural Safeguards

Texas Education Agency | Department of Special Education
September 2022

Filing a complaint does not take away your right to request mediation or a due process hearing. If you file a complaint and request a due process hearing about the same issues, the TEA will set aside any issues in the complaint that are being addressed in the due process hearing until the hearing is over. Any issue in the complaint that is not a part of the due process hearing will be resolved within the timelines and procedures described in this document.

If an issue raised in a complaint is decided in a due process hearing involving the same parties, the hearing decision is binding on that issue, and the TEA will inform the complainant to that effect.

The TEA must have written procedures for widely disseminating its complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

The TEA must also have written procedures for ensuring the effective implementation of its final decision, if needed, including: (a) technical assistance activities; (b) negotiations; and (c) corrective actions to achieve compliance.

You can find more information about the special education complaint process and complaint investigation forms on the TEA website at [Special Education Dispute Resolution Processes \(Link: bit.ly/3bL6n73\)](https://tea.texas.gov/special-education/special-education-dispute-resolution-processes).

State rule related to the special education complaints process can be found at [19 TAC §89.1195 \(Link: bit.ly/35IU1rY\)](https://www.texas.gov/legislation/tac/19-tac-89-1195).

Due Process Procedures

The fourth option for resolving special education disputes is the due process hearing program. In a due process hearing, an impartial hearing officer hears evidence from the parties and makes a legally binding decision.

In order to request a hearing, you or the school (or your attorney/representative or the school's attorney/representative) must submit a due process complaint to the other party and file it with the TEA. You have the right to request a due process hearing by filing a due process

complaint on any matter relating to the identification, evaluation or educational placement of your child, or the provision of FAPE to your child.

If you filed a due process complaint on or before August 31, 2022, the law in place at that time required you to file it within **one** year of the date you knew or should have known about the alleged action that forms the basis of the complaint. However, because of a change in the law, beginning on September 1, 2022, you must file a due process complaint within **two** years of the date you knew or should have known about the alleged action that forms the basis of the complaint. This timeline is also referred to as a statute of limitations. The timeline does not apply to you if you were prevented from filing a due process complaint because of specific misrepresentations by the school that it had resolved the problem or because the school withheld information from you that was required to be provided to you. While not an IDEA requirement, Texas state law provides that in some circumstances, the one-year statute of limitations to file a due process complaint may be tolled or paused if you are an active-duty member of the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the United States Public Health Service, and if the statute of limitations provisions of a federal law known as the Service Members Civil Relief Act apply to you.

If you file a due process complaint to request a due process hearing, you have the burden of proving that the school violated a special education requirement. In certain situations, the school may file a due process complaint to request a due process hearing against you. In these situations, the school has the burden of proof.

Before you sue the school in court about any of the matters previously listed, you must file a due process complaint. If you have not done so, your claims in court may be dismissed.

Requesting a Due Process Hearing

You or the school may not have a due process hearing until you or the school (or your attorney/representative or the school's attorney/representative) files a due process complaint that includes: your child's name and address or available contact information if your child is homeless; the name of your child's school; a description of the problem your child is having, including facts relating to the problem; and a

resolution of the problem that you propose to the extent known and available to you at the time.

A form for a due process complaint is available from the TEA at [Office of General Counsel, Special Education Due Process Hearing \(Link: \[bit.ly/2XCdKFw\]\(https://bit.ly/2XCdKFw\)\)](#).

You do not have to use the TEA form, but your complaint must contain the required information above.

You, your attorney, or your representative (or the school, its attorney, or its representative) must send the written due process complaint to the TEA and to the opposing party at the same time. The due process complaint must be kept confidential.

In order for a due process complaint to go forward, it must be considered sufficient (to have met the content requirements above). The due process complaint will be considered sufficient unless the party receiving the due process complaint (you or the school) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification that the receiving party (you or the school district) considers a due process complaint insufficient, the hearing officer must decide if the due process complaint meets the requirements listed above and notify you and the school in writing immediately.

School District Response to a Due Process Complaint

If the school has not already sent you a prior written notice under 34 CFR §300.503 regarding the subject matter contained in the due process complaint, the school must, within 10 days of receiving the due process complaint, send you a response that includes:

- An explanation of why it proposed or refused to take the action raised in the due process complaint;
- A description of other options that the ARD committee considered and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report it used as the basis for the proposed or refused action; and

- A description of the other factors that are relevant to the school's proposed or refused action.

Providing this information does not prevent the school from asserting that your due process complaint was insufficient, where appropriate.

Other Party Response to a Due Process Complaint

Except as stated in the section immediately above, the party receiving a due process complaint must, within 10 calendar days of receiving a complaint, send the other party a response that specifically addresses the issues in the complaint.

The parent or school may amend or change the due process complaint only if the other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting or if the hearing officer gives permission no later than five calendar days before the hearing begins. The party who requested the hearing may not raise issues at the hearing that were not raised in the due process complaint unless the other party agrees that the additional issues may be raised. If the filing party, whether you or the school, amends (changes) the due process complaint, the timelines for the resolution period and the timelines for the hearing start again on the date the amended complaint is filed.

You must be provided with information about any free or low-cost legal and other relevant services available in the area if you request the information or if you or the school files a due process complaint.

Child's Status during Proceedings (Stay-Put)

Except for a proceeding that involves discipline, once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the state or the school agree otherwise, your child must remain in his or her current educational placement. Remaining in a current setting is commonly referred to as stay-put. If the proceeding involves discipline, see Placement During Appeals for discussion of the child's placement during discipline disputes.

If the due process complaint involves an application for your child to be initially enrolled in public school, your child must be placed, if you consent, in the public school program until the

completion of all the proceedings. If the child is turning three and transitioning from an Early Childhood Intervention (ECI) program, stay-put is not the ECI services. If the child qualifies for special education and related services and the parent consents, the services that are not in dispute must be provided.

If the hearing officer in a due process hearing conducted by the TEA agrees with you that it is appropriate to change your child's placement, this change in placement must be treated as an agreement between you and the state. Therefore, this change of placement becomes your child's current placement pending the outcome of any further appeals.

Resolution Period

Except in the case of an expedited hearing, within 15 calendar days of receiving your due process complaint, the school must convene a meeting called a resolution meeting with you, a school representative with decision-making authority, and the relevant members of the ARD committee chosen by you and the school. The school may only include an attorney at the meeting if you have an attorney at the meeting.

Except when you and the school have both agreed in writing to waive the resolution process or agreed to use mediation instead, the resolution meeting must be held. If you do not participate in the resolution meeting, the timelines for the resolution process and hearing will be delayed until the meeting is held.

If the school makes reasonable efforts to get you to attend the resolution meeting, but you do not attend, then at the end of the 30 calendar-day resolution period, the school may ask the hearing officer to dismiss your due process complaint. The school must be able to show that it made reasonable efforts to get you to attend the resolution meeting using the following documentation: a record of the school's attempts to arrange a mutually agreed upon time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to you and any responses received; and detailed records of visits made to your home or place of employment and the results of those visits.

If, on the other hand, the school fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint or fails to participate in the resolution

meeting, you may ask the hearing officer to end the resolution period and to order the 45 calendar-day hearing timeline to begin.

Ordinarily, the resolution period lasts for 30 calendar days. However, if you and the school agree in writing to waive the resolution meeting, then the 45 calendar-day timeline for the hearing starts the next calendar day. Likewise, if you and the school have started the mediation process or the resolution meeting, but before the end of the 30 calendar-day resolution period, you and the school agree in writing that no agreement is possible, then the 45 calendar-day timeline for the hearing starts the next calendar day. Finally, if you and the school have agreed to use the mediation process, both parties can agree in writing to continue the mediation at the end of the 30 calendar-day resolution period until an agreement is reached. However, if either you or the school withdraws from the mediation process, the 45 calendar-day timeline for the hearing starts the next calendar day.

If a party files an amended due process complaint, the timelines for the resolution meeting and the time period to resolve the complaint (the resolution period) start over when the amended due process complaint is filed.

The purposes of the resolution meeting are to give you an opportunity to discuss your request and the underlying facts with the school and to give the school the opportunity to resolve the dispute that is the basis of the request. If you reach an agreement in the meeting, you and the school must put your agreement in writing and sign it. This written agreement is enforceable in a court that has authority under state law to hear this type of case or in a federal district court unless one of the parties voids the agreement within three business days of the date it is signed.

If the school has not resolved the issues raised in your due process complaint to your satisfaction within 30 calendar days from the receipt of your complaint, the 45 calendar-day hearing timeline begins and the hearing may proceed.

Resolution Period in Expedited Hearings

For expedited hearings, the school must convene the resolution meeting within seven calendar days of receiving the due process complaint. You have a right to a hearing if the school has not resolved the issues raised in your complaint to your satisfaction within 15 calendar days of the school's receipt of the complaint. The hearing must be held within 20

Notice of Procedural Safeguards

Texas Education Agency | Department of Special Education
September 2022

school days of the date that the complaint is filed. The hearing officer must issue a final decision within 10 school days after the hearing.

Hearings

The TEA provides impartial hearing officers to conduct hearings. The hearing officers are not employees of the TEA or any agency involved in the education or care of your child and cannot have any personal or professional interest that would conflict with his or her objectivity in the hearing. The hearing officer: (1) Must be knowledgeable and understand the provisions of IDEA, federal and state regulations pertaining to IDEA, and legal interpretations of IDEA by federal and state courts; and (2) Must have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.

The TEA maintains a list of hearing officers that includes the qualifications of each hearing officer. This list is available on the TEA website at [Office of General Counsel, Special Education Due Process Hearing \(Link: \[bit.ly/2XCdkFw\]\(https://bit.ly/2XCdkFw\)\)](https://www.tea.texas.gov/office-of-general-counsel/special-education-due-process-hearing). You can also request the list from the TEA Office of Legal Services, whose contact information is provided at the end of this document.

Before the Hearing

At least five business days before the due process hearing, you and the school must disclose to each other any evidence that will be introduced at the hearing. Either party may contest the introduction of any evidence that has not been shared on time. Likewise, at least five business days before the hearing, you and the school must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school intend to use at the hearing. A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

During the Hearing

You have the right to represent yourself at a due process hearing. In addition, any party to a due process hearing (including a hearing related to disciplinary procedures) has the right to:

- Be accompanied and advised by an attorney and/or persons with special knowledge or training regarding the problems of children with disabilities;
- Represent himself or herself or be represented by an attorney who is licensed in the state of Texas or an individual who is not an attorney licensed in the state of Texas but who has special knowledge or training with respect to problems of children with disabilities and who satisfies the qualifications set out at [19 TAC §89.1175 \(Link: \[bit.ly/2XFtKq9\]\(https://bit.ly/2XFtKq9\)\)](#).
- Present evidence and confront, cross-examine, and require the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
- Obtain a written, or, at your option, electronic, word-for-word record of the hearing; and
- Obtain written, or, at your option, electronic findings of fact and decisions.

Parental Rights at Hearings

You must be given the right to:

- Have your child present at the hearing;
- Open the hearing to the public; and
- Have the record of the hearing, the findings of fact and decisions provided to you at no cost.

After the Hearing

The hearing officer will issue a decision. The hearing officer's decision of whether your child received FAPE must be based on substantive grounds. If you complain about a procedural error, the hearing officer may only find that your child did not receive FAPE if the error: impeded your child's right to FAPE; deprived your child of educational benefits; or significantly interfered with your opportunity to participate in the decision-making process regarding FAPE to your child. None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school to comply with the requirements in the procedural safeguards section of the federal regulations under IDEA Part B (34 CFR §§500 through 300.536).

The TEA will ensure that a final hearing decision is reached and mailed to the parties within 45 calendar days after the expiration of the 30 calendar-day resolution period, or the adjusted resolution period if applicable. In an expedited hearing, the TEA will ensure that a final decision is reached

within 10 school days from the date of the hearing. The hearing officer may grant a specific extension for a good reason at the request of either party in a non-expedited hearing. A hearing officer may not grant an extension in an expedited hearing. The decision of the hearing officer (including a decision in a hearing related to disciplinary procedures) is final unless a party to the hearing (you or the school) appeals the decision to state or federal court, as described below.

The school must implement the hearing officer's decision within the timeframe stated by the hearing officer, or if there is no timeframe stated, within 10 school days after the date the decision was rendered, even if the school appeals the decision, except that any reimbursements for past expenses can be withheld until the appeal is resolved. Nothing in the procedural safeguards section of the federal regulations under IDEA Part B (34 C.F.R. §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process hearing already filed.

Findings and Decision to Advisory Panel and the General Public

After deleting any personally identifiable information from the hearing officer's decision, the TEA must provide the decision (which contains the hearing officer's findings and decisions) to the state advisory panel. In Texas, the state advisory panel is called the Continuing Advisory Committee. The TEA must also make the decision available to the public.

Civil Action

Any party (you or the school) who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to appeal the hearing officer's findings and decision by bringing a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought to a state court that has the authority to hear this type of case or to a district court of the United States without regard to the amount in dispute and must be brought no more than 90 calendar days after the date the decision was issued. As part of the appeal process, the court must receive the records of the due process hearing, hear additional evidence at the request of either party, base its decision on the preponderance of the evidence, and grant any appropriate relief.

Notice of Procedural Safeguards

Nothing in IDEA limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or any other federal laws protecting the rights of children with disabilities, except that before filing a civil action under these laws in court seeking relief that is also available under IDEA Part B, the due process hearing procedures provided under IDEA and described above must be exhausted to the same extent as would be required if you filed the action under IDEA Part B. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you first must use the available administrative remedies under IDEA (i.e., the due process complaint; resolution process, including the resolution meeting; and impartial due process hearing procedures) before filing an action in court.

Attorney's Fees

In any action or proceeding brought under IDEA Part B, the court, in its discretion, may award reasonable attorney's fees as part of the costs to you, if you prevail (win).

In any action or proceeding brought under IDEA Part B, the court may, in its discretion, award reasonable attorney's fees as part of the costs to a prevailing school or state education agency, to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds frivolous, unreasonable or without foundation; or (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

In any action or proceeding brought under IDEA Part B, the court may, in its discretion, award reasonable attorney's fees as part of the costs to a prevailing school or state education agency, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding (hearing).

A court awards reasonable attorney's fees as follows:

- Fees must be based on rates prevailing in the community in which the action or hearing arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.

- Fees may not be awarded and related costs may not be reimbursed in any action or proceeding under IDEA Part B for services performed after a written offer of settlement is made to you if:
 - The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing, at any time more than 10 calendar days before the proceeding begins;
 - The offer is not accepted within 10 calendar days; and
 - The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorney's fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

Fees may not be awarded relating to any meeting of the ARD committee unless the meeting is held as a result of an administrative proceeding or court action. A resolution meeting, as described above, is not considered a meeting convened as a result of an administrative hearing or court action and is not considered an administrative hearing or court action for purposes of these attorney's fees provisions.

A court reduces, as appropriate, the amount of attorney's fees awarded under IDEA Part B if the court finds that:

- You or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
- The amount of the attorney's fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
- The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- The attorney representing you did not provide to the school the appropriate information in the due process complaint as described above in the section on due process procedures.

However, the court may not reduce fees if it finds that the school or the state unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of IDEA Part B.

State rule related to the special education due process hearing program begins at [19 TAC §89.1151 \(Link: \[bit.ly/3nQcmtG\]\(https://bit.ly/3nQcmtG\)\)](#).

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Contact Information

If you have any questions about the information in this document or need someone to explain it to you, please contact:

Local Contact Information

School:	Education Service Center:	Other Resource:
Name:	Name:	Name:
Telephone Number:	Telephone Number:	Telephone Number:
Email:	Email:	Email:

If you need information about special education issues, you may call the Special Education Information Center at 1-855-SPEDTEX (1-855-773-3839). If you call this number and leave a message, someone will return your call during normal business hours. Individuals who are deaf or hard of hearing may call the SPEDTEX number using Relay Texas at 7-1-1.

If you have questions about a pending special education complaint, please call 512-463-9414. If you have questions about a pending mediation or due process hearing, contact the assigned mediator or hearing officer respectively.

Dispute Resolution Contact Information

<p>When requesting a Facilitated IEP, send the request to:</p> <p>State IEP Facilitation Project Texas Education Agency 1701 N. Congress Avenue Austin, TX 78701-1494 or Fax: 512-463-9560 or specialeducation@tea.texas.gov</p>	<p>When filing a Special Education Complaint, send the complaint to:</p> <p>Special Education Complaints Unit Texas Education Agency 1701 N. Congress Avenue Austin, TX 78701-1494 or Fax: 512-463-9560 or specialeducation@tea.texas.gov</p>	<p>When requesting a Mediation, send the request to:</p> <p>Mediation Coordinator Texas Education Agency 1701 N. Congress Avenue Austin, TX 78701-1494 or Fax: 512-463-6027 or SE-Legal@tea.texas.gov</p>	<p>When filing a Due Process Complaint, send the complaint to:</p> <p>Special Education Due Process Hearings Texas Education Agency 1701 N. Congress Avenue Austin, TX 78701-1494 or Fax: 512-463-6027 or SE-Legal@tea.texas.gov</p>
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Please visit the TEA’s Department of Special Education website at

<https://tea.texas.gov/TexasSped>

Parent's Guide to the Admission, Review, and Dismissal Process

February 2021



fw.escapps.net



tea.texas.gov

Table of Contents

Introduction	2
Early Childhood Intervention	3
Help for the School-Aged Child	3
Response to Intervention	3
Referral for an Initial Evaluation	4
Prior Written Notice	4
Parental Consent	5
Evaluation Procedures	6
Admission, Review, and Dismissal Committee Meetings	6
Eligibility	8
Individualized Education Program	9
Present Levels of Academic Achievement and Functional Performance	10
Annual Goals	10
Special Education, Related Services, and Supplementary Aids and Services	10
State Assessments	10
Transition	11
Adult Students	12
Children with Autism	12
Children Who Are Deaf or Hard of Hearing	13
Children Who Are Blind or Visually Impaired	13
Behavioral Intervention Plan (BIP)	13
Extended School Year Services	14
Placement	14
ARD Committee Decision	14
Copy of IEP	15
Review of the IEP	15
Reevaluation	16
Independent Educational Evaluation (IEE)	17
Revocation of Consent for Services	17
Graduation	17
Discipline	18
Expedited Due Process Hearing	20
Dispute Resolution	21
Additional Assistance	21

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Introduction

This guide was developed by the statewide leadership for the Legal Framework project team and the Texas Education Agency (TEA) in response to the requirement in the Texas Education Code §26.0081. This guide is designed to give you, as the parent of a child who is or may be eligible for special education and related services, a better understanding of the special education process and of your procedural rights and responsibilities so that you will be able to fully participate in the decision-making process regarding your child's education.

The Individuals with Disabilities Education Act of 2004 (IDEA) is the federal law that governs the special education process. One of the main purposes of IDEA is to ensure that children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. *Special education* means specially designed instruction to meet the unique needs of a child with a disability. *Related services* are special services needed to support students' special education so they can make progress to meet their academic and functional goals. Related services can include services such as occupational therapy, physical therapy, speech-language therapy, counseling services, orientation and mobility services, and/or transportation services.

Under IDEA, parents are given a large level of participation at every stage of the special education process. This guide describes various activities that may take place during that process. To help you further understand your legal rights under IDEA, the school is required to give you a copy of a document called the [Notice of Procedural Safeguards](http://fw.escapps.net) (Link: fw.escapps.net) at certain times in the special education process. The document must be provided to you at least once a year and when any of the following circumstances occur:

- Upon referral or your request for an initial evaluation of your child;
- Upon receipt of the first state complaint in a school year;
- Upon receipt of the first request for a due process hearing in a school year;
- On the day a decision is made to make a disciplinary change of placement; and
- Upon your request.

In Texas, a child's eligibility for special education and related services and most of the major decisions about a child's special education program are made by an admission, review, and dismissal (ARD) committee. You may also hear this group referred to as an individualized education program (IEP) team, which is the term used in federal law. If an ARD committee is formed for your child, you will be a member of that committee.

This guide will be updated periodically as changes to the federal and state special education requirements occur. An electronic version that is printable is available on the Region 18 Education Service Center webpage in the Legal Framework for the Child-Centered Special Education Process ([Link: fw.escapps.net](http://fw.escapps.net)).

There are many dates and deadlines in the special education process. In this publication, those important dates and deadlines are described. In addition, an on-line companion document is available to help answer questions you have about timelines for evaluation, prior written notice, transition, IEP reviews, and other key concepts. The *Timeline Decision Tree* is available here ([Link: bit.ly/39vuSIU](http://bit.ly/39vuSIU)).

PARENT'S GUIDE TO THE ADMISSION, REVIEW, AND DISMISSAL PROCESS

Early Childhood Intervention

Help is available for families with infants and toddlers who have developmental delays. The agency in Texas that provides these early intervention services is Texas Health and Human Services. The program for very young children is the Early Childhood Intervention (**ECI**) program. These services are for children under the age of three.

At age three, children with disabilities may become eligible for special education and related services. If so, the child's school district is responsible for ensuring FAPE is made available to the child by the child's third birthday. Not all children who receive ECI services qualify for services provided by a public school. Therefore, at least 90 calendar days before a toddler receiving ECI services turns three years old, a meeting will be scheduled to help the family transition from ECI services to special education and related services, if appropriate. If the child qualifies, special education and related services must be made available to the child on his or her third birthday. *Beyond ECI* is a publication that contains information about the transition from the early childhood program to special education. This publication, *Beyond ECI* can be found here ([Link: bit.ly/35G7y3E](https://bit.ly/35G7y3E)).

Help for the School-Aged Child

If you have a concern about your school-aged child's learning or behavior, the first step is to talk to your child's teacher or the school principal about your concerns. If this step is unsuccessful, you should ask school personnel about making a referral to the campus-based student support team, which is a team of teachers and other personnel who meet regularly to address any learning or behavioral concerns that children are having.

Students who are struggling in the general classroom could be considered for support services at first or referred for a special education evaluation under IDEA in lieu of receiving support services. If a student continues to have trouble in the general classroom with the provision of support services or the student's needs cannot be addressed only through the provision of support services, the school must refer the student for a full individual and initial evaluation under IDEA. A student is not required to be provided with support services for a specific amount of time prior to a referral being made for a full individual and initial evaluation. A referral for a full individual and initial evaluation may be made at any time by school personnel, the student's parents or legal guardian, or another person involved in the education or care of a student. Note that if school personnel suspect that a child has a disability and needs special education and related services, a referral for a full individual and initial evaluation must be made.

Response to Intervention

Federal law directs schools to focus on helping all children learn by addressing problems early. Response to Intervention (**RtI**) is an approach that many schools use for identifying and helping children who are at risk for not meeting grade-level standards. The basic elements of an RtI approach are: the provision of scientific, research-based instruction and interventions in the general education classroom; monitoring and measurement of the child's progress in response to the interventions; and use of these measures of progress to make educational decisions.

The RtI approach is part of a multi-tiered system of support (**MTSS**) in which each level or tier represents an increasingly intense level of intervention. Interventions provided to a child will be continually adjusted based on progress monitoring until the child is progressing adequately. Children who do not respond to the initial interventions within a reasonable time, as suggested by research, are referred for interventions that are more intensive. Often, your school will have sufficient data after six weeks of intervention to make decisions on next steps (e.g. continue intervention, intensify intervention, refer for evaluation). The timeframe for decision-making depends on the frequency/duration of intervention and the skills targeted.

A child does not need to advance through each tier of the RtI system before a referral for special education is made. Once it is apparent that general education interventions are not sufficient, school personnel should suspect that the child has a disability and must initiate a referral. Important considerations in determining if general education interventions are sufficient include a review of intervention history and the student's progress monitoring data (current rate of progress and movement towards closing achievement gaps). Parents can also request a referral at any time regardless of whether the child is receiving interventions through an RtI system. RtI strategies may not be used to delay or deny a timely evaluation of a child suspected of having a disability under IDEA. More information about the RtI process ([Link: bit.ly/3nDMTDu](https://bit.ly/3nDMTDu)).

Referral for an Initial Evaluation

A school has an affirmative duty to obtain your consent and conduct an initial evaluation for special education and related services any time it suspects that your child has a disability and needs special education and related services under IDEA. You may also request an initial evaluation of your child at any time.

If you make a written request to a local educational agency's (**LEA's**) director of special education services or to a district administrative employee for an initial evaluation for special education eligibility, the school must, not later than the 15th school day after the date the school receives the request, either give you: 1) prior written notice of its proposal to conduct an evaluation, a copy of the [Notice of Procedural Safeguards](https://fw.escapps.net) ([Link: fw.escapps.net](https://fw.escapps.net)), and the opportunity to give written consent for the evaluation; or 2) prior written notice of its refusal to evaluate your child and a copy of the [Notice of Procedural Safeguards](https://fw.escapps.net) ([Link: fw.escapps.net](https://fw.escapps.net)).

Please note that a request for a special education evaluation may be made verbally and does not need to be in writing. Districts and charter schools must still comply with all federal notice requirements and requirements for identifying, locating, and evaluating children who are suspected of being a child with a disability and in need of special education. There is not a specific timeline requirement for responding to verbal requests, but schools are encouraged to follow the same 15-school-day timeline described above.

Prior Written Notice

One of your rights under IDEA is to receive prior written notice about certain actions or inactions concerning your child a reasonable time before the school actually takes the action or refuses to take the action. Specifically, a school must give you prior written notice in your native language or other mode of communication when it:

- Proposes to initiate or change the identification, evaluation, educational program, or educational placement of your child or the provision of a FAPE to your child (including a change prompted by your revocation of consent for the continued provision of special education and related services); or
- Refuses to initiate or change the identification, evaluation, educational program, or educational placement of your child or the provision of a FAPE to your child.

Prior written notice must be given at least five school days in advance of the actions that the school proposes or refuses to take unless you agree to a shorter timeframe. The school must provide you with prior written notice regardless of whether you agreed to or requested the change.

A prior written notice must include the following information:

- (1) A description of the action proposed or refused by the school;
- (2) An explanation of why the school proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (5) Sources for parents to contact to obtain assistance in understanding special education requirements;
- (6) A description of other options that the ARD committee considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the school's proposal or refusal.

Parental Consent

There are certain activities in the special education process that cannot take place unless the school obtains your consent. The school must fully inform you of all the information needed to be able to make a good decision, including a description of the proposed activity.

The information must be in your native language or other mode of communication, unless clearly not feasible to provide the information in this way. If there are records to be released, the school must list the records and to whom they will be released.

When you give consent, it means that you understand and agree in writing for the school to carry out the activity for which your consent is sought. It is important that you understand that the consent is voluntary and may be revoked at any time before the activity takes place. However, if you revoke consent for an activity, it is not retroactive.

The following are examples of activities that require your consent:

- Evaluating your child for the first time;
- A reevaluation of your child once every three years, or a more frequent reevaluation if more information is needed, and you or your child's teacher request a reevaluation;
- Providing special education and related services for the first time;
- Excusing an ARD committee member from attending an ARD committee meeting when the meeting involves a modification to or discussion of the member's area of the curriculum or related services; and
- Inviting a representative of any participating agency that is likely to be responsible for providing or paying for secondary transition services.

Evaluation Procedures

If you give your consent for a full and individual evaluation (**FIE**), the school must provide prior written notice of any evaluation procedures the school will conduct, as well as a copy of the procedural safeguards notice if your child is being evaluated for the first time. The school must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about your child, including information that you provide. Your child's school may not use any measure or assessment as the sole criterion for determining whether your child is a child with a disability and for determining an appropriate educational program for your child. Your school must conduct an evaluation of your child in all areas related to the suspected disability to determine if your child has a disability and to determine his or her educational needs. The evaluation process for your child must:

- Include information about your child's academic, developmental, and functional performance;
- Be administered by trained and knowledgeable personnel in accordance with the instructions of the test producer and be administered for purposes for which the assessments are valid and reliable;
- Be administered in your child's native language or other mode of communication unless clearly not feasible to do so; and
- Be unbiased or given in such a way so as not to discriminate against your child, regardless of his or her cultural background, race, or disability.

The initial evaluation and the resulting report must be completed no later than 45 school days following the date the school receives your written consent. However, if your child has been absent from school three or more school days during the evaluation period, the evaluation period must be extended by a number of school days equal to the number of school days that your child has been absent. The school must give you a copy of the evaluation report at no cost.

If your child is under five years of age by September 1 of the school year and not enrolled in public school, or is enrolled in a private or home school setting regardless of age, the initial evaluation and the resulting report must be completed no later than the 45th school day following the date the school receives your written consent.

There is an exception to the 45-school-day timeline. If the school receives your consent for the initial evaluation at least 35 but less than 45 school days before the last instructional day of the school year, the written evaluation report must be completed and provided to you by June 30 of that year. However, if your child is absent from school on three or more days during the evaluation period, the June 30th due date no longer applies. Instead, the general timeline of 45 school days plus extensions for absences of three or more days will apply.

If you do not consent to the initial evaluation, the school may, but is not required to, pursue the evaluation by asking for mediation or requesting a due process hearing. If the school decides not to pursue the evaluation, the school does not violate the requirement under IDEA to identify, locate, and evaluate all children with disabilities who are in need of special education and related services. This requirement is referred to as the school's *child find duty*.

Admission, Review, and Dismissal Committee Meetings

After the initial evaluation report is completed, an ARD committee must be formed to consider the report and determine whether your child is eligible for special education and related services. The ARD committee members include the following:

- You, the parent;
- At least one regular education teacher of the child who must, when possible, be a teacher who is responsible for implementing a portion of the child's IEP;
- At least one special education teacher or provider of the child;
- A representative of the school;
- A person who can interpret the instructional implications of the evaluation results;
- Other individuals who have knowledge or special expertise regarding the child and are invited by either you or the school;
- Whenever appropriate, the child;
- To the extent appropriate, with your written consent or, after your child reaches age 18, with your adult child's written consent, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
- A representative from career and technical education, preferably the teacher, if the child is being considered for initial or continued placement in career or technical education; and
- A professional staff member who is on the language proficiency assessment committee, if the child is identified as an English learner.

The ARD committee also includes, as applicable:

- A teacher who is certified in the education of students who are deaf or hard of hearing, if the child is suspected of being or is documented as deaf or hard of hearing;
- A teacher who is certified in the education of students with visual impairments, if the child has a suspected or documented visual impairment; or
- A teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing, if the child has suspected or documented deaf-blindness.

The school must invite you to each ARD committee meeting for your child and make efforts to ensure one or both parents' participation. Written notice of the meeting must be given to you at least five school days before the meeting unless you agree to a shorter timeframe. The written notice must include the purpose, time, location of the meeting, and a list of who will be attending the meeting. If you are unable to speak English, the school must provide the notice in your native language unless it is clearly not feasible to do so. If your native language is not a written language, the school must take steps to ensure that the notice is translated orally or by other means so that you understand the notice.

The ARD committee meeting must be at a time and place agreeable to you and the school. If the time or date the school proposes is not convenient for you, the school must make reasonable efforts to find a time that you are able to meet. If neither parent can attend the meeting, you may participate through alternative means such as through telephone or videoconferencing. If the school is unable to convince you to attend, then the school can conduct the meeting without you.

An ARD committee member may be excused from attending part or all of an ARD committee meeting when the person's attendance is not necessary because the person's area of the curriculum or related service is not being modified or discussed in the meeting. You must agree in writing to the excusal.

A member of the ARD committee may also be excused from attending an ARD committee meeting when the meeting involves a modification to, or discussion of, the member's area of curriculum or related service if you and the school consent to the excusal in writing and the person being excused submits written input into the development of the IEP before the meeting.

Eligibility

There is a two-part test for determining whether your child is eligible for special education and related services: (1) your child must have a disability; and (2) as a result of the disability, your child must need special education and related services to benefit from education. To meet the first part of the two-part test for eligibility, a child between the ages of 3 through 21, except as noted in parenthesis below, must meet the criteria for one or more of the disability categories listed:

- Autism;
- Deaf or hard of hearing (ages birth through 21);
- Deaf-blindness (ages birth through 21);
- Emotional disturbance;
- Intellectual disability;
- Multiple disabilities;
- Noncategorical early childhood (ages three through five);
- Orthopedic impairment;
- Other health impairment;
- Specific learning disability;
- Speech or language impairment;
- Traumatic brain injury; or
- Visual impairment (ages birth through 21).

The ARD committee must make the eligibility determination within 30 calendar days from the date of completion of the initial evaluation report. If the 30th day falls during the summer and school is not in session, the ARD committee has until the first day of classes in the fall to finalize decisions concerning the initial eligibility determination, the IEP, and placement unless the initial evaluation indicates that the child will need extended school year (**ESY**) services during that summer.

If, however, the school received your consent for an initial evaluation at least 35 but less than 45 school days before the last instructional day of the school year and your child was not absent three or more days between the time you provided consent and the last instructional day (i.e., the conditions are met for receiving the evaluation report by June 30th), the ARD committee must meet not later than the 15th school day of the next school year to consider the evaluation report, unless the evaluation indicates that your child will need ESY services during that summer. If the evaluation indicates that your child needs summer ESY services, the ARD committee must meet as expeditiously as possible to consider the child's evaluation.

Not all struggling learners are eligible for special education and related services. If your child's problems are primarily from a lack of appropriate instruction in reading or math or due to the fact that your child has limited English proficiency, your child must not be determined to be a child with a disability under IDEA. If the evaluation reflects that your child does not have a disability, the campus-based support team may meet and recommend other services or programs in general education to help your child.

If the evaluation shows that your child has a disability, the ARD committee must then address the second part of the two-part eligibility test by deciding whether your child needs special education and related services in order to be involved and make progress in the general education curriculum (i.e., the same curriculum as for nondisabled children).

Initial Provision of Services

If your child qualifies for special education and related services, the school is required to provide your child with FAPE in the least restrictive environment. This is accomplished through the ARD committee's development of an IEP and the school's implementation of the IEP. Before the school can provide any initial special education and related services, however, it must obtain your consent for services. The school must make reasonable efforts to obtain your consent for the initial provision of services. If you do not consent to the initial provision of services, the school may not ask for mediation or request a due process hearing to override your refusal to consent to services. No special education and related services will be provided if you refuse consent. The school is not in violation of its duty to make FAPE available to your child if you refuse consent or fail to respond to a request to provide consent to the initial provision of special education and related services.

Individualized Education Program

The major components of the IEP include:

- Your child's present levels of academic achievement and functional performance (**PLAAFP**);
- Measurable annual goals, including academic and functional goals;
- A description of the special education, related services, and supplementary aids and services that will be provided;
- Information regarding how your child will participate in state and districtwide assessments, including a statement of any individual appropriate accommodations that are necessary for your child to take an assessment, and whether your child needs to take an alternate assessment, instead of the regular Statewide assessment, and why the alternate assessment is appropriate for your child;
- Transition services, when age-appropriate; and
- Other areas that must be considered, and if determined necessary, addressed for children with certain disabilities, needs, or circumstances.

The TEA has developed a model IEP form ([Link: bit.ly/3smMLMe](https://bit.ly/3smMLMe)). Your child's school may use this model form or may use another form.

In developing the IEP, there are several things the ARD committee must consider, including:

- The strengths of your child;
- Your concerns for enhancing the education of your child;
- The results of the most recent evaluation of your child; and
- The academic, developmental, and functional needs of your child.

In addition, the ARD committee must address special factors for some children, as follows:

- Consider the use of positive behavioral interventions and supports and other strategies to address that behavior when a child's behavior impedes the child's learning or that of others;
- Consider the language needs of the child as those needs relate to the child's IEP when the child qualifies as a child with limited English proficiency; provide for instruction in braille and the use of braille, unless the committee determines that instruction in braille or the use of braille is not appropriate for the child when the child is blind or visually impaired;
- Consider the communication needs of each child with a disability, and for the child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication

- mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- Consider whether each child with a disability needs assistive technology devices and services.

Present Levels of Academic Achievement and Functional Performance

The IEP must contain a statement of your child's PLAAFP. This statement must include how the disability affects involvement and progress in the general curriculum. If your child is a preschool child, the statement must explain how the disability affects participation in age-appropriate activities.

Annual Goals

The IEP must contain measurable annual goals, including academic and functional goals, designed to meet your child's needs resulting from the disability so that he or she can be involved and progress in the general curriculum. These goals must also address other educational needs that result from your child's disability. The IEP must describe how your child's progress toward the annual goals will be measured as well as when the progress reports will be provided to you.

Special Education, Related Services, and Supplementary Aids and Services

The ARD committee decides what services are needed to:

- Enable the child to advance appropriately toward attaining the annual goals;
- Be involved and make progress in the general curriculum including participation in extracurricular and nonacademic activities; and
- Be educated and participate with children without disabilities.

The IEP must include a statement of needed special education, related services, and supplementary aids and services to be provided to your child or on behalf of your child. These services must be based on peer-reviewed research to the extent practicable.

Additionally, the IEP must contain a statement of any needed program modifications and supports for school personnel that will be provided. The IEP must also include the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of the services and modifications.

State Assessments

Under federal law, state assessments must be given to all children to determine whether schools have been successful in teaching children the state academic content standards. In Texas, the academic content standards are known as the Texas Essential Knowledge and Skills, which can be found on the TEA website ([Link: bit.ly/3bFeuSk](https://bit.ly/3bFeuSk)). Children with disabilities who receive special education services will take the appropriate state assessments, either the regular assessment or an alternate assessment for children with the most significant cognitive disabilities that is aligned with alternate academic achievement standards. Regardless of whether your child takes the regular assessment or an alternate assessment, the assessment is aligned with the state's challenging academic content standards, and your child must receive appropriate accommodations on state and districtwide assessments, if necessary, as indicated in your child's IEP.

If the ARD committee determines that accommodations are necessary for your child to participate in assessments, the IEP must contain a statement of the appropriate accommodations. Accommodation information from the TEA website ([Link: bit.ly/3sq2vht](https://bit.ly/3sq2vht)).

If the ARD committee determines that your child must take an alternate assessment instead of a particular state or districtwide assessment, statements must be provided regarding why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child. In addition, if your child is taking alternate assessments, your child's IEP must also include benchmarks or short-term objectives. Benchmarks or short-term objectives are required only for students with the most significant cognitive disabilities who are taking an alternate assessment that is aligned with alternate academic achievement standards.

If your child does not perform satisfactorily on a state assessment, the ARD committee must address the manner in which the child will participate in an accelerated instruction program or intensive program of instruction.

Transition

IDEA and state law require that IEPs for older students address transition services. *Transition services* are a coordinated set of activities designed to help the child move from school to post-school activities. The age at which transition planning must begin, however, differs under federal and state law. Under Texas law, not later than when a student reaches 14 years of age, the ARD committee must consider and, if appropriate, address the following issues in the IEP:

- (1) Appropriate student involvement in the student's transition to life outside the public school system;
- (2) If the student is younger than 18 years of age, appropriate involvement in the student's transition by the student's parents and other persons invited to participate by:
 - a. The student's parents; or
 - b. The school district in which the student is enrolled;
- (3) If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:
 - a. Is invited to participate by the student or the school district in which the student is enrolled; or
 - b. Has the student's consent to participate under a supported decision-making agreement;
- (4) Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
- (5) An appropriate functional vocational evaluation;
- (6) Appropriate employment goals and objectives;
- (7) If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;
- (8) Appropriate independent living goals and objectives;
- (9) Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student; and
- (10) The use and availability of appropriate:
 - a. Supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
 - b. Supports and services to foster the student's independence and self-determination, including a supported decision-making agreement.

Part B of IDEA requires that, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the ARD committee, the IEP must include appropriate measurable post-secondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills. The IEP must include transition services, including courses of study, needed to assist the child in reaching those goals.

Your child must be invited to the ARD committee meeting when transition services and postsecondary goals will be discussed. If your child does not attend the meeting, the ARD committee must take other steps to ensure that your child's preferences and interests are considered. If your child is younger than 18 and at least 14, the ARD committee must also consider involvement in the student's transition by you and other persons invited to participate by you and the school. Additionally, to the extent appropriate, with your written consent or the written consent of the adult student, the school must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Once your child reaches 18, the ARD committee must consider and, if appropriate, address involvement in the student's transition and future by you and other persons, if you or the other person:

- Is invited to participate by the adult student or the LEA in which the adult student is enrolled; or
- Has the adult student's consent to participate pursuant to a supported decision-making agreement.

Adult Students

When your child reaches age 18, the child becomes an *adult student*. Adult students have the right to make decisions on their own behalf unless determined by law to be incompetent. At the ARD committee meeting held at least one year before your child turns 18, your child will learn that the right to make education decisions will transfer from their parents to them. Your child's IEP must include a statement to verify that the parent and child have been informed of the transfer of rights. It must also include a statement describing the information and resources shared about guardianship, alternatives to guardianship, and information shared about other supports and services designed to assist in independent living.

When your rights transfer to your adult student, you and your adult student will both receive all future required notices. However, notices of ARD committee meetings are not an invitation for you to attend the meetings. You may only attend meetings if your adult student invites you or gives the school permission to invite you.

Children with Autism

For a child with autism, there are 11 strategies that, in accordance with 19 TAC §89.1055(e), must be considered, based on peer-reviewed, research-based educational practices to the extent practicable. When needed, these strategies must be addressed in the IEP. When not needed, the IEP must include a statement to that effect and the basis upon which the determination was made. The additional strategies the ARD committee must consider are:

- Extended educational programming;
- Daily schedules reflecting minimal unstructured time;
- In-home and community-based training, or viable alternatives;
- Positive behavior support strategies;
- Futures planning;

- Parent/family training, and support;
- Suitable staff-to-child ratio appropriate to identified activities;
- Communication interventions;
- Social skills supports and strategies;
- Professional educator/staff support; and
- Teaching strategies based on peer-reviewed, research-based practices.

Children Who Are Deaf or Hard of Hearing

For a child who is deaf or hard of hearing, the ARD committee must consider the child's:

- Language and communication needs;
- Opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
- Academic level; and
- The child's full range of needs, including opportunities for direct instruction in the child's language and communication mode.

Children Who Are Blind or Visually Impaired

Under state law, for a child who is blind or visually impaired, the ARD committee must include within the child's IEP instruction in braille and the use of braille unless the ARD committee determines and documents that braille is not an appropriate literacy medium for the child. The ARD committee's determination must be based on an evaluation of the child's appropriate literacy media and literacy skills and the child's current and future instructional needs.

Under state law, for a child who is blind or visually impaired, the ARD committee must consider the child's need for:

- Compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;
- Orientation and mobility instruction;
- Social interaction skills;
- Career planning;
- Assistive technology, including optical devices;
- Independent living skills;
- Recreation and leisure enjoyment;
- Self-determination; and
- Sensory efficiency.

Behavioral Intervention Plan (BIP)

If the ARD committee determines that a behavioral intervention plan or a BIP is appropriate for your child, that plan must be included as part of your child's IEP and provided to each teacher with responsibility for educating your child.

Extended School Year Services

The ARD committee must consider whether your child qualifies for ESY services. Your child qualifies for ESY services if, in one or more critical areas addressed in your child's current IEP goals and objectives, your child has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be regained within a reasonable period of time. The term *severe or substantial regression* means that the child has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.

If the ARD committee determines that your child needs ESY services, the IEP must identify which of the goals and objectives in the IEP will be addressed during ESY services. If your school does not propose to discuss ESY services at your child's annual ARD committee meeting, you may request that your child's ARD committee discuss eligibility for ESY services. Information about ESY services ([Link: bit.ly/3oEN2YF](https://bit.ly/3oEN2YF)).

Placement

IDEA requires that a child with a disability be educated in the *least restrictive environment*. This means that your child must be educated with children who do not have disabilities to the maximum extent appropriate. Removal of your child from the regular educational environment may only occur if the nature or severity of his or her disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

A core part of the special education process involves determining the appropriate educational placement for implementing a child's IEP. Placement refers to the points along the continuum of placement options (i.e., regular classes, special classes, special schools, homebound instruction, instruction in hospitals and institutions) available for a child with a disability. Placement does not refer to the specific physical location or site where the services will be delivered. The ARD committee determines the educational placement based on the child's IEP.

ARD Committee Decision

A decision of the ARD committee concerning the required elements of the IEP must be made by mutual agreement of the committee members if possible. This mutual agreement is called consensus. The ARD committee should work toward consensus, but the school has the ultimate responsibility to ensure that the IEP includes the services that your child needs in order to receive FAPE. It is not allowable to make ARD committee decisions based upon a majority vote. The IEP must indicate whether you and the administrator agree or disagree with the decisions of the ARD committee.

If you disagree with the decisions of the ARD committee, you will be offered a single opportunity to have the committee recess for a period of time not to exceed 10 school days unless you and the school mutually agree otherwise. If you accept the offer to recess and reconvene, the ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. However, if your child's presence on the campus presents a danger of physical harm to your child or others, or if your child has committed an expellable offense or an offense

which may lead to a placement in a disciplinary alternative education program, the ARD committee does not have to recess even if you disagree with the decisions of the ARD committee.

During a recess, the members must consider alternatives, gather additional information, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement. If the ARD committee meets again and you continue to disagree, unless the disagreement involves the initial provision of services for which consent is required, the school must implement the IEP that the school has decided is appropriate for your child.

When mutual agreement is not reached, a written statement of the basis for the disagreement must be included in the IEP. If you disagree with an ARD committee decision, you must be offered the opportunity to write your own statement of disagreement. The school must provide you with prior written notice at least five school days before implementation of the IEP unless you agree to a shorter timeframe.

The ARD committee may also choose to recess for reasons other than failure to reach agreement about all required elements of the IEP.

Copy of IEP

The school must give you a copy of your child's IEP at no cost. Under 19 TAC §89.1050(i), if you are unable to speak English and your native language is Spanish, the school must provide a written copy or audio recording of your child's IEP translated into Spanish. If you are unable to speak English and your native language is not Spanish, the school must make a good faith effort to provide a written copy or audio recording of your child's IEP translated into your native language. If you are unable to speak English and your native language is not a written language, the school must take steps to ensure that your child's IEP is translated orally or by other means into your native language. A written translation means that all of the text in your child's IEP is translated in written form. The school can provide you with an audio recording of the ARD committee meeting if you were assisted by an interpreter or a translation of the meeting, as long as all content in your child's IEP is orally translated and recorded.

Under Part B of the IDEA, the school must take whatever action is necessary to ensure that a parent understands the proceedings at the ARD committee meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

Review of the IEP

The ARD committee must meet at least once a year to review your child's IEP and determine whether the annual goals are being met. The ARD committee may meet more often than annually to revise your child's IEP, as appropriate, to address:

- Any lack of expected progress toward the annual goals and in the general curriculum;
- The results of any reevaluation;
- Information about the child provided to, or by, the parents;
- Anticipated needs of the child; or
- Other matters.

You may request an ARD committee meeting to discuss educational concerns about your child. The school must either grant your written request to have a meeting or, within five school days, provide you with written notice explaining why the school refuses to convene a meeting. If you are unable to speak English, the school must provide the notice in your native language unless it is clearly not feasible to do so. If your native language is not a written language, the school must take steps to ensure that the notice is translated orally or by other means so that you understand the notice.

You and the school may agree to make changes to the IEP without holding an ARD committee meeting. However, changes to eligibility determination, changes in placement, and manifestation determinations must be made in an ARD committee meeting. If an IEP is changed outside of an ARD committee meeting, there must be a written document reflecting the agreed upon changes. Upon request, the school must provide you with a copy of the revised IEP with the amendments incorporated. Additionally, the school must ensure that the child's ARD committee is informed of those changes.

Reevaluation

Once your child begins receiving special education and related services, periodic reevaluations are required. The school must make reasonable efforts to obtain your consent for a reevaluation. If you fail to respond despite reasonable efforts, the school may conduct a reevaluation without your consent. If you refuse consent for reevaluation of your child, the school may, but is not required to, ask for mediation or request a due process hearing to override your lack of consent for reevaluation. The school does not violate its child find duty or its obligation to evaluate your child if the school does not seek to override your refusal to consent to the reevaluation.

A reevaluation is similar to the initial evaluation. The reevaluation must be comprehensive enough to determine whether your child continues to be a child with a disability and the educational needs of your child. Unless you and the school agree otherwise, a reevaluation of your child's needs must be done at least every three years. No more than one reevaluation may occur within a year unless you and the school agree otherwise.

A review of existing evaluation data (**REED**) must take place as part of an initial evaluation, if appropriate, a REED must occur as part of any reevaluation of a child under IDEA. A school is not required to obtain your consent to review existing evaluation data. The REED must be conducted by the ARD committee, including you, but it does not have to take place in a meeting. The members must review existing evaluation data about your child, including information you provide, to determine the scope of the evaluation or reevaluation.

If your child has already been receiving special education and related services, the ARD committee decides what additional evaluation, if any, is needed to determine whether additions or modifications will be made to your child's special education and related services.

If the ARD committee decides that an additional evaluation is not needed to determine whether your child continues to need special education and related services, the reasons for this decision must be explained to you. After explaining the reasons why the ARD committee has concluded that existing evaluation data are sufficient, the school does not have to conduct a new evaluation to complete a required reevaluation unless you request that the school do so.

Independent Educational Evaluation (IEE)

If you disagree with an evaluation or reevaluation by the school, you may request an IEE at school expense. The school must give you information about where an IEE may be obtained and must give you a copy of the school's criteria for obtaining an IEE. The IEE must meet school criteria. If you request an IEE, the school must, without unnecessary delay, either pay for the IEE or request a due process hearing to show that its evaluation is appropriate. You are entitled to only one IEE at public expense each time the school conducts an evaluation. If the school requests a hearing and the hearing officer decides that the school's evaluation is appropriate, you still have the right to an IEE, but not at the school's expense. Information obtained from an IEE that meets school criteria must be considered by the ARD committee with respect to the provision of a FAPE regardless of whether the school pays for the IEE.

Revocation of Consent for Services

Just as you have the authority to consent to the initial provision of special education and related services, you have the authority to revoke your consent for services. Your revocation of consent must be in writing. Once the school receives your written revocation, it must honor your decision. However, before the school discontinues services, it must provide you with prior written notice that services will stop. Although the school must discontinue services, the school is not required to amend your child's education records to remove any references to your child's previous special education and related services in the past.

If you revoke your consent for the continued provision of special education and related services, your child will be considered a general education student and will not be entitled to any of the protections under IDEA. Furthermore, if you revoke your consent for services, the school may not request mediation or a due process hearing in an attempt to change or challenge your decision.

Graduation

One of the objectives of the public education system in Texas is that all students will remain in school until they obtain a high school diploma. Students must meet certain standards in order to graduate with a regular high school diploma. For a child who receives special education and related services, the school must follow certain procedures when preparing to graduate a student or terminating the student's special education and related services because the student no longer meets the age eligibility requirements. In addition, the ARD committee plays an important role in some of the decisions related to graduation.

Under IDEA, special education and related services must be available to an eligible child or adult student until he or she graduates with a regular high school diploma or exceeds the age eligibility requirements for a free appropriate public education under state law, which is age 21 in Texas or until the student's 22nd birthday. An adult student receiving special education and related services who is 21 years of age on September 1 of a school year is eligible for services through the end of that school year or until graduation with a regular high school diploma based upon meeting the curriculum standards and credit requirements applicable to students in general education, whichever comes first.

When your child's or adult student's eligibility for special education is terminating due to graduation with a regular high school diploma or due to exceeding the age eligibility for special education and related services, the school must give you prior written notice of the termination of services. Furthermore, the school must give the child or

adult student a summary of his or her academic achievement and functional performance, which shall include recommendations on how to assist the child or adult student in meeting the child's or adult student's postsecondary goals.

A child or adult student who receives special education and related services may graduate and be awarded a regular high school diploma by meeting the same curriculum standards and credit requirements applicable to students in general education under one of the four graduation programs (i.e. Foundation High School Program, Recommended High School Program, Distinguished Achievement High School Program, or Minimum High School Program), as well as passing the required state assessments.

All graduating students who were eligible for special education and related services whose eligibility terminates because of the award of a regular high school diploma must be provided with a summary of academic achievement and functional performance. This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. For some students, the summary must include an evaluation of the student.

A child or adult student who graduates but without a regular high school diploma and is under age 22 is still entitled to a free appropriate public education under IDEA. The child may, under some circumstances, be able to return to school and receive services through the end of the school year in which he or she reaches age 22. If your child seeks to return after having graduated, the ARD committee must determine the needed educational services.

Discipline

There are special rules that apply to disciplinary actions taken against a child with a disability. Generally, a child with a disability cannot be removed from his or her current educational placement for more than 10 consecutive school days if the misconduct is related to his or her disability. In addition, certain disciplinary situations that arise with regard to a student with a disability trigger a requirement to hold an ARD committee meeting.

Short-Term Removals

School officials may remove your child from his or her current educational placement if your child violates the code of student conduct. This removal can be to an appropriate interim alternative educational setting (**IAES**), another setting, or suspension for not more than 10 consecutive school days to the extent that the disciplinary measure is applied to children without disabilities, and for additional removals of not more than 10 consecutive school days in that same school year, for separate incidents of misconduct as long as those removals do not constitute a change in placement. This is often referred to as the *10-day rule*.

Disciplinary removals for 10 consecutive school days or less do not trigger the requirement to hold an ARD committee meeting, unless the removal constitutes a change in placement. The school district does not provide services to a child with a disability or a child without a disability who has been removed from his or her current placement for 10 school days or less in that school year.

Cumulative Removals Totaling 10 Days or More

School officials may order additional short-term removals in the same school year for separate incidents of misconduct, provided that these removals do not constitute a change of placement. After your child has been removed for 10 cumulative school days in the same school year, if the current removal is not for more than 10

consecutive school days and is not a change of placement, the school must provide services so as to enable your child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in your child's IEP. School personnel must consult with at least one of your child's teachers to decide which services are needed. Note that IDEA requires at 34 CFR §300.530(d)(5) that the ARD committee determines appropriate services if the removal is a change in placement.

Change of Placement

A removal of a child with a disability from his or her current educational placement is a *change of placement* if the removal is for more than 10 consecutive school days or the child has had a series of removals that constitute a pattern. A pattern of removals occurs when:

- The removals total more than 10 school days in a school year;
- The child's behavior is largely similar to the child's behavior in past incidents that resulted in the series of removals; and
- Other factors like the length of the removals, the total amount of time the child has been removed, and the proximity of the removals to one another.

The school will determine on a case-by-case basis whether a pattern of removals amounts to a change of placement. You may challenge the school's decision about whether a pattern of removals has occurred through a due process hearing and judicial proceedings.

If the school proposes a removal that will constitute a change of placement, school officials must notify you of that decision and provide you with a copy of the [Notice of Procedural Safeguards \(Link: fw.escapps.net\)](http://fw.escapps.net). This must be done on the date on which the decision is made to change the child's placement. In addition, the school must hold an ARD committee meeting to conduct what is called a manifestation determination. The manifestation determination meeting must occur within 10 school days of the date on which the decision is made to change the child's placement.

Manifestation Determination

When conducting a *manifestation determination*, the ARD committee must review all relevant information in your child's file, including the IEP, any teacher observations, and any relevant information provided by you to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, your child's disability; or
- If the conduct in question was the direct result of the school's failure to implement the IEP.

If the ARD committee determines that either of these conditions is met, then the conduct is a manifestation of the child's disability. If the ARD committee determines that neither condition is met, then the conduct is not a manifestation of the child's disability.

When Conduct is a Manifestation

If the conduct is a manifestation of your child's disability, the ARD committee must either:

- Conduct a functional behavioral assessment (**FBA**), unless the school had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a BIP; or
- If a BIP is already in place, review the BIP and modify it as necessary to address the behavior.

In addition, the ARD committee must return your child to the placement from which your child was removed unless:

- You and the school agree to a change of placement as part of the modification of your child's BIP; or
- Your child's violation of the code of student conduct involves one of the special circumstances described below.

If the ARD committee concludes that your child's conduct was caused by the school's failure to implement the IEP, the school must take immediate steps to remedy the deficiencies.

When Conduct is Not a Manifestation

If the conduct was not a manifestation of your child's disability, school personnel may discipline your child in the same manner as other children, except appropriate educational services must continue. The child's ARD committee will determine the IAES in which the child will be served.

Special Circumstances

School personnel may remove your child to an IAES for up to 45 school days without regard to whether the behavior is a manifestation of his or her disability in cases where your child:

- Carries or possesses a weapon at school, on school premises, or at a school function;
- Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

The ARD committee will determine the IAES in which the child will be served.

Protections for Children Not Yet Determined Eligible for Special Education and Related Services

If your child has not been determined to be eligible for special education and related services but has engaged in behavior that violated a code of student conduct, your child is entitled to the procedural protections in IDEA if the school had knowledge that your child was a child with a disability before the behavior occurred. Additional information about this topic is found in the [Notice of Procedural Safeguards \(Link: fw.escapps.net\)](https://www.fwescapps.net/notice-of-procedural-safeguards).

Expedited Due Process Hearing

If you disagree with a decision regarding placement in an IAES or manifestation determination, you may request an expedited due process hearing. The school may also request a due process hearing if the school wants to challenge your child's return to school after the ARD committee has determined that his or her conduct was a manifestation of his or her disability.

Dispute Resolution

From time to time, disputes may arise relating to the identification, evaluation, educational placement, or the provision of a FAPE to your child with a disability. If disagreements arise, you are strongly encouraged to work with school personnel to resolve differences as they occur. You may ask the school about what dispute resolution options it offers for parents. The TEA offers four formal options for resolving special education disagreements: state IEP facilitation, mediation services, the special education complaint resolution process, and the due process hearing program.

Information about the TEA's dispute resolution options may be found in the [Notice of Procedural Safeguards \(Link: fw.escapps.net\)](#). Additional information on special education dispute resolution may be found on the TEA's website ([Link: bit.ly/3bL6n73](#)).

Additional Assistance

For a complete listing of the definitions of acronyms found in this document, visit the Legal Framework website ([Link: bit.ly/3olsKNS](#)).

Copies of this document are also available in over 15 languages on the SPEDTex website ([Link: bit.ly/3qorCzg](#)). You may also request a copy from the school counselor or the school's special education department.



THE DYSLEXIA HANDBOOK

Procedures Concerning Dyslexia and Related Disorders 2024 Update

TEXAS STATE BOARD OF EDUCATION
AUGUST 2024



Procedures Concerning Dyslexia and Related Disorders 2024 Update

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TABLE OF CONTENTS

FOREWORD	4
ACKNOWLEDGMENTS.....	5
PREFACE	6
1. DEFINITIONS AND CHARACTERISTICS OF DYSLEXIA	7
2. SCREENING	12
3. PROCEDURES FOR THE EVALUATION AND IDENTIFICATION OF STUDENTS WITH DYSLEXIA.....	23
4. CRITICAL, EVIDENCE-BASED COMPONENTS OF DYSLEXIA INSTRUCTION	38
5. DYSGRAPHIA.....	55

Figures

Figure 2.1. Considerations for Local Scheduling of Dyslexia Screening.....	14
Figure 2.2. Criteria for English and Spanish Screening Instruments.....	16
Figure 2.3. Student Behaviors Observed During Screening	16
Figure 2.4. Sources and Examples of Screening Data	19
Figure 2.5 Universal Screening and Data Review for Reading Risk	20
Figure 3.1. State and Federal Laws.....	23
Figure 3.2. Sources and Examples of Cumulative Data	27
Figure 3.3. Additional Data Sources for Emergent Bilingual Students.....	28
Figure 3.4. Areas for Evaluation	31
Figure 3.5. Dyslexia in Transparent and Opaque Orthographies	32
Figure 3.6. Characteristics of Dyslexia in English and Spanish.....	33
Figure 3.7. Questions to Determine the Identification of Dyslexia	33
Figure 3.8. Pathway for the Identification and Provision of Instruction for Students with Dyslexia	36
Figure 4.1. Training Requirements for Educators Providing Dyslexia Services.....	43
Figure 4.2. Treatments Ineffective for Dyslexia.....	50
Figure 5.1. Sources and Examples of Cumulative Data	58
Figure 5.2. Areas for Evaluation of Dysgraphia.....	60
Figure 5.3. Questions to Determine the Identification of Dysgraphia	61
Figure 5.4. Handwriting Hierarchy of Instruction.....	63

[Texas Dyslexia Handbook FAQs](#) (page 68) - A guidance document prepared by TEA

FOREWORD

Reading is the fundamental skill upon which all formal education depends. Research now shows that a child who doesn't learn the reading basics early is unlikely to learn them at all. Any child who doesn't learn to read early and well will not easily master other skills and knowledge and is unlikely to ever flourish in school or life.

—Moats. L.C. *Reading is Rocket Science: What Expert Teachers of Reading Should Know and be Able to Do*, 1999

Texas has a long history of supporting the fundamental skill of reading. This history includes a focus on early identification and intervention for children who experience reading difficulties. In support of dyslexia legislation passed by the Texas Legislature, the State Board of Education (SBOE) first approved the handbook, *Dyslexia and Related Disorders: An Overview of State and Federal Requirements* in January 1986.

The SBOE approved new guidelines called the *Revised Procedures Concerning Dyslexia and Related Disorders* in 1992, which were revised in 1998. The handbook was updated again in 2001 and was called *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*. The SBOE continued to stress the importance of using research-based strategies to prevent reading difficulties and provide appropriate instruction to struggling readers in November 2006 when *The Dyslexia Handbook Revised 2007: Procedures Concerning Dyslexia and Related Disorders* was approved. In the summer of 2010, the need arose for an update of the handbook to include new legislation and additional research.

Legislation passed in the 82nd and 83rd sessions of the Texas Legislature resulted in the need for revision of the handbook. Consequently, *The Dyslexia Handbook—Revised 2014: Procedures Concerning Dyslexia and Related Disorders* was approved by the SBOE in July 2014. The version, *The Dyslexia Handbook—2018 Update: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)* implemented statutory requirements added by the 85th Texas Legislature. The *Dyslexia Handbook* provides guidelines for school districts to follow as they identify and provide services for students with dyslexia and related disorders. Additionally, the handbook provides school districts and parents/guardians with information regarding the state's dyslexia laws and their relation to these federal laws: the Rehabilitation Act of 1973, Section 504 as amended in 2008 (Section 504), the Americans with Disabilities Amendments Act and the Individuals with Disabilities Education Act (IDEA).

The Handbook was amended again effective February 10, 2022, to clarify that evaluations for dyslexia and related disorders must go through the process required by the Individuals with Disabilities Education Act (IDEA).

The 88th regular session of the Texas Legislature, through the passage of House Bill (HB) 3928, made additional changes to how dyslexia is evaluated and identified, as well as to dyslexia instruction requirements. 19 TAC 74.28 and the handbook are being revised as a result. This handbook replaces all previous handbooks and guidelines.

In addition to The Dyslexia Handbook, information is available through the Texas State Dyslexia Coordinator, Education Service Center (ESC) Dyslexia Coordinator, the dyslexia contacts at each of the 20 ESCs, and the dyslexia helpline (1-800-232-3030).

ACKNOWLEDGMENTS

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PREFACE

In the state of Texas, students who continue to struggle with reading, despite appropriate or intensified instruction, are provided organized systems of reading support. Some students struggle during early reading acquisition while others do not struggle until the later grades, even at the postsecondary level. Here they face more complex language demands, for example reading textbooks, academic texts, and other print materials. For many struggling readers, the difficulty may be due to dyslexia. Dyslexia is found in all student populations and languages. Some students with dyslexia may be emergent bilingual (EB) who struggle with reading not only in English, but also in their native language. In Texas, evaluation for dyslexia is conducted from kindergarten through grade 12.

The purpose of The *Dyslexia Handbook* is to provide procedures for school districts, charter schools, campuses, teachers, students, and parents/guardians in early identification of, instruction for, and accommodations for students with dyslexia. This handbook will be used by school districts and charter schools as they develop their written procedures regarding students with dyslexia. It will also serve as a resource for educator preparation programs and other entities seeking guidance in serving students with dyslexia.

TEC (TEC) §38.003 defines dyslexia and related disorders, mandates screening and testing students for dyslexia and the provision of instruction for students with dyslexia and gives the State Board of Education (SBOE) authority to adopt rules and standards for screening, testing, and serving students with dyslexia. Additionally, TEC 7.102(c)(28) charges the SBOE with approving a program for testing students with dyslexia and related disorders. HB 3928, passed during the 88th regular legislative session, requires the program, which is described in Title 19 of the Texas Administrative Code (TAC) §74.28 and this handbook, to not include a distinction between standard protocol dyslexia instruction, as this was included in the 2021 handbook version, and other types of direct dyslexia instruction, including specially designed instruction. The Individuals with Disabilities Education Act (IDEA) establishes assessment and evaluation standards and procedures for students (34 C.F.R. Part 300 (IDEA)).

The following chapters are included in this handbook:

1. Definitions and Characteristics of Dyslexia
2. Screening
3. Procedures for the Evaluation and Identification of Students with Dyslexia
4. Critical, Evidence-Based Components of Dyslexia Instruction
5. Dysgraphia

1. DEFINITIONS AND CHARACTERISTICS OF DYSLEXIA

The student who struggles with reading and spelling often puzzles teachers and parents. The student displays the ability to learn in the absence of print and receives the same classroom instruction that benefits most children; however, the student continues to struggle with some or all of the many facets of reading and spelling. This student may be a student with dyslexia.

TEC §38.003 defines dyslexia and related disorders in the following way:

“Dyslexia” means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.

“Related disorders” include disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

TEC §38.003(d)(1)-(2) (1995)

<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.38.htm#38.003>

The International Dyslexia Association defines “dyslexia” in the following way:

Dyslexia is a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

Adopted by the International Dyslexia Association Board of Directors,
November 12, 2002

Students identified as having dyslexia typically experience primary difficulties in phonological awareness, including phonemic awareness and manipulation, single-word reading, reading fluency, and spelling.

Consequences may include difficulties in reading comprehension and/or written expression. These difficulties in phonological awareness are unexpected for the student’s age and educational level and are not primarily the result of language difference factors. Additionally, there is often a **family history** of similar difficulties.

Characteristics and Consequences of Dyslexia

Primary reading/spelling characteristics of dyslexia are difficulties with:

- Reading words in isolation
- Accurately decoding unfamiliar words
- Oral reading (slow, inaccurate, or labored without prosody)
- Spelling

Individuals demonstrate differences in degree of impairment and may not exhibit all the characteristics listed above.

The reading/spelling characteristics are most often associated with:

- Segmenting, blending, and manipulating sounds in words (phonemic awareness)

- Learning the names of letters and their associated sounds
- Holding information about sounds and words in memory (phonological memory)
- Rapidly recalling the names of familiar objects, colors, or letters of the alphabet (rapid naming)

Consequences of dyslexia may include:

- Variable difficulty with aspects of reading comprehension
- Variable difficulty with aspects of written language
- Limited vocabulary growth due to reduced reading experiences

Sources for Characteristics and Consequences of Dyslexia

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The International Dyslexia Association. (2018). *Knowledge and practice standards for teachers of reading*, (2nd ed.). Retrieved from <https://app.box.com/s/21gdk2k1p3bnagdfz1xy0v98j5yt11w>.

Moats, L. C., & Dakin, K. E. (2008). *Basic facts about dyslexia and other reading problems*. Baltimore, MD: The International Dyslexia Association.

Evidence-Based Core Reading Instruction (Tier I)

TEC §28.0062 requires each local education agency (LEA) to provide for the use of a phonics curriculum that uses systematic direct instruction, without the incorporation of three-cueing, in kindergarten through third grade to ensure all students obtain necessary early literacy skills. LEAs must ensure that all kindergarten, first, second, and third grade teachers attend a teacher literacy achievement academy to increase teacher knowledge and implementation of the science of teaching reading. Additionally, LEAs must certify to the agency that they prioritize placement of highly effective teachers in kindergarten through second grade and have integrated reading instruments used to diagnose reading development and comprehension to support each student in prekindergarten through third grade. **Schools must ensure that all students receive explicit systematic Tier 1 reading instruction.**

Connecting Research and Practice

Research in understanding dyslexia as a neurodevelopmental disorder is ongoing. Future research will assist in learning more about the phonological awareness deficit and how this deficit interacts with other risk factors related to dyslexia. Research is now also focusing on the developmental cause of neural abnormalities and how these predict treatment response.

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Common Risk Factors Associated with Dyslexia

If the following behaviors are unexpected for an individual's age, educational level, or cognitive abilities, they may be risk factors associated with dyslexia. A student with dyslexia usually exhibits several of these behaviors that persist over time and interfere with his/her learning. A family history of dyslexia may be present; in fact, recent studies reveal that the whole spectrum of reading disabilities is strongly determined by genetic predispositions (inherited aptitudes) (Olson, Keenan, Byrne, & Samuelsson, 2014).

The following characteristics identify risk factors associated with dyslexia at different stages or grade levels.

Preschool

- Delay in learning to talk
- Difficulty with rhyming
- Difficulty pronouncing words (e.g., “pusgetti” for “spaghetti,” “mawn lower” for “lawn mower”)
- Poor auditory memory for nursery rhymes and chants
- Difficulty adding new vocabulary words
- Inability to recall the right word (word retrieval)
- Trouble learning and naming letters and numbers and remembering the letters in his/ her name
- Aversion to print (e.g., doesn’t enjoy following along if a book is read aloud)

Kindergarten and First Grade

- Difficulty breaking words into smaller parts, or syllables (e.g., “baseball” can be pulled apart into “base” “ball” or “napkin” can be pulled apart into “nap” “kin”)
- Difficulty identifying and manipulating sounds in syllables (e.g., “man” sounded out as /m/ /ă/ /n/)
- Difficulty remembering the names of letters and recalling their corresponding sounds
- Difficulty decoding single words (reading single words in isolation)
- Difficulty spelling words the way they sound (phonetically) or remembering letter sequences in very common words seen often in print (e.g., “sed” for “said”)

Second Grade and Third Grade

Many of the previously described behaviors remain problematic along with the following:

- Difficulty recognizing common sight words (e.g., “to,” “said,” “been”)
- Difficulty decoding single words
- Difficulty recalling the correct sounds for letters and letter patterns in reading
- Difficulty connecting speech sounds with appropriate letter or letter combinations and omitting letters in words for spelling (e.g., “after” spelled “eftr”)
- Difficulty reading fluently (e.g., reading is slow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Reliance on picture clues, story theme, or guessing at words
- Difficulty with written expression

Fourth Grade through Sixth Grade

Many of the previously described behaviors remain problematic along with the following:

- Difficulty reading aloud (e.g., fear of reading aloud in front of classmates)
- Avoidance of reading (particularly for pleasure)
- Difficulty reading fluently (e.g., reading is slow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Acquisition of less vocabulary due to reduced independent reading

- Use of less complicated words in writing that are easier to spell than more appropriate words (e.g., “big” instead of “enormous”)
- Reliance on listening rather than reading for comprehension

Middle School and High School

Many of the previously described behaviors remain problematic along with the following:

- Difficulty with the volume of reading and written work
- Frustration with the amount of time required and energy expended for reading
- Difficulty reading fluently (e.g., reading is slow, inaccurate, and/or without expression)
- Difficulty decoding unfamiliar words in sentences using knowledge of phonics
- Difficulty with written assignments
- Tendency to avoid reading (particularly for pleasure)
- Difficulty learning a foreign language

Postsecondary

Some students will not be identified as having dyslexia prior to entering college. The early years of reading difficulties evolve into slow, labored reading fluency. Many students will experience extreme frustration and fatigue due to the increasing demands of reading as the result of dyslexia. In making a diagnosis for dyslexia, a student’s reading history, familial/genetic predisposition, and assessment history are critical. Many of the previously described behaviors may remain problematic along with the following:

- Difficulty pronouncing names of people and places or parts of words
- Difficulty remembering names of people and places
- Difficulty with word retrieval
- Difficulty with spoken vocabulary
- Difficulty completing the reading demands for multiple course requirements
- Difficulty with notetaking
- Difficulty with written production
- Difficulty remembering sequences (e.g., mathematical and/or scientific formulas)

Since dyslexia is a neurobiological, language-based disability that persists over time and interferes with an individual’s learning, it is critical that identification and intervention occur as early as possible.

Associated Academic Difficulties and Other Conditions

The behaviors in the previous sections represent common difficulties that students with dyslexia may exhibit. In addition, students with dyslexia may have problems in written expression, reading comprehension, and mathematics as well as other complicating conditions and/or behaviors.

Besides academic struggles, some students with dyslexia may exhibit other complex conditions and/or behaviors. The most common co-occurring disorders with dyslexia are attention deficit hyperactivity disorder (ADHD) and specific developmental language disorders (Snowling & Stackhouse, 2006, pp. 8–9). Some, though not all, students with dyslexia may also experience symptoms such as anxiety, anger, depression, lack of motivation, or low self-esteem. In such instances, appropriate instructional/referral services need to be provided to ensure each student’s needs are met.

These additional conditions can have a significant impact on the effectiveness of instruction provided to students with dyslexia. Motivation, in particular, has been shown to be critical to the success or failure of instructional practices. Regarding motivation, Torgesen states (as cited in Sedita, 2011), “even technically sound instructional techniques are unlikely to succeed unless we can ensure that, most of the time, students are engaged and motivated to understand what they read” (p. 532). Acknowledging that students with dyslexia must exert extra effort to meet grade-level expectations, all the factors that may affect learning must be considered when identifying and providing instruction for students with dyslexia. ADHD or symptoms of anxiety, anger, depression, or low self-esteem may lower a student’s engagement in learning. Educators and parents should provide students with affirmation and an environment that fosters engagement and success.

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2. SCREENING

Overview of Chapter 2

The purpose of Chapter 2 is to further clarify the following topics related to screening for dyslexia: the definition of universal screening, administration of screening instruments, interpretation of screening results, and best practices for ongoing monitoring.

Part A of Chapter 2 will cover the definition of universal screening as well as the local, state, and federal requirements related to dyslexia and related disorders, including the Child Find requirement imposed under the Individuals with Disabilities Education Act (IDEA).

Part B will address the administration of the required screening instruments for kindergarten and grade 1 students.

Part C will cover how the interpretation of the screening results affect the decisions that the school will make to determine when a student is at risk for reading difficulties, including dyslexia and related disorders.

Part D will address ongoing monitoring of students throughout their academic careers.

Part A: Universal Screening and State and Federal Requirements

The Importance of Early Screening

If the persistent achievement gap between dyslexic and typical readers is to be narrowed, or even closed, reading interventions must be implemented early, when children are still developing the basic foundation for reading acquisition. The persistent achievement gap poses serious consequences for dyslexic readers, including lower rates of high school graduation, higher levels of unemployment, and lower earnings because of lowered college attainment. Implementing effective reading programs early, even in preschool and kindergarten, offers the potential to reduce and perhaps even close the achievement gap between dyslexic and typical readers and bring their trajectories closer over time.

—Ferrer, et al., *Achievement Gap in Reading Is Present as Early as First Grade and Persists through Adolescence*, 2015

The early identification of students with dyslexia along with corresponding early intervention programs for these students will have significant implications for their future academic success. In the book *Straight Talk about Reading*, Hall and Moats (1999) state the following: early identification is critical because the earlier the intervention, the easier it is to remediate; inexpensive screening measures identify at-risk children in mid-kindergarten with 85 percent accuracy; and, if intervention is not provided before the age of eight, the probability of reading difficulties continuing into high school is 75 percent (pp. 279-280).

Research continues to support the need for early identification and assessment (Birsh, 2018; Sousa, 2005; Nevills & Wolfe, 2009). The rapid growth of the brain and its responsiveness to instruction in the primary years make the time from birth to age eight a critical period for literacy development (Nevills & Wolfe, 2009). Characteristics associated with reading difficulties are connected to spoken language. Difficulties in young children can be assessed through screenings of phonemic awareness and other phonological skills (Sousa, 2005). Additionally, Eden (2015) points out that “when appropriate intervention is applied early, it is not only more effective in younger children, but also increases the chances of sparing a child from the negative secondary consequences associated with reading failure, such as decline in self-confidence and depression.”

Keeping the above information in mind, it is essential to screen students for dyslexia and related disorders early in their academic careers.

State Requirements

In 2017, the 85th Texas Legislature passed HB 1886, amending TEC §38.003, Screening and Treatment for Dyslexia to require that all kindergarten and first-grade public school students be screened for dyslexia and related disorders. Additionally, the law requires that all students beyond first grade be screened or tested as appropriate.

In response to the screening requirements of HB 1886, the SBOE amended its rule in 19 TAC §74.28, Students with Dyslexia and Related Disorders. While this rule speaks primarily to evaluation and identification of a student with dyslexia or related disorders, it also requires that evaluations only be conducted by appropriately trained and qualified individuals. Guidelines regarding the required screening for kindergarten and first-grade students are discussed in Part B of this chapter.

A related state law adds an additional layer to screening requirements for public school students. TEC §28.006, Reading Diagnosis, requires each school district to administer to students in kindergarten, first grade, and second grade a reading instrument to diagnose student reading development and comprehension. This law also requires school districts to administer a reading instrument at the beginning of seventh grade to students who did not demonstrate reading proficiency on the sixth-grade state reading assessment. The law requires each school district to administer to kindergarten students a reading instrument adopted by the commissioner or an alternative reading instrument approved by the commissioner. The commissioner must adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension. Districts are permitted to use reading instruments other than those adopted by the commissioner for first, second, and seventh grades only when a district-level committee adopts these additional instruments. TEC §28.006(d) requires each district to report the results of these reading instruments to the district's board of trustees, TEA, and the parent or guardian of each student.

Further, a school district is required to notify the parent or guardian of each student in kindergarten, first grade, or second grade who is determined to be at risk for dyslexia or other reading difficulties based on the results of the reading instruments. In accordance with TEC §28.006(g), an accelerated reading instruction program must be provided to these students.

Are the dyslexia screening under TEC §38.003 and the early reading diagnosis under TEC §28.006 the same?

School districts must meet the requirements of TEC §28.006 and §38.003, both of which deal, at least in part, with early screening for dyslexia. ***Should a district wish to use a single instrument to meet the requirements of both TEC §28.006 and §38.003, the district may, but is not required to do so.***

It is important to note that TEC §38.003 applies only to the screening of kindergarten and first-grade students for dyslexia and related disorders, whereas TEC §28.006 addresses general reading diagnoses for students in kindergarten and grades 1, 2, and 7. Districts that decide to use one instrument to meet the requirements of both the dyslexia screening and the early reading diagnosis for kindergarten and grade 1 must also continue to administer reading instruments to all second-grade students and to students in grade 7 who did not demonstrate proficiency on the state reading assessment for sixth grade.

The approved reading Instruments on the current list meet the requirements of TEC §28.006 and are available on the Texas Education Agency (TEA) website at <https://tea.texas.gov/academics/early-childhood-education/early-learning-assessments/data-tool-selection-guidance>. The approved reading instruments include the required elements of a dyslexia screener. These instruments will meet the requirements of both the early reading diagnosis under TEC §28.006 and the dyslexia screening under TEC §38.003. This allows districts and charter schools to use an instrument from the approved list to satisfy both requirements should they choose to do so.

Should it be determined that funds are not available for the early reading instruments under TEC §28.006, districts are not required to notify parents/guardians of or implement the accelerated reading program. However, districts and charter schools **must** screen all students in kindergarten and grade 1 for dyslexia and

related disorders regardless of the availability of funding.

While this chapter primarily addresses the screening required under TEC §38.003 for kindergarten and grade 1, the screening and ongoing monitoring of *all students* should be done regularly according to district, state, and federal laws and procedures.

Federal Requirements – Child Find

In addition to state and local requirements to screen and identify students who may be at risk for dyslexia, there are also overarching federal laws and regulations to identify students with disabilities, commonly referred to as Child Find. Child Find is a provision in the Individuals with Disabilities Education Act (IDEA), a federal law that requires the state to have policies and procedures in place to ensure that every student in the state who needs special education and related services is located, identified, and evaluated. The purpose of the IDEA is to ensure that students with disabilities are offered a free and appropriate public education (20 U.S.C. §1400(d); 34 C.F.R. §300.1). Because a student suspected of having dyslexia may be a student with a disability under the IDEA, the Child Find mandate includes these students. Therefore, when referring and evaluating students suspected of having dyslexia, LEAs must follow procedures for conducting a full individual and initial evaluation (FIIE) under the IDEA.

Another federal law that applies to students with disabilities in public school is Section 504 of the Rehabilitation Act of 1973, commonly referred to as Section 504. Under Section 504, public schools must annually attempt to identify and locate every qualified student with a disability residing in its jurisdiction and notify them and/or their parents of the requirements of Section 504.

Dyslexia Screening

Universal Screening

For purposes of this chapter, screening is defined as a universal measure administered to **all** students by qualified personnel to determine which students are at risk for dyslexia or reading difficulties and/or a related disorder. Screening is not a formal evaluation.

Timing of Screening

TEC §38.003 mandates that kindergarten students be screened at the end of the school year. In scheduling the kindergarten screener, districts and charter schools should consider the questions in Figure 2.1 below.

Figure 2.1. Considerations for Local Scheduling of Dyslexia Screening

- Has adequate time for instruction been provided during the school year?
- Has adequate time been provided to compile data prior to the end of the school year?
- How will the timing of the administration of the screener fit in with the timing of other required assessments?
- Has sufficient time been provided to inform parents in writing of the results of the reading instrument and whether the student is at risk for dyslexia or other reading difficulties?
- Has adequate time been provided for educators to offer appropriate interventions to the student?
- Has sufficient time been provided for decision making regarding next steps in the screening process?

TEC §38.003 does not explicitly state when first grade students must be screened. The SBOE, through approval of the rule which requires adherence to this handbook (19 TAC §74.28), has determined that students in first grade must be screened as close to the middle of the school year as possible, but must conclude **no later than January 31 of each year**.

The timing of the grade 1 screening is designed to ensure that students are appropriately screened, and if necessary, evaluated further so that reading difficulties can be addressed in a timely manner. Because

kindergarten is not mandatory in the State of Texas, some students will not have been enrolled in kindergarten and will therefore not have been screened prior to the first grade. Waiting too long in the first-grade year would delay critical early intervention for students at risk for dyslexia or reading difficulties. Screening of first grade students close to the middle of the school year will ensure that sufficient time is provided for data gathering, evaluation, early intervention, etc., to meet the needs of students. Conducting the grade 1 screening close to the middle of the school year will allow districts and charter schools to complete the evaluation process with enough time for interventions to be provided to the student prior to the end of first grade.

Other Related Disorders

It is important to note that, while TEC §38.003 requires that all students in kindergarten and grade 1 be screened for dyslexia and related disorders, at the time of the update to this handbook it was determined there are no grade-level appropriate screening instruments for dysgraphia and the other identified related disorders. For more information, please see Chapter 5: Dysgraphia.

Local District Requirements

Each district may have additional policies and procedures in place regarding screening and evaluating students for dyslexia and related disorders. Refer to your district's website or administrative office for more information on local policies or search for information specific to your school district or charter school by accessing the *Legal Framework for the Child-Centered Special Education Process* at <http://framework.esc18.net/>.

Part B: Kindergarten-Grade 1 Universal Screening: Administration

Dyslexia screening is a tool for identifying children who are at risk for this learning disability, particularly in preschool, kindergarten, or first grade. This means that the screening does not “diagnose” dyslexia. Rather, it identifies “predictor variables” that raise red flags, so parents and teachers can intervene early and effectively.

—Richard Selznick, *Dyslexia Screening: Essential Concepts for Schools and Parents*, 2015

The importance of early interventions for students with reading difficulties cannot be overstated.

In order for early interventions to be provided, a student must first be identified as at risk for dyslexia or another reading difficulty. While educators once delayed identification of reading difficulties until the middle elementary grades, recent research has encouraged the identification of children at risk for dyslexia and reading difficulties “prior to, or at the very least, the beginning of formal reading instruction” (Catts, 2017).

The requirement in TEC §38.003 that all kindergarten and first grade students be screened for dyslexia and related disorders is aligned with this shift to identify students at risk for dyslexia and reading difficulties when they are just beginning their formal education. Universal screeners generally measure reading or literacy-related skills such as sound-symbol recognition, letter knowledge, phonological awareness, and other skills. The International Dyslexia Association (2017) describes screening instruments as follows.

Screening measures, by definition, are typically brief assessments of a skill or ability that is highly predictive of a later outcome. Screening measures are designed to quickly differentiate students into one of two groups: 1) those who require intervention and 2) those who do not. A screening measure needs to focus on specific skills that are highly correlated with broader measures of reading achievement resulting in a highly accurate sorting of students.

—International Dyslexia Association, *Universal Screening: K-2 Reading*, 2017

Screening Instruments

While screening instruments can measure the skills and abilities of students at different grade levels, this section is dedicated to a discussion of instruments that may meet the dyslexia screening requirement for kindergarten and first grade students. As previously mentioned, at the time of the update to this handbook it was determined there are no grade-level appropriate screening instruments for dysgraphia and the other identified related disorders. As a result, the focus of this section is on screening instruments for dyslexia and reading difficulties.

It is important that screening instruments be accurate and comprehensive; however, they need not be as comprehensive as an extensive individualized evaluation. With this in mind, various types of instruments that meet the criteria below could be used to screen for dyslexia.

In developing the criteria for the kindergarten and grade 1 screening instruments for dyslexia and other reading difficulties, it was important to differentiate between the skills and behaviors appropriate at each grade level. Additionally, with a sizable EB student population in Texas, it was essential that Spanish language screening instruments be addressed. Therefore, criteria for both English and Spanish speakers are included.

Screeener Criteria

Regardless of the primary language of the student, instruments used to screen for dyslexia and other reading difficulties must address the skills in Figure 2.2 below.

Figure 2.2. Criteria for English and Spanish Screening Instruments	
Kindergarten	First Grade
<ul style="list-style-type: none">• Letter Sounds Knowledge or Letter Naming Fluency• Phonological Awareness	<ul style="list-style-type: none">• Word Reading Accuracy or Fluency• Phonological Awareness

While the selected screening instrument will be expected to measure each of the skills identified above, it is important that individuals who administer the screening instrument document student behaviors observed during the administration of the instrument. A list of behaviors that may be observed during the administration of the screening and which should be documented are included in Figure 2.3 below.

Figure 2.3. Student Behaviors Observed During Screening
<ul style="list-style-type: none">• Lack of automaticity• Difficulty sounding out words left to right• Guessing• Self-correcting• Inability to focus on reading• Avoidance behavior

Other Criteria

In addition to the measures of the skills identified in Figure 2.2 above, other criteria should be considered when selecting a screening instrument. Approved screening instruments must take only a brief time to administer and be cost effective. They must have established validity and reliability and standards. They must also include distinct indicators identifying students as either not at risk or at risk for dyslexia or reading difficulties. Screening instruments must also provide standardized directions for administration as well as clear guidance for the administrator regarding scoring and interpretation of indicators/results. Additionally, each screening instrument must include adequate training for educators on how to administer the instrument and interpret results.

Selecting an Appropriate Screening Instrument

Screening instruments must include a measure for each of the skills noted above. The commissioner of education is expected to periodically issue a request for English and Spanish reading instruments that meet the established criteria. Instruments that meet each of the criteria will be included on the Commissioner’s List of Reading Instruments. In determining which screening instrument to use, a district or charter school must consider the primary language of the student and other factors as determined by the local district or school.

Administration of Screening Instruments

Who May Administer the Dyslexia Screener

A district or charter school must ensure that appropriately trained and qualified individuals administer and interpret the results of the selected screening instrument. Please note that an educational aide is not eligible to administer or interpret the dyslexia screening instrument.

Individuals who administer and interpret the screening instrument must, at minimum, meet the following qualifications:

- An individual who is certified/licensed in dyslexia; or
- A classroom teacher who holds a valid certification for kindergarten and grade 1.

For a list of current certifications for kindergarten and grade 1, see the State Board for Educator Certification Teacher Assignment Chart at https://tea.texas.gov/Texas_Educators/Certification/.

BEST PRACTICE: Whenever possible, the student’s current classroom teacher should administer the screening instrument for dyslexia and reading difficulties.

For an open enrollment charter school that is not required to have a certified teacher in kindergarten or grade 1, the teacher of record should administer the screener unless an individual who is certified/licensed in dyslexia is available.

Training

The individual who administers and interprets the screening instrument must receive training designed specifically for the selected instrument in characteristics of dyslexia and other reading difficulties and interpretation of screening results and at-risk indicators and decisions regarding placement/services.

When to Administer the Dyslexia/Reading Screener

Districts and charter schools must implement a screening program that includes each of the following:

- Screening of **each** student in kindergarten at the end of the school year
- Screening of **each** student in the first grade as close to the middle of the school year as possible, but no later than January 31

For more information on considerations regarding the scheduling of the mandated dyslexia screening, please refer to Part A, Dyslexia Screening, on p. 12.

Part C—Kindergarten-Grade 1 Universal Screening: Interpretation

The importance of early intervention cannot be overstated. Intervening early, before difficulties become intractable, offers the best hope for successful outcomes and prevention of long-term deficits. The purpose of screening is to help identify, as early as possible, the students at risk for dyslexia or other reading difficulties so that targeted intervention can be provided. Screening alone will never improve outcomes for students. The screening must lead to effective instruction for it to be useful. Therefore, once the screening has been

administered the next steps are to analyze results, identify level of risk for each student, and make informed decisions. The next steps are broadly categorized as: refer for evaluation, implement targeted intervention, and/or continue with core instruction.

There are several important factors to consider when interpreting screening results. First, it is important to remember that there is no definitive test score that invariably identifies dyslexia. Dyslexia is a neurobiological disorder that exists along a continuum of severity. Similar to diabetes or hypertension, dyslexia is identified based on how far an individual's condition departs from the average range. This makes the identification of dyslexia more challenging than identifying other forms of disability.

Second, it is important to keep the definition and goals of screening in mind. The purpose of screening is to differentiate a smaller set of individuals who may be at risk for dyslexia. Screening, by definition, should never be the final determination of whether a student has dyslexia. Therefore, screening tools must be brief, efficient, and cost effective. Subsequent consideration of other data and information with the smaller group is then used to determine next steps. However, it is key to remember that "screening" represents the initial step in the process. Dyslexia referral and identification under IDEA must be individualized and based on multiple pieces of information, including results of the screening.

As with any evaluation, it is important that schools administer and interpret the screening instrument with fidelity. Screening tools use criterion-referenced criteria to establish cut points derived by the publisher of the tool. Cut points are used to group students into categories (e.g., at risk or not at risk) based on the results of the screening tool. Districts and charter schools must adhere to the cut points established by the published screening instrument. LEAs cannot modify the publisher's established cut points, as these are used to determine next steps and those coded at-risk based on the publisher's established thresholds will be reported by the LEA through the Public Education Information Management System (PEIMS) for the dyslexia at-risk code.

In general, students scoring below the publisher-determined cut point are considered "at risk" for dyslexia, while those who score above the cut point are considered "not at risk" for dyslexia. However, it is important to realize that risk falls on a continuum and there will always be false positives (students who screen at risk when they are not) and false negatives (students who screen not at risk when they are). Consequently, continual progress monitoring and an ongoing review of data is important. Any student may be referred for a full individual and initial evaluation under IDEA, at any time, regardless of the results of the screening instrument.

Students falling well below the cut point have a much higher probability of being at risk for dyslexia while students scoring well above the cut point have lower probability of being at risk for dyslexia. The decision for what to do next is easiest for students whose scores fall at the extreme ends of the continuum. Students falling well above the cut point can be considered at low risk for dyslexia and are much less likely to need additional intervention or evaluation. Students scoring far below the cut point should be considered at high risk for dyslexia.

For students who are identified as at risk for dyslexia, the school should provide targeted intervention provided by the appropriate staff as determined by the district or charter school. The district or school should also continue the data collection and evaluation process outlined in Chapter 3, Procedures for the Evaluation and Identification of Students with Dyslexia. It is important to note that the use of a tiered intervention process, such as Response to Intervention or RTI, must not be used to delay or deny an evaluation for dyslexia, especially when parent or teacher observations reveal the common characteristics of dyslexia.

For students who score close to the cut point, more information will be needed to make an informed decision regarding referral for evaluation, implementation of targeted interventions with progress monitoring, or continuation of core instruction only. Data gathering will provide this additional information.

Screening Data Gathering

Both quantitative and qualitative information are critical components of the screening process. Examples of quantitative and qualitative information used in determining next steps are provided in Figure 2.4 below.

Figure 2.4. Sources and Examples of Screening Data

Quantitative Information	Qualitative Information
<p>Results of—</p> <ul style="list-style-type: none"> • Current screening instruments • Previous screening instruments • Formal and informal classroom reading assessments • Additional brief and targeted skill assessments 	<ul style="list-style-type: none"> • Observations of student during screening (See Figure 2.3, Student Behaviors Observed During Screening) • Other observations of student progress • Teacher observations • Parent/guardian input (e.g., family history, early language skills) • Current student work samples • Work samples from earlier grade(s) • Intervention history

For students who fall close to the predetermined cut points, implementation of short-term, targeted intervention with regular progress monitoring is one way to determine if additional evaluation is needed. Teachers and administrators should also be mindful that screening for risk is an ongoing process. Decisions made based on a single-point-in-time screening instrument should always be reevaluated and altered as more information is obtained as instruction continues. See Part D of this chapter, Best Practices for Ongoing Monitoring, for additional information.

Screening data should always be shared in writing with parents. Screening data should also be used by teachers and school administrators to guide instruction at the classroom level. When large percentages of students fall below the cut point (are at risk for dyslexia), it signals a need to review instructional programming and practices and teacher training in effective and explicit reading instruction.

Interpretation of Data

A qualified team is required to review all data to make informed decisions regarding whether a student exhibits characteristics of dyslexia. This team must consist of individuals who have knowledge of the student, are appropriately trained in the administration of the screening tool, are trained to interpret the quantitative and qualitative results from the screening process, and can recognize characteristics of dyslexia.

The team may consist of the student’s classroom teacher, provider of dyslexia instruction, reading interventionist, the individual who administered the screener, a special education teacher, a representative of the Language Proficiency Assessment Committee (LPAC) (as appropriate), and an administrator.

It is important to remember that at any point in the data review process a referral for a FIIE under the IDEA may be initiated. Parents also have the right to request a FIIE at any time. Regardless of the process in place for screening and data review, whenever accumulated data indicate that a student continues to struggle with one or more of the components of reading, despite the provision of adequate instruction and intervention, the student must be referred for a full individual and initial evaluation under the IDEA.

Figure 2.5 Universal Screening and Data Review for Reading Risk

Universal Screening and Data Review for Reading Risk

In kindergarten and first grade, universal screening for reading and dyslexia is administered as required by TEC §28.006 and §38.003(a)

- Kindergarten students must be administered a reading instrument at the beginning of the year (BOY), and may be administered a reading instrument at middle of year (MOY), and end of year (EOY)
- Kindergarten students must be screened for dyslexia at the end of the school year.
- First grade students must be administered a reading instrument at BOY and may be administered a reading instrument at MOY, and EOY
- First grade students must be screened for dyslexia not later than January 31.

Does the screener show the student MAY be at risk for reading difficulties?

NO

Continue grade level, evidence-based core reading instruction. (Tier 1)

YES

Collect and review quantitative and qualitative data on the student
(See Figures 2.3 and 2.4)

Does the analysis show that the student exhibits characteristics of dyslexia?

NO

Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

YES

Seek parental consent for a Full Individual Initial Evaluation (FIIE) and follow all required procedures, including giving parents the required Overview of Special Education for Parents form, and, if the school receives consent, conduct the FIIE within 45 school days, while continuing to provide grade level, evidence-based core reading instruction (Tier 1) and providing appropriate tiered interventions. The ARD committee (including the parent) meets to review the results of the FIIE.

See Figure 3.8

Part D: Best Practices for Ongoing Monitoring

Ongoing progress monitoring allows educators to assess student academic performance in order to evaluate student response to evidence-based instruction. Progress monitoring is also used to make diagnostic decisions regarding additional targeted instruction that may be necessary for the student.

While some kindergarten and first grade students may not initially appear to be at risk for dyslexia based on screening results, they may actually still be at risk. Students who have learned to compensate for lack of reading ability and twice-exceptional students are two groups who may not initially appear to be at risk for dyslexia based on the results of a screening instrument.

Compensation

Some older students may not appear at first to exhibit the characteristics of dyslexia. They may demonstrate relatively accurate, but not fluent, reading.

The consequence is that such dyslexic older children may appear to perform reasonably well on a test of word reading or decoding; on these tests, credit is given irrespective of how long it takes the individual to respond or if initial errors in reading are later corrected.

—Shaywitz, S.E., Morris, R., Shaywitz, B.A., *The Education of Dyslexic Children from Childhood to Young Adulthood*, 2008

Awareness of this developmental pattern is critically important for the diagnosis in older children, young adults, and beyond. According to Shaywitz, et al., examining reading fluency and reading rate would provide more accurate information for these students.

Twice Exceptionality

Twice-exceptional students may not initially appear to be at risk for dyslexia. Twice exceptional, or 2e, is a term used to describe students who are both intellectually gifted and learning disabled, which may include students with dyslexia. Parents and teachers may fail to notice either giftedness or dyslexia in a student as the dyslexia may mask giftedness or the giftedness may mask dyslexia.

The International Dyslexia Association’s Gifted and Dyslexic: Identifying and Instructing the Twice Exceptional Student Fact Sheet (2013), identifies the following common characteristics of twice-exceptional students.

- Superior oral vocabulary
- Advanced ideas and opinions
- High levels of creativity and problem-solving ability
- Extremely curious, imaginative, and questioning
- Discrepant verbal and performance skills
- Clear peaks and valleys in cognitive test profile
- Wide range of interests not related to school
- Specific talent or consuming interest area
- Sophisticated sense of humor

For additional information on twice-exceptional students, see Chapter 4 : Critical, Evidence-Based Components of Dyslexia Instruction.

For a description of common risk factors of dyslexia that may be seen in older students, refer to Chapter 1: Definitions & Characteristics of Dyslexia.

Best Practices in Progress Monitoring

It is essential that schools continue to monitor students for common risk factors for dyslexia in second grade and beyond. In accordance with TEC §38.003(a), school districts **MUST** evaluate for dyslexia at appropriate times. If regular progress monitoring reflects a difficulty with reading, decoding, and/or reading comprehension, it is appropriate to evaluate for dyslexia and/or other learning disabilities. Schools should be aware that a student may have reached middle school or high school without ever being screened, evaluated, or identified; however, the student may have dyslexia or a related disorder. One goal of ongoing monitoring is to identify these students regardless of their grade level.

Therefore, it is important to remember that a referral for a dyslexia evaluation can be considered at any time kindergarten–high school.

Sources

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Texas Education Code, Chapter 38, §38.003, Screening and Treatment for Dyslexia. Acts 2023, 88th Leg., R.S., Ch. 542 (HB 3928), Sec. 6, eff. June 10, 2023.

3. PROCEDURES FOR THE EVALUATION AND IDENTIFICATION OF STUDENTS WITH DYSLEXIA

Science has moved forward at a rapid pace so that we now possess the data to reliably define dyslexia, to know its prevalence, its cognitive basis, its symptoms and remarkably, where it lives in the brain and evidence-based interventions which can turn a sad, struggling child into not only a good reader, but one who sees herself as a student with self-esteem and a fulfilling future.

—Shaywitz, S.E. Testimony Before the Committee on Science, Space, and Technology, U.S. House of Representatives, 2014

The evaluation and identification process for dyslexia can be multifaceted. The process involves both state and federal requirements that must be followed. The evaluation and identification process for students suspected of having dyslexia is guided by the Individuals with Disabilities Education Act (IDEA).

In Texas and throughout the country, there is a focus on a Response to Intervention (RTI) or a Multi-Tiered System of Supports (MTSS) process as a vehicle for meeting the academic and behavioral needs of all students. Current federal legislation under the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA), calls for the use of benchmark assessments for early identification of struggling students before they fail. In fact, state law requires the use of early reading assessments that are built on substantial evidence of best practices. Carefully chosen, these assessments can give crucial information about a student’s learning and can provide a basis for the tiered intervention model. Through the tiered intervention process, schools can document students’ learning difficulties, provide ongoing evaluation, and monitor reading achievement progress for students at risk for dyslexia or other reading difficulties.

Early intervention is further emphasized as the result of research using neuroimaging. Diehl, Frost, Mencl, and Pugh (2011) discuss the need to determine the role that deficits in phonological awareness and phonemic awareness play in reading acquisition, thus improving the methodology for early intervention. The authors note that future research will be enabled by longitudinal studies of phonology remediation using various treatments. “It will be especially important to take a multilevel analysis approach that incorporates genetics, neuroanatomy, neurochemistry, and neurocircuitry, and also to combine the strengths of the different neuroimaging techniques” (Diehl et al., 2011, p. 230). Evaluation followed by structured intervention that incorporates new scientific research must be embraced.

State and Federal Law Regarding Early Identification and Intervention Prior to Formal Evaluation

Both state and federal legislation emphasize early identification and intervention for students who may be at risk for reading disabilities such as dyslexia. Those professionals responsible for working with students with reading difficulties should be familiar with the legislation listed in Figure 3.1 below.

Figure 3.1. State and Federal Laws

TEC §28.006, Reading Diagnosis

This state statute requires schools to administer early reading instruments to all students in kindergarten and grades 1 and 2 to assess their reading development and comprehension. Additionally, the law requires a reading instrument from the commissioner’s approved list be administered at the beginning of grade 7 to any student who did not demonstrate proficiency on the sixth-grade reading assessment administered under TEC §39.023(a). If, on the basis of the reading instrument results, students are determined to be at risk for dyslexia or other reading difficulties, the school must notify the students’ parents/guardians. According to TEC

§28.006(g), the school must also implement an accelerated (intensive) reading program that appropriately addresses the students' reading difficulties and enables them to catch up with their typically performing peers.

TEC §38.003, Screening and Treatment for Dyslexia

Texas state law requires that public school students be screened and tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program approved by the SBOE must include screening for each student at the end of the kindergarten year and during first grade.

Elementary and Secondary Education Act (ESEA) as reauthorized by the Every Student Succeeds Act of 2015 (ESSA) The services offered to students who are reported to be at risk for dyslexia or other reading difficulties should align to the requirements of ESSA, which requires schools to implement comprehensive literacy instruction featuring "age- appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension" (ESSA, 2015).

Equal Education Opportunity Act (EEOA)

This civil rights law ensures that all students are given equal access to educational services regardless of race, color, sex, religion, or national origin; and that the neighborhood is the appropriate basis for determining public school assignments. Therefore, research-based interventions are to be provided to all students experiencing difficulties in reading, including EB students, regardless of their proficiency in English.

Individuals with Disabilities Education Act (IDEA)

The most recent reauthorization of this federal act is consistent with ESSA in emphasizing quality of instruction and documentation of student progress. A process based on the student's response to scientific, research-based intervention is one of the criteria included in IDEA that individual states may use in determining whether a student has a specific learning disability, including dyslexia.

As referenced in the 2011 letter from the Office of Special Education Programs (OSEP) to the State Directors of Special Education, states have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of the RTI process (Musgrove, 2011). For more information, please visit <https://sites.ed.gov/idea/idea-files/osep-memo-11-07-response-to-intervention-rti-memo/>.

The Referral Process for Dyslexia and Related Disorders

The determination to refer a student for an evaluation must always be made on a case-by-case basis and must be driven by data-based decisions. The referral process itself can be distilled into a basic framework as outlined below.

Data-Driven Meeting of Knowledgeable Persons

A team of persons with knowledge of the student, instructional practices, and instructional options meets to discuss data collected, including data obtained during kindergarten and/or first grade screening, and the implications of that data. These individuals would include the classroom teacher and other individuals who can review and analyze the student's data, such as a campus administrator, special education teacher, reading interventionist, and provider of dyslexia instruction. This team may also include the parents and/or a diagnostician familiar with testing and interpreting evaluation results. This team may have different names in different districts and/or campuses. For example, the team may be called a student success team, student

support team, student intervention team, or even something else. Unless the student is already served under IDEA or Section 504, this team of knowledgeable persons is not an Admission, Review, and Dismissal (ARD) committee or a Section 504 committee, although many of these individuals may be on a future committee if the student is referred for an evaluation.

When the Data Does Not Lead to Suspicion of a Disability, Including Dyslexia or a Related Disorder

If the team determines that the data does not give the members reason to suspect that a student has dyslexia, a related disorder, or another disability included within the IDEA and a need for special education and related services, the team may decide to provide the student with additional support in the classroom or through the RTI/MTSS process. The student should continue to receive grade level, evidence-based core reading instruction (Tier 1) and any other appropriate tiered interventions. However, the student is not referred for an evaluation at this time.

When the Data Lead to a Suspicion of a Disability, Including Dyslexia or a Related Disorder

If the team determines that the data does give the members reason to suspect that the student has dyslexia, a related disorder, or another disability included within the IDEA and a need for special education and related services, the team must refer the student for a full individual and initial evaluation (FIIE). In most cases, an FIIE under the IDEA must be completed within 45-school days from the time a district or charter school receives parental consent. The student should continue to receive grade level, evidence-based core reading instruction (Tier 1) and any other appropriate tiered interventions while the school conducts the FIIE.

If an LEA suspects, or has reason to suspect, a student has dyslexia and may be a child with a disability under IDEA, the LEA must provide parents with a form developed by TEA explaining rights under IDEA that may be additional to rights under Section 504; comply with all federal and state requirements, including this handbook, regarding any evaluation; and if the student is to be evaluated for dyslexia, evaluate the student in all other areas of suspected disabilities. The [form](#) can be located on the SPEDTEX website at www.spedtex.org.

Parents/guardians always have the right to request a referral for a dyslexia evaluation at any time.

Once a written parent request for dyslexia evaluation has been made to the appropriate administrator, the school district is obligated to review the student's data history (both formal and informal data) to determine whether there is reason to suspect the student has a disability and must respond within 15 school days. If a disability is suspected, the student needs to be evaluated following the guidelines outlined in this chapter. Under the IDEA, if the school refuses the request to evaluate, it must give parents prior written notice of refusal to evaluate, including an explanation of why the school refuses to conduct an FIIE, the information that was used as the basis for the decision, a copy of the Overview of Special Education for Parents form as mentioned above, and a copy of the *Notice of Procedural Safeguards*. Should the parent disagree with the school's refusal to conduct an evaluation, the parent has the right to initiate dispute resolution options including; mediation, state complaints, and due process hearings.

When an LEA completes an FIIE, and the parent disagrees with the evaluation, the parent may request an Independent Educational Evaluation (IEE) at public expense.

Procedures for Evaluation

As discussed in Chapter 2, Child Find is a provision in the federal Individuals with Disabilities Education Act (IDEA), a federal law that requires the state to have policies and procedures in place to ensure that every student in the state who needs special education and related services is located, identified, and evaluated. The purpose of the IDEA is to ensure that students with disabilities are offered a free and appropriate public education (20 U.S.C. §1400(d); 34 C.F.R. §300.1). Because a student suspected of having dyslexia may be a student with a disability under the IDEA, the Child Find mandate includes these students. Therefore, when referring and evaluating students suspected of having dyslexia, LEAs must follow procedures for conducting

a full individual and initial evaluation (FIIE) under the IDEA. For detailed information regarding Child Find see <https://spedsupport.tea.texas.gov/sites/default/files/2024-01/technical-assistance-child-find-and-evaluation-guide.pdf>.

As discussed in Chapter 2, all public-school students are required to be screened for dyslexia while in kindergarten and first grade. Additionally, students enrolling in public schools in Texas must be assessed for dyslexia and related disorders “at appropriate times” (TEC §38.003(a)). The appropriate time depends upon multiple factors including the student’s reading performance; reading difficulties; poor response to supplemental, scientifically based reading instruction; teachers’ input; and input from parents/guardians. The appropriate time for assessing is early in a student’s school career (19 TAC §74.28). TEC §28.006, Reading Diagnosis, requires assessment of reading development and comprehension for students in kindergarten, first grade, second grade, and as applicable, seventh grade. While earlier is better, students should be recommended for evaluation for dyslexia even if the reading difficulties appear later in a student’s school career.

While schools must follow federal and state guidelines, they must also develop local procedures that address the needs of their student populations. Schools must recommend evaluation for dyslexia if the student demonstrates the following:

- Poor performance in one or more areas of reading and spelling that is unexpected for the student’s age/grade
- Characteristics and risk factors of dyslexia indicated in Chapter 1: Definitions & Characteristics of Dyslexia

Data Gathering

Schools collect data on all students to ensure that instruction is appropriate and scientifically based.

Essential components of comprehensive literacy instruction are defined in Section 2221(b) of ESSA as explicit, systematic, and intentional instruction in the following:

- Phonological awareness
- Phonic decoding
- Vocabulary
- Language structure
- Reading fluency
- Reading comprehension

When evaluating a student for dyslexia, the collection of various data, as indicated in Figure 3.2 below, will provide information regarding factors that may be contributing to or primary to the student’s struggles with reading and spelling.

Cumulative Data

The academic history of each student will provide the school with the cumulative data needed to ensure that underachievement in a student suspected of having dyslexia is not due to lack of appropriate instruction in reading. This information should include data that demonstrate that the student was provided appropriate instruction and include data-based documentation of repeated evaluations of achievement at reasonable intervals (progress monitoring), reflecting formal evaluation of student progress during instruction. These cumulative data also include information from parents/guardians. Sources and examples of cumulative data are provided in Figure 3.2.

Figure 3.2. Sources and Examples of Cumulative Data

- Vision screening
- Hearing screening
- Teacher reports of classroom concerns
- Classroom reading assessments
- Accommodations or interventions provided
- Academic progress reports (report cards)
- Gifted/talented assessments
- Samples of schoolwork
- Parent conference notes
- Results of kindergarten-grade 1 universal screening as required in TEC §38.003
- K-2 reading instrument results as required in TEC §28.006 (English and native language, if possible)
- 7th-grade reading instrument results as required in TEC §28.006
- State student assessment program results as described in TEC §39.023
- Observations of instruction provided to the student
- Previous evaluations
- Outside evaluations
- Speech and language assessment
- School attendance
- Curriculum-based assessment measures
- Instructional strategies provided and student's response to the instruction
- Screening data
- Parent survey

Environmental and Socioeconomic Factors

Information regarding a child's early literacy experiences, environmental factors, and socioeconomic status must be part of the data collected throughout the data gathering process. These data support the determination that difficulties in learning are not due to cultural factors or environmental or economic disadvantage. Studies that have examined language development and the effects of home experiences on young children indicate that home experiences and socioeconomic status have dramatic effects on cumulative vocabulary development (Hart & Risley, 1995). Having data related to these factors may help in determining whether the student's struggles with reading are due to a lack of opportunity or a reading disability, including dyslexia.

Language Proficiency

Much diversity exists among EB students. A student's language proficiency may be impacted by any of the following: native language, English exposure, parent education, socioeconomic status of the family, amount of time in the United States, experience with formal schooling, immigration status, community demographics, and ethnic heritage (Bailey, Heritage, Butler, & Walqui, 2000). EB students may be students served in bilingual and English as a second language (ESL) programs as well as students designated as EB whose parents have denied services. In addition to the information discussed in the previous section of this chapter, the Language Proficiency Assessment Committee (LPAC) maintains documentation (19 TAC §89.1220(g)-(m)) that is necessary

to consider when identifying EB students with dyslexia. The LPAC is required to meet annually to review student placement and progress and consider instructional accommodations and interventions to address the student's linguistic needs. Since the identification and service delivery process for dyslexia must be aligned to the student's linguistic environment and educational background, involvement of the LPAC is required. Additional data sources for EB students are provided below in Figure 3.3.

Figure 3.3. Additional Data Sources for Emergent Bilingual Students

- Home Language Survey
- Designation of the student's level of language proficiency
- Texas English Language Proficiency Assessment System (TELPAS) information for four language domains (listening, speaking, reading, and writing)
- Instructional interventions provided to address language needs
- Information regarding previous schooling inside and/or outside the United States
- Type of language program model provided and language of instruction

Formal Evaluation

A formal evaluation is not a screening; rather, it is an individualized evaluation used to gather specific data about the student. Formal evaluation includes both formal and informal data. All data will be used to determine whether the student demonstrates a pattern of evidence that indicates dyslexia. Information collected from the parents/guardians also provides valuable insight into the student's early years of language development. This history may help explain why students come to the evaluation with many different strengths and weaknesses; therefore, findings from the formal evaluation will be different for each child. Professionals conducting evaluations for the identification of dyslexia will need to look beyond scores on standardized assessments alone and examine the student's classroom reading performance, educational history, early language experiences, and, when warranted, academic potential to assist with determining reading, spelling, and writing abilities and difficulties.

As part of the evaluation when dyslexia is suspected, in addition to the parent and team of qualified professionals required under IDEA, the multidisciplinary team (MDT) must include at least one member with specific knowledge regarding:

- the reading process,
- dyslexia and related disorders, and
- dyslexia instruction.

TEC §29.0031(b) states this member must:

- (1) hold a licensed dyslexia therapist (LDT) license under Chapter 403, Occupations Code;
- (2) hold the most advanced dyslexia-related certification issued by an association recognized by the SBOE, and identified in, or substantially similar to an association identified in, the program and rules adopted under Sections 7.102 and 38.003; or
- (3) if a person qualified under subdivision (1) or (2) is not available, meet the applicable training requirements adopted by the SBOE pursuant to Sections 7.102 and 38.003.

This member must also sign a document describing the member's participation in the evaluation of the student.

LEAs must prioritize the individuals who meet the credentials of items (1) and (2) above when designating an individual to fill this role, as those are the statutorily required professionals. To meet the credentials of the most advanced dyslexia-related certification, the individual must have received certification or training from

the following programs or providers: Academic Language Therapy Association, the International Dyslexia Association, the Orton Gillingham Academy, Wilson Language Training, or have received training through an International Multisensory Structured Language Education Council-(IMSLEC)- accredited training center at the teaching or therapy level. Individuals who are currently enrolled and participating in a credentialing program that will result in becoming an LDT or obtaining the most advanced dyslexia-related certification would be considered as meeting the credentials for items (1) and (2).

Understanding the limitations of availability of the individuals who meet the credentials of items (1) and (2) above, an LEA may identify another individual to serve in this role who, within one calendar year from the date of being designated as such member, must:

- register and complete the Texas Education Agency's (TEA's) Texas Dyslexia Academies (TDAs);
- register and complete the TEA's Guidance for the Comprehensive Evaluation of a Specific Learning Disability training; and
- document that the member has training in current research and evidence-based assessments that are used to identify the most common characteristics of dyslexia.

When TEA updates the required trainings above, the member must complete those updated trainings within one calendar year from the date the revised training was made available.

Notification and Permission

When an FIIE is recommended, parents are provided:

- Prior Written Notice (PWN)
- Notice of Procedural Safeguards
- Overview of Special Education for Parents form
- Opportunity for parent to provide written consent to evaluate

Tests and Other Evaluation Materials

When formal evaluation is recommended, the school must complete the evaluation procedures as outlined in the IDEA.

Test instruments and other evaluation materials must meet the following criteria:

- Used for the purpose for which the evaluation or measures are valid or reliable
- Include material(s) tailored to assess specific areas of educational need and not merely material(s) that are designed to provide a single, general intelligence quotient
- Selected and administered to ensure that when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude, achievement level, or whatever other factor the test purports to measure rather than reflecting the student's impaired sensory, manual, or speaking skills
- Selected and administered in a manner that is not racially or culturally discriminatory
- Include multiple measures of a student's reading abilities such as informal assessment information (e.g., anecdotal records, district universal screenings, progress monitoring data, criterion-referenced evaluations, results of informal reading inventories, classroom observations)
- Administered by trained personnel and in conformance with the instructions provided by the producer of the evaluation materials
- Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information regarding what the child can do academically, developmentally, and functionally unless it is clearly not feasible to provide or administer

Additional Considerations for EB students

A professional involved in the evaluation, interpretation of evaluation results, and identification of EB students with dyslexia must have the following training/knowledge:

- Knowledge of first and second language acquisition theory
- Knowledge of the written system of the first language: transparent (e.g., Spanish, Italian, German), syllabic (e.g., Japanese-kana), Semitic (e.g., Arabic, Hebrew), and morphosyllabic (e.g., Chinese-Kanji)
- Knowledge of the student's literacy skills in native and second languages
- Knowledge of how to interpret results from a cross-linguistic perspective
- Knowledge of how to interpret TELPAS (Texas English Language Proficiency Assessment System) results
- Knowledge of how to interpret the results of the student's oral language proficiency in two or more languages in relation to the results of the tests measuring academic achievement and cognitive processes as well as academic data gathered and economic and socioeconomic factors

Although data from previous formal testing of the student's oral language proficiency may be available, as required by TEC §29.056, additional assessment of oral language proficiency should be completed for a dyslexia evaluation due to the importance of the information for—

- consideration in relation to academic challenges,
- planning the evaluation, and
- interpreting evaluation results.

If there is not a test in the native language of the student, informal measures of evaluation such as reading a list of words and listening comprehension in the native language may be used.

Domains to Assess Specific to Dyslexia

Academic Skills

The school administers measures that are related to the student's educational needs. Difficulties in the areas of letter knowledge, word decoding, and fluency (rate, accuracy, and prosody) may be evident depending upon the student's age and stage of reading development. In addition, many students with dyslexia may have difficulty with reading comprehension and written composition.

Cognitive Processes

Difficulties in phonological and phonemic awareness are typically seen in students with dyslexia and impact a student's ability to learn letters and the sounds associated with letters, learn the alphabetic principle, decode words, and spell accurately. Rapid naming skills may or may not be weak, but if deficient, they are often associated with difficulties in automatically naming letters, reading words fluently, and reading connected text at an appropriate rate. Memory for letter patterns, letter sequences, and the letters in whole words (orthographic processing) may be selectively impaired or may coexist with phonological processing weaknesses. Finally, various language processes, such as morpheme and syntax awareness, memory and retrieval of verbal labels, and the ability to formulate ideas into grammatical sentences, may also be factors affecting reading (Berninger & Wolf, 2009, pp. 134–135).

Based on the student's academic difficulties, characteristics, and/or language acquisition, additional areas related to vocabulary, listening comprehension, oral language proficiency, written expression, and other cognitive processes may need to be assessed. Areas for evaluation are provided below in Figure 3.4.

Figure 3.4. Areas for Evaluation

Academic Skills	Cognitive Processes	Possible Additional Areas
<ul style="list-style-type: none"> • Letter knowledge (name and associated sound) • Reading words in isolation • Decoding unfamiliar words accurately • Reading fluency (rate, accuracy, and prosody are assessed) • Reading comprehension • Spelling 	<ul style="list-style-type: none"> • Phonological/phonemic awareness • Rapid naming of symbols or objects 	<ul style="list-style-type: none"> • Vocabulary • Listening comprehension • Verbal expression • Written expression • Handwriting • Memory for letter or symbol sequences (orthographic processing) • Mathematical calculation/reasoning • Phonological memory • Verbal working memory • Processing speed

Review and Interpretation of Data and Evaluations

The MDT, using input from the parent/guardian, completes the FIIE, which determines if the student meets the criteria for dyslexia, and, if so, explains the impact of dyslexia on the student’s access and progress in the enrolled grade-level general curriculum. The next step is for the ARD committee, which includes the parent/guardian as a committee member, to determine prong 1 and prong 2, which means the student has both the identification of a qualifying disability and the need for special education and related services. Eligibility is determined by the ARD committee in accordance with federal and state law and regulations.

The ARD committee will review the FIIE and all available data to determine eligibility for special education and related services. When a student is determined to have dyslexia and the data shows a need for specially designed instruction, i.e., evidence-based dyslexia instruction, then the student meets the two prongs of special education eligibility. That is, the student has a qualifying disability – as dyslexia is an SLD under the IDEA and state law – and demonstrates a need for specially designed instruction.

To appropriately **understand** evaluation data, the MDT and ARD committee must **interpret** test results in light of the student’s educational history, linguistic background, environmental or socioeconomic factors, and any other pertinent factors that affect learning.

When considering initial or continued special education eligibility for dyslexia, the ARD committee must include at least one member who has specific knowledge regarding—

- the reading process,
- dyslexia and related disorders, and
- dyslexia instruction.

TEC §29.0031(b) states this member must:

- (1) hold a licensed dyslexia therapist (LDT) license under Chapter 403, Occupations Code;
- (2) hold the most advanced dyslexia-related certification issued by an association recognized by the SBOE, and identified in, or substantially similar to an association identified in, the program and rules adopted under Sections 7.102 and 38.003; or
- (3) if a person qualified under subdivision (1) or (2) is not available, meet the applicable training requirements adopted by the SBOE pursuant to Sections 7.102 and 38.003.

This member must also sign a document describing the member’s participation in any resulting individualized education program (IEP) of the student.

LEAs must prioritize the individuals who meet the credentials of items (1) and (2) above when designating an individual to fill this role, as those are the statutorily required professionals. To meet the credentials of the most advanced dyslexia-related certification, the individual must have received certification or training from the following programs or providers: Academic Language Therapy Association, the International Dyslexia Association, the Orton Gillingham Academy, Wilson Language Training, or have received training through an International Multisensory Structured Language Education Council-(IMSLEC)- accredited training center at the teaching or therapy level. Individuals who are currently enrolled and participating in a credentialing program that will result in becoming an LDT or obtaining the most advanced dyslexia-related certification would be considered as meeting the credentials for items (1) and (2).

Understanding the limitations of availability of the individuals who meet the credentials of items (1) and (2) above, an LEA may identify another individual to serve in this role who, within one calendar year from the date of being designated as such member, must:

- register and complete the Texas Education Agency’s (TEA’s) Texas Dyslexia Academies (TDAs);
- register and complete the TEA’s Guidance for the Comprehensive Evaluation of a Specific Learning Disability training; and
- document that the member has training in current research- and evidence-based assessments that are used to identify the most common characteristics of dyslexia.

When TEA updates the required trainings above, the member must complete those updated trainings within one calendar year from the date the revised training was made available.

A determination must first be made regarding whether a student’s difficulties in the areas of reading and spelling reflect a pattern of evidence for the primary characteristics of dyslexia with unexpectedly low performance for the student’s age and educational level in some or all of the following areas:

- Reading words in isolation
- Decoding unfamiliar words accurately and automatically
- Reading fluency for connected text (rate and/or accuracy and/or prosody)
- Spelling (an isolated difficulty in spelling would not be sufficient to identify dyslexia)

Another factor to consider when interpreting test results is the student’s linguistic background. The nature of the writing system of a language impacts the reading process. Thus, the identification guideposts of dyslexia in languages other than English may differ. For example, decoding in a language with a transparent written language (e.g., Spanish, German) may not be as decisive an indicator of dyslexia as reading rate. A transparent written language has a close letter/sound correspondence (Joshi & Aaron, 2006). Students with dyslexia who have or who are being taught to read and write a transparent language may be able to decode real and nonwords adequately but demonstrate serious difficulties in reading rate with concurrent deficiencies in phonological awareness and rapid automatized naming (RAN).

Figure 3.5. Dyslexia in Transparent and Opaque Orthographies

Opaque	Transparent
Early and marked difficulty with word-level reading Fluency and comprehension often improve once decoding is mastered	Less difficulty with word-level reading More difficulty with fluency and comprehension

Figure 3.6. Characteristics of Dyslexia in English and Spanish

English	Spanish
Phonological awareness	Phonological awareness – may be less pronounced
Rapid naming	Rapid naming
Regular/irregular decoding	Decoding – fewer “irregular words” in Spanish
Fluency	Fluency – often a key indicator
Spelling	Spelling – may show fewer errors than in English, but still more than students that do not have dyslexia

Reading comprehension may be a weakness in both English and Spanish.

Findings support guidance in the interpretation of phonological awareness test scores.

There is evidence that blending skills develop sooner than analysis skills, and that students can have good blending skills and inadequate reading development. Only when both blending and analysis skills are mastered do we see benefits for reading development.

—Kilpatrick, D.A. Essentials of Assessing, Preventing, and Overcoming Reading Difficulties, 2015

With this in mind, when determining phonological awareness deficits, the MDT should examine subtest scores, including discreet phonological awareness skills, instead of limiting interpretation to composite scores since a deficit in even one skill will limit reading progress.

Based on the above information and guidelines, should the MDT find that the student exhibits weaknesses in reading and spelling (i.e., academic deficits in areas associated with dyslexia), the MDT will then examine all of the student’s data to determine whether these difficulties are **unexpected** in relation to the student’s other abilities, sociocultural factors, language difference, irregular attendance, or lack of appropriate and effective instruction. For example, the student may exhibit strengths in areas such as reading comprehension, listening comprehension, math reasoning, or verbal ability yet still have difficulty with reading and spelling. The MDT reports the analysis of strengths and weaknesses within the FIIE.

Therefore, it is not one single indicator but a preponderance of data (both informal and formal) that provide the team with evidence for whether these difficulties are unexpected.

Dyslexia Identification

If the student’s difficulties are unexpected in relation to other abilities, the ARD committee must then determine if the student has dyslexia and the need for special education and related services. For EB students, an LPAC representative must be included on the ARD committee. The list of questions in Figure 3.7 below must be addressed by the MDT in the evaluation report to assist the ARD committee when determining eligibility, which includes that dyslexia is present and there is a need for special education and related services.

Figure 3.7. Questions to Determine the Identification of Dyslexia

- Do the data show the following characteristics of dyslexia?
 - Difficulty with accurate and/or fluent word reading
 - Poor spelling skills
 - Poor decoding ability

- Do these difficulties (typically) result from a deficit in the phonological component of language?
(Please be mindful that average phonological scores alone do not rule out dyslexia.)
- Are these difficulties unexpected for the student’s age in relation to the student’s other abilities and provision of effective classroom instruction?

If, through the evaluation process, it is established that the student meets the criteria for dyslexia, then the student meets the first prong of eligibility under the IDEA (identification of condition). In other words, the identification of dyslexia, using the process outlined in this chapter, meets the criterion for the condition of a specific learning disability. Dyslexia is an SLD and should be noted as the SLD.

However, the presence of a disability condition alone, is not sufficient to determine if the student is a student with a disability under the IDEA. Eligibility under the IDEA consists of both identification of the condition and a corresponding need for specially designed instruction as a result of the disability.

In IDEA, dyslexia is considered one of a variety of etiological foundations for SLD. Section 34 C.F.R. §300.8(c)(10) states the following:

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

The term *SLD* does not apply to children who have learning difficulties that are primarily the result of visual, hearing, or motor disabilities; of intellectual disability; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

The IDEA evaluation requirements for SLD eligibility in 34 C.F.R. §300.309(a)(1) specifically designate the following areas for a learning disability in reading: basic reading skills, reading fluency skills, and/or reading comprehension. However, for purposes of TEC §29.0031(a), because dyslexia is an example of and meets the definition of an SLD, dyslexia should be noted as the identified SLD and be included in the evaluation and any resulting IEP for a student.

The October 23, 2015 letter from the Office of Special Education and Rehabilitative Services (OSERS) (Dear Colleague: Dyslexia Guidance) states that dyslexia, dyscalculia, and dysgraphia are conditions that could qualify a child as a child with a specific learning disability under the IDEA. The letter further states that there is nothing in the IDEA that would prohibit the use of the terms *dyslexia*, *dyscalculia*, and *dysgraphia* in the IDEA evaluation, eligibility determinations, or IEP documents. For more information, please visit <https://sites.ed.gov/idea/idea-files/osep-dear-colleague-letter-on-ideaiep-terms/>

A 2018 Letter to the Administrator Addressed from the Texas Education Agency regarding the provision of services for students with dyslexia and related disorders states that any time it is suspected that a student requires special education or related services to provide appropriate reading supports and interventions, a referral for an FIIE should be initiated. The letter further states that all students who are identified with dyslexia or a related disorder *and* who require special education services because of dyslexia or a related disorder are eligible under the IDEA for special education and related services as students with a specific learning disability. For more information, please visit https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Provision_of_Services_for_Students_with_Dyslexia_and_Related_Disorders_-_Revised_June_6,_2018/

Once dyslexia has been identified as the IDEA-eligible disability, a determination must be made by the ARD committee regarding the most appropriate way to serve the student. If a student with dyslexia is found eligible for special education (i.e., student has both the disability and requires dyslexia instruction, which is specially designed instruction), the student’s IEP must include appropriate reading instruction. Appropriate

reading instruction includes the components and delivery of dyslexia instruction discussed in Chapter 4: Critical, Evidence-Based Components of Dyslexia Instruction. If a student has previously met special education eligibility and is later identified with dyslexia, the ARD committee should include in the IEP goals that reflect the need for dyslexia instruction and determine the least restrictive environment for delivering the student's dyslexia instruction.

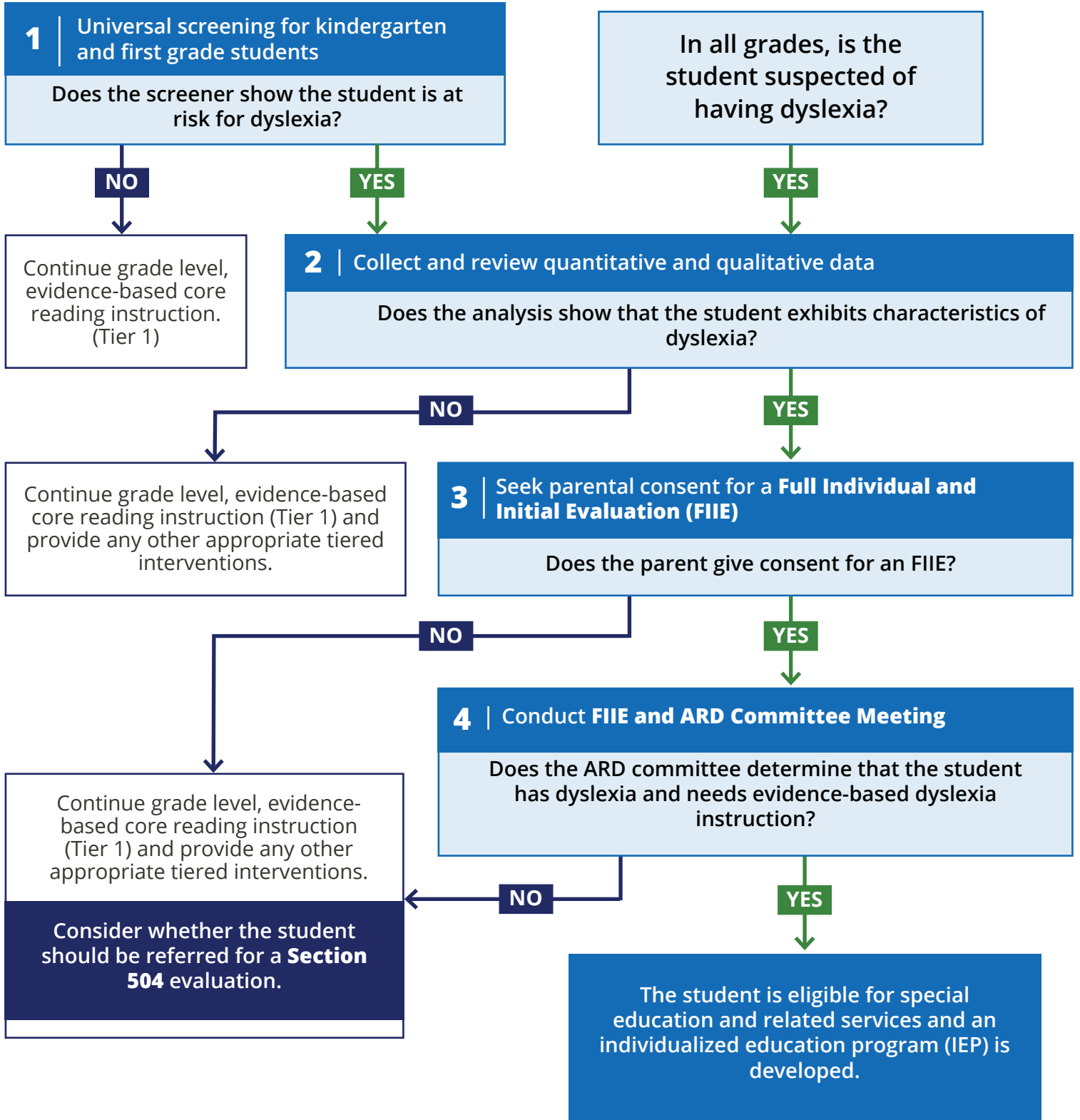
If—based on the data—the student is identified with dyslexia, but is determined by the ARD committee as not eligible for special education and related services because the student is determined to not need dyslexia instruction, (i.e., specially designed instruction) the student may be eligible to receive accommodations under Section 504.

A student who is found not eligible under the IDEA because the student is determined to not need dyslexia instruction (i.e., specially designed instruction), but who is identified with dyslexia through the FIIE process should not be referred for a second evaluation under Section 504. Instead, the Section 504 committee will use the FIIE and determine eligibility for Section 504 as necessary.

For students eligible for Section 504, a Section 504 committee will develop the student's Section 504 Plan, which must include appropriate instructional accommodations to meet the individual needs of the student. A student identified with dyslexia and who needs dyslexia instruction would not be served under Section 504, as this is a specially designed instruction.

Figure 3.8. Pathway for the Identification and Provision of Instruction for Students with Dyslexia

Pathway for the Identification and Provision of Instruction for Students with Dyslexia



Reevaluation for Dyslexia Identification and Accommodations

Dyslexia is a lifelong condition. However, with proper help, many people with dyslexia can learn to read and write well. Early identification and treatment is the key to helping individuals with dyslexia achieve in school and in life.

—The International Dyslexia Association <http://www.interdys.org/ewebeditpro5/upload/DyslexiaBasicsREVMay2012.pdf>

There are many initiatives, programs, evaluations, and data available for use in identification, placement, and program planning for students, including emergent bilingual students, who struggle with dyslexia. Evaluation and ongoing progress monitoring are key components that must be considered by trained personnel.

A 2014 U.S. Department of Justice technical assistance document summarized regulations regarding testing accommodations for individuals with disabilities as follows.

The Americans with Disabilities Act (ADA) ensures that individuals with disabilities have the opportunity to fairly compete for and pursue such opportunities by requiring testing entities to offer exams in a manner accessible to persons with disabilities. When needed testing accommodations are provided, test-takers can demonstrate their true aptitude.

Sources for Procedures and Evaluation for Students Identified with Dyslexia

Berninger, V. W. & Wolf, B. (2009). Teaching students with dyslexia and dysgraphia lessons from teaching and science. Baltimore, MD: Paul H. Brookes Publishing.

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Elementary and Secondary Education Act as Reauthorized by the Every Student Succeeds Act of 2015. 20 U.S.C. § 2221(b). (2015).

Kilpatrick, D.A. (2015). Essentials of Assessing, Preventing, and Overcoming Reading Difficulties. Hoboken, NJ: John Wiley & Sons. (85-86).

Mather, N., & Wendling, B. J. (2012). Essentials of dyslexia assessment and intervention. Hoboken, NJ: John Wiley & Sons.

Nevills, P., & Wolfe, P. (2009). Building the reading brain, PreK–3 (2nd ed.). Thousand Oaks, CA: Corwin Press.

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Region 18 Education Service Center. The Legal Framework for the Child-Centered Special Education Process. (2018). Retrieved from <http://framework.esc18.net/display/Webforms/LandingPage.aspx>.

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U.S. Department of Justice. (2014). ADA Requirements: Testing Accommodations. [Technical Assistance Document.] Civil Rights Division, Disability Rights Section. Retrieved online at <https://www.ada.gov/resources/testing-accommodations/>

4. CRITICAL, EVIDENCE-BASED COMPONENTS OF DYSLEXIA INSTRUCTION

Although dyslexia affects individuals over the life span . . . reading skills can be increased with the right early intervention and prevention programs . . . It is clear from the consensus of scientifically based reading research that the nature of the educational intervention for individuals with reading disabilities and dyslexia is critical. (pp. 21–22)

— Birsh, J. R. Connecting Research and Practice, 2018

Effective literacy instruction is essential for all students and is especially critical for students identified with dyslexia. High-quality core classroom reading instruction can give students identified with dyslexia a foundation upon which intervention instruction can have a more significant impact.

TEC §38.003(b) states, “in accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.” The board must also adopt and implement a policy requiring the district to comply with all rules and standards adopted by the SBOE to implement the program, including this handbook and guidance published by the commissioner to assist the district in implementing the program.

Evidence-Based Dyslexia Instruction

While the components of instruction for students with dyslexia include good teaching principles for all teachers, the explicitness and intensity of the instruction, fidelity to program descriptors, grouping formats, and training and skill of the teachers are wholly different from core classroom instruction and must be considered when making individual placement decisions.

For the student who has not benefited from the research-based core reading instruction, the components of instruction will include additional focused intervention as appropriate for the reading needs of the student with dyslexia. Evidence-based dyslexia instruction provides evidence-based, multisensory structured literacy instruction for students with dyslexia. This instruction must be explicit, systematic, and intentional in its approach. This instruction is designed to likely take place in a small group setting.

Evidence-based dyslexia instruction must be—

- evidence-based and effective for students with dyslexia;
- taught by an appropriately trained instructor; and
- implemented with fidelity.

Evidence-based dyslexia programs and instruction are considered specially designed instruction (SDI) and therefore special education services, so the provision of those services must follow the IDEA requirements. This means that evidence-based dyslexia instruction is only available to students who are served under IDEA, which prescribes the legal requirements for special education and related services. LEAs must ensure that the provision of evidence-based dyslexia instruction addresses the critical, evidence-based components and methods of delivery described in this chapter.

An LEA's first consideration for every student who requires dyslexia instruction should be an evidence-based dyslexia program taught with fidelity and in accordance with all SBOE dyslexia program requirements included in this handbook. Differentiation that does not compromise the fidelity of the program, such as adjusting the amount of information or pacing of the program, may be necessary to address students' unique needs and to promote progress among students receiving dyslexia instruction. An ARD committee must only consider deviations from the program's fidelity requirements when data collection, a student's present levels

of academic achievement and functional performance (PLAAFP), and other areas of the student's IEP clearly indicate the need for more intensive or supplemental supports.

The ARD committee, when discussing how a student will access an LEA's evidence-based dyslexia program, must address the following:

- How the program addresses the required components of dyslexia instruction described in this handbook, and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented with a focus on one or more components;
- How the program addresses the required instructional delivery methods described in the handbook, and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented to meet the student's needs;
- The fidelity statements/requirements that are included with the program, and how those will be delivered and/or intensified for the student; and
- Confirm that the provider of dyslexia instruction (PDI) is fully trained in the instructional materials to implement the program and how to differentiate the program, as determined by the ARD committee.

Evidence-based dyslexia instruction is not considered to be "regular" education aids and services. Regular aids and services are things like accommodations provided to a student to assist in classroom instruction and access to instruction, such as giving extra time for assignments and allowing speech-to-text capabilities when given a writing assignment. While a Section 504 plan could be appropriate for those needs, the need for evidence-based dyslexia instruction crosses over into a special education need.

Critical, Evidence-Based Components of Dyslexia Instruction

Phonological awareness—"Phonological awareness is the understanding of the internal sound structure of words. A phoneme is the smallest unit of sound in a given language that can be recognized as being distinct from other sounds. An important aspect of phonological awareness is the ability to segment spoken words into their component phonemes [phonemic awareness]." (Birsh, 2018, p. 26).

Sound-symbol association—Sound-symbol association is the knowledge of the various speech sounds in any language to the corresponding letter or letter combinations that represent those speech sounds. The mastery of sound-symbol association (alphabetic principle) is the foundation for the ability to read (decode) and spell (encode) (Birsh, 2018, p. 26). "Explicit phonics refers to an organized program in which these sound symbol correspondences are taught systematically" (Berninger & Wolf, 2009, p. 53).

Syllabication—"A syllable is a unit of oral or written language with one vowel sound. Instruction must include the six basic types of syllables in the English language; closed, open, vowel-consonant- e, r-controlled, vowel pair (or vowel team), and final stable syllable. Syllable division rules must be directly taught in relation to the word structure" (Birsh, 2018, p. 26).

Orthography—Orthography is the written spelling patterns and rules in a given language. Students must be taught the regularity and irregularity of the orthographic patterns of a language in an explicit and systematic manner. The instruction should be integrated with phonology and sound-symbol knowledge.

Morphology—"Morphology is the study of how morphemes are combined to form words. A morpheme is the smallest unit of meaning in the language" (Birsh, 2018, p. 26).

Syntax—"Syntax is the set of principles that dictate sequence and function of words in a sentence in order to convey meaning. This includes grammar, sentence variation, and the mechanics of language" (Birsh, 2018, p. 26).

Reading comprehension—Reading comprehension is the process of extracting and constructing meaning through the interaction of the reader with the text to be comprehended and the specific

purpose for reading. The reader’s skill in reading comprehension depends upon the development of accurate and fluent word recognition, oral language development (especially vocabulary and listening comprehension), background knowledge, use of appropriate strategies to enhance comprehension and repair it if it breaks down, and the reader’s interest in what he or she is reading and motivation to comprehend its meaning (Birsh, 2018, p.14; Snow, 2002).

Reading fluency—“Reading fluency is the ability to read text with sufficient speed and accuracy to support comprehension”(Moats & Dakin, 2008, p. 52). Fluency also includes prosody. Teachers can help promote fluency with several interventions that have proven successful in helping students with fluency (e.g., repeated readings, word lists, and choral reading of passages) (Henry, 2010, p. 104).

In addition, other areas of language processing skills, such as written expression, which require integration of skills, are often a struggle for students with dyslexia. Moats and Dakin (2008) posit the following:

The ability to compose and transcribe conventional English with accuracy, fluency, and clarity of expression is known as basic writing skills. Writing is dependent on many language skills and processes and is often even more problematic for children than reading. Writing is a language discipline with many component skills that must be directly taught. Because writing demands using different skills at the same time, such as generating language, spelling, handwriting, and using capitalization and punctuation, it puts a significant demand on working memory and attention. Thus, a student may demonstrate mastery of these individual skills, but when asked to integrate them all at once, mastery of an individual skill, such as handwriting, often deteriorates. To write on demand, a student has to have mastered, to the point of being automatic, each skill involved (p. 55).

Both the provider of dyslexia instruction and the regular classroom teacher should provide multiple opportunities to support intervention and to strengthen these skills; therefore, responsibility for teaching reading and writing must be shared by classroom teachers, reading specialists, interventionists, and teachers of dyslexia programs.

Delivery of Dyslexia Instruction

While it is necessary that students are provided instruction in the above content, it is also critical that the way in which the content is delivered be consistent with research-based practices. Principles of effective intervention for students with dyslexia include **all** of the following:

Simultaneous, multisensory (VAKT)—“Teaching is done using all learning pathways in the brain (visual, auditory, kinesthetic, tactile) simultaneously in order to enhance memory and learning” (Birsh, 2018, p. 26). “Children are actively engaged in learning language concepts and other information, often by using their hands, arms, mouths, eyes, and whole bodies while learning” (Moats & Dakin, 2008, p. 58).

Systematic and cumulative—“Multisensory language instruction requires that the organization of material follow order of the language. The sequence must begin with the easiest concepts and most basic elements and progress methodically to more difficult material. Each step must also be based on [elements] already learned. Concepts taught must be systematically reviewed to strengthen memory” (Birsh, 2018, p. 26).

Explicit instruction—“Explicit instruction is explained and demonstrated by the teacher one language and print concept at a time, rather than left to discovery through incidental encounters with information. Poor readers do not learn that print represents speech simply from exposure to books or print” (Moats & Dakin, 2008, p. 58). Explicit Instruction is “an approach that involves direct instruction: The teacher demonstrates the task and provides guided practice with immediate corrective feedback before the student attempts the task independently” (Mather & Wendling, 2012, p. 326).

Diagnostic teaching to automaticity—“The teacher must be adept at prescriptive or individualized teaching. The teaching plan is based on careful and [continual] assessment of the individual’s needs. The content presented must be mastered to the degree of automaticity” (Birsh, 2018, p. 27). “This teacher knowledge is essential for guiding the content and emphasis of instruction for the individual student”(Moats & Dakin, 2008, p. 58). “When a reading skill becomes automatic (direct access without conscious awareness), it is performed quickly in an efficient manner” (Berninger & Wolf, 2009, p. 70).

Synthetic instruction—“Synthetic instruction presents the parts of the language and then teaches how the parts work together to form a whole” (Birsh, 2018, p. 27).

Analytic instruction—“Analytic instruction presents the whole and teaches how this can be broken into its component parts” (Birsh, 2018, p. 27).

As appropriate intervention is provided, students with dyslexia make significant gains in reading. Effective instruction is highly-structured, systematic, and explicit, and it lasts for sufficient duration. With regard to explicit instruction, Torgesen (2004) states, “Explicit instruction is instruction that does not leave anything to chance and does not make assumptions about skills and knowledge that children will acquire on their own” (p. 353).

In addition, because effective intervention requires highly structured and systematic delivery, it is critical that those who provide intervention for students with dyslexia be trained in the program used and that the program is implemented with fidelity.

Sources for Critical, Evidence-Based Components and Delivery of Dyslexia Instruction

Berninger, V. W., & Wolf, B. (2009). *Teaching students with dyslexia and dysgraphia: Lessons from teaching and science*. Baltimore, MD: Paul H. Brookes Publishing.

Birsh, J. R. (2018). Connecting research and practice. In J. R. Birsh, *Multisensory teaching of basic language skills* (4th ed., pp21–34). Baltimore, MD: Paul H. Brookes Publishing.

Henry, M. K. (2010). *Unlocking literacy: Effective decoding and spelling instruction* (2nd ed.). Baltimore, MD: Paul H. Brookes Publishing.

The International Multisensory Structured Language Council. (2013). *Multisensory structured language programs: Content and principles of instruction*. Retrieved from <https://www.imslec.org/directory.asp?action=instruction>.

Mather, N., & Wendling, B. J. (2012). *Essentials of dyslexia assessment and intervention*. Hoboken, NJ: John Wiley & Sons.

Moats, L. C., & Dakin, K. E. (2008). *Basic facts about dyslexia and other reading problems*. Baltimore, MD: The International Dyslexia Association.

Student Progress Reports

Any student that is provided an evidence-based reading program must have a progress report prepared and communicated to a parent specifically on the student’s progress as a result of that program at least once per grading period. To the extent that an IEP goal progress report would not comply with this requirement for a student receiving special education and related services, a separate progress report should be sent to comply with TEC §29.0031(d). This includes a student receiving evidence-based dyslexia instruction through a Section 504 accommodation plan during the transition period, which ends beginning with the 2025-2026 school year.

Providers of Dyslexia Instruction

In order to provide effective intervention, school districts are encouraged to employ highly trained individuals to deliver dyslexia instruction. Teachers, such as reading specialists, master reading teachers, general

education classroom teachers, or special education teachers, who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to 19 TAC §74.28(d) and must deliver the instruction with fidelity. This includes training in critical, evidence-based components of dyslexia instruction such as phonological awareness, sound-symbol association, syllabication, orthography, morphology, syntax, reading comprehension, and reading fluency. In addition, they must deliver multisensory instruction that simultaneously uses all learning pathways to the brain, is systematic and cumulative, is explicitly taught, uses diagnostic teaching to automaticity, and includes both analytic and synthetic approaches. See pages 39 – 41 for a description of these components of instruction and delivery.

A provider of dyslexia instruction:

- must be fully trained in the LEA's adopted instructional materials for students with dyslexia; and
- is not required to be certified as a special educator unless he or she is employed in a special education position that requires the certification.

The completion of a literacy achievement academy does not satisfy the requirements for being fully trained in the LEA's adopted instructional materials. However, completion of a literacy achievement academy will satisfy continuing education requirements for educators who teach students with dyslexia regarding new research and practices in educating students with dyslexia [see TEC 21.054 and 21.45552].

Although Texas does not have a certification requirement specific to teachers providing intervention to students with dyslexia, opportunities for those who provide dyslexia instruction to pursue a certification and/or license are available through several professional organizations as well as through the Texas Department of Licensing and Regulation. Certification and licensing options are outlined in Figure 4.1 below. More information concerning licensure in the State of Texas, may also be found in Texas Occupations Code, Chapter 403.

The effort to train professionals who work with students with dyslexia is also supported by The International Dyslexia Association (IDA) Position Statement: Dyslexia Treatment Programs (March, 2009), which states the following:

Professional practitioners, including teachers or therapists, should have had specific preparation in the prevention and remediation of language-based reading and writing difficulties. Teachers and therapists should be able to state and provide documentation of their credentials in the prevention and remediation of language-based reading and writing difficulties, including program-specific training recommended for the use of specific programs (pp. 1–2).

Providers of dyslexia instruction must be prepared to use the techniques, tools, and strategies outlined in the previous sections of this chapter. They may also serve as trainers and consultants in dyslexia and related disorders for regular, remedial, and special education teachers.

Figure 4.1. Training Requirements for Educators Providing Dyslexia Services

Dyslexia Certification/ License	Licensing Body	Degree Required	Training Program	Course Contact Hours	Practicum Hours	Direct Observations	Certification Exam	Continuing Education Requirement
Educator certification* as appropriate	State Board for Educator Certification (SBEC)	Bachelors	Training which meets components of instruction and delivery	Varies with program	Varies with program	Varies with program	None	None
Licensed Dyslexia Therapist (LDT)	Texas Department of Licensing and Regulation (TDLR)	Masters	IMSLEC Accredited or other MSLE Program	200	700	10	yes	20 hrs/2 yrs
Licensed Dyslexia Practitioner (LDP)	Texas Department of Licensing and Regulation (TDLR)	Bachelors	IMSLEC Accredited or other MSLE	45	60	5	yes	20 hrs/2 yrs
Certified Academic Language Therapist (CALT)	Academic Language Therapy Association (ALTA)	Masters	IMSLEC Accredited or other MSLE	200	700	10	yes	10 hrs/1 yr
Certified Academic Language Practitioner (CALP)	Academic Language Therapy Association (ALTA)	Bachelors	IMSLEC Accredited or other MSLE Program	45	60	5	yes	10 hrs/1 yr
Certified Structured Literacy/Dyslexia Specialist	Center for Effective Reading Instruction (CERI)	Bachelors	IDA Accredited	135	30	3	yes	10 hrs/1 yr
Certified Structured Literacy/Dyslexia Interventionist	Center for Effective Reading Instruction (CERI)	Bachelors	IDA Accredited	90	30	3	yes	10 hrs/1 yr
Wilson Level II Certification/Therapist	Wilson Language Training	Bachelors	IDA Accredited	200	215	11+	yes	50 hrs/5 yrs
Wilson Level I Certification/Practitioner	Wilson Language Training	Bachelors	IDA Accredited	105	65	5+	yes	50 hrs/5 yrs
AOGPE Fellow Level	Academy of Orton- Gillingham Practitioners and Educators (AOGPE)	Masters	AOGPE	250	600	13	no	none
AOGPE Certified Level	Academy of Orton- Gillingham Practitioners and Educators (AOGPE)	Bachelors	AOGPE	160	300	10	no	none
AOGPE Associate Level	Academy of Orton- Gillingham Practitioners and Educators (AOGPE)	Bachelors	AOGPE	Option A - 60 Option B - 70	Option A - 100 1 to 1 hours Option B - 50 1 to 1 hours; & 50 group hours	10	no	none

*Teachers, such as reading specialists, master reading teachers, general education classroom teachers, or special education teachers are not required to hold a specific license or certification to provide dyslexia intervention for students; however, they must at a minimum have additional documented dyslexia training aligned to 19 TAC §74.28(d) and must deliver the instruction with fidelity.

Please note that certification and licensing requirements may change with time. For more complete and up-to-date information, contact the specific licensing body.

Professional Development Relative to Dyslexia for All Teachers

Research consistently confirms the impact that a knowledgeable teacher can have on the success or failure of even the best reading programs (Shaywitz, 2020). To ensure that teachers are knowledgeable about dyslexia, [TEC §21.054\(b\)](#) and [19 TAC §232.11\(k\)](#) require educators who teach students with dyslexia to be trained in new research and practices related to dyslexia as a part of their continuing professional education (CPE) hours. TEC §21.4552(b-1) provides that the completion of a literacy achievement academy by an educator who teaches students with dyslexia satisfies the training requirements under TEC §21.054(b).

<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.21.htm>

<http://ritter.tea.state.tx.us/sbecrules/tac/chapter232/ch232a.html#232.11>

Educator Preparation Programs

According to TEC §21.044(b), all candidates completing an educator preparation program must receive instruction in detection and education of students with dyslexia. This legislation ensures that newly certified teachers will have knowledge of dyslexia prior to entering the classroom.

<https://statutes.capitol.texas.gov/Docs/ED/htm/ED.21.htm#21.044>

Instructional Intervention Consideration for EB Students with Dyslexia

EB students receiving dyslexia services will have unique needs. Provision of dyslexia instruction should be in accordance with the program model the student is currently receiving (e.g., dual language, transitional bilingual, ESL). Interventionists working with EB students should have additional training on the specialized needs of EB students.

Learning to read, write, and spell in two languages can be facilitated by building on a student's native language knowledge and helping to transfer that knowledge to a second language. While direct, systematic instruction is still required for all aspects of reading, additional explicit instruction will be needed to address the similarities and differences in sounds, syllable structure, morphology, orthography, and syntax between the first and second languages.

For example, instructional considerations may include capitalizing on familiar sound-symbol correspondences. Direct and systematic instruction of the cross-linguistic correlations is beneficial for EB students. Instruction can subsequently include those sound-symbol correlations that partially overlap or present a slight variation from the native language to the second language. Unfamiliar phonemes and graphemes then can be presented to EB students. A systematic approach will enhance instruction and assist the bilingual student in transferring native language and literacy knowledge to second language and literacy acquisition.

For EB students learning to read in English and not in their native language, progress in reading may be hindered due to limited vocabulary in English. Therefore, in addition to all the components of effective instruction previously discussed, intervention for EB students also must emphasize oral language development (Cardenas- Hagan, 2018). Because the English language is derived from Anglo-Saxon, Latin, Greek, French, and other languages, EB students can expand their oral language and vocabulary knowledge by understanding the cognates (baseball/béisbol or leader/lider) that exist in their native language and English. The similarities of words in the native language and English must be explicitly taught.

It is also necessary to incorporate ESL strategies during the intervention process and in all content areas. In Texas, school districts are required to implement the English Language Proficiency Standards (ELPS) as an integral part of each subject area in the required curriculum ([19 TAC §74.4\(a\)](#)).

Dyslexia instruction for EB students must incorporate the ELPS. A few strategies to consider include the following:

- Establish routines so that EB students understand what is expected of them
- Provide native language support when giving directions or when students do not understand the task
- Provide opportunities for repetition and rehearsal so that the new information can be learned to mastery
- Adjust the rate of speech and the complexity of the language used according to the second language proficiency level of each student
- Provide extra time for the EB students to process the English language. This is especially necessary during the early stages of second language development
- Provide extra time for the EB students to formulate oral and written responses
- Emphasize text that includes familiar content and explain the structure of the text

Source for Instructional Intervention Consideration for EB students with Dyslexia

19 Texas Administrative Code §74.4, English Language Proficiency Standards. (2007).

Cardenas-Hagan, E. (2018). Language and literacy development among English language learners. In J. R. Birsh, *Multisensory teaching of basic language skills* (4th ed.) (pp. 720–754). Baltimore, MD: Paul H. Brookes Publishing.

Research-Based Best Practices

It is important to note that in Texas, the approach to teaching students with dyslexia is founded on research-based best practices. The ideas upon which the state's approach is based are summarized here.

- Gains in reading can be significant if students with reading problems are provided systematic, explicit, and intensive reading instruction of sufficient duration in phonemic awareness, phonics, fluency, vocabulary (e.g., the relationships among words and the relationships among word structure, origin, and meaning), reading comprehension strategies, and writing.
- A failure to learn to read impacts a person's life significantly. The key to preventing this failure for students with dyslexia is early identification and early intervention.
- Instruction by a highly skilled and knowledgeable educator who has specific preparation in the remediation of dyslexia is necessary.

It is vital to start evidence-based interventions as soon as possible. Effective treatments for dyslexia should consist of explicit academic teaching of reading and spelling skills.

The following research reflects the essential components of dyslexia instruction discussed above and may serve as additional sources of information for those working with students identified with dyslexia. The similarities between the state's approach and the research are noted in bold. Unless otherwise indicated, the following pages contain excerpts from the resources cited.

1. August and Shanahan (2006, pp. 3–5) state the following:
 - a. Instruction that provides substantial coverage in the key components of reading—identified by the National Reading Panel (NICHD, 2000) as phonemic awareness, phonics, fluency, vocabulary, and text comprehension**—has clear benefits for language-minority students.
 - b. Instruction in the key components of reading** is necessary—but not sufficient—for teaching language-minority students to read and write proficiently in English. Oral proficiency

in English is critical as well, but student performance suggests that it is often overlooked in instruction.

- c. Oral proficiency and literacy in the first language can be used to facilitate literacy development in English.

August, D., & Shanahan, T. (Eds.). (2006). *Executive summary: Developing literacy in second-language learners: Report of the National Literacy Panel on language-minority children and youth*. Mahwah, NJ: Lawrence Erlbaum.

2. Berninger and Wolf (2009, p. 49–50) state the following:

Until children are reading without effort, each reading lesson should consist of **teacher-directed, explicit, systematic instruction** in 1) phonological awareness; 2) applying phonics (alphabetic principle) and morphology to decoding; 3) applying background knowledge already learned to unfamiliar words or concepts in material to be read (activating prior knowledge); 4) both oral reading and silent reading, with appropriate instructional materials; 5) activities to develop oral reading fluency; and 6) reading comprehension.

Berninger, V. W., & Wolf, B. J. (2009). *Teaching students with dyslexia and dysgraphia: Lessons from teaching and science*. Baltimore, MD: Paul H. Brookes Publishing.

3. Birsh (2018, p. 3) states the following:

Teachers need to undergo extensive **preparation in the disciplines inherent in literacy**, which include the following:

- a. Language development
- b. Phonology and phonemic awareness**
- c. Alphabetic knowledge
- d. Handwriting
- e. Decoding (reading)**
- f. Spelling (encoding)**
- g. Fluency**
- h. Vocabulary**
- i. Comprehension**
- j. Composition
- k. Testing and assessment
- l. Lesson planning
- m. Behavior management
- n. Study skills
- o. History of the English language
- p. Technology
- q. Needs of older struggling students

Birsh, J. R. (2018). Connecting research and practice. In J. R. Birsh, *Multisensory teaching of basic language skills* (4th ed., pp. 2–34). Baltimore, MD: Paul H. Brookes Publishing.

4. Clark and Uhry (2004, pp. 89–92) state the following:

- a. Children with dyslexia need the following:
 - **Direct, intensive, and systematic** input from and interaction with the teacher
 - Immediate feedback from the teacher
 - Careful pacing of instruction
 - **Systematic** structured progression from the simple to the complex
- b. Other components of instruction include the following:
 - Learning to mastery
 - Multisensory instruction

5. Henry (2010, p. 21) states the following:

By teaching the concepts inherent in the word origin and word structure model across a decoding-spelling continuum from the early grades through at least eighth grade, and by using technology when it serves to reinforce these concepts, teachers ensure that students have strategies to decode and spell most words in the English language. This framework and continuum readily organize a large body of information for teachers and their students. Not only do students gain a better understanding of English word structure, but they also become better readers and spellers.

Henry, M. K. (2010). *Unlocking literacy: Effective decoding and spelling instruction* (2nd ed.). Baltimore, MD: Paul H. Brookes Publishing.

6. Mather and Wendling (2012, p. 171) state the following:

Individuals with dyslexia need to:

- a. understand how phonemes (sounds) are represented with graphemes (letters);
- b. learn how to blend and segment phonemes to pronounce and spell words;
- c. learn how to break words into smaller units, such as syllables, to make them easier to pronounce;
- d. learn to recognize and spell common orthographic graphic patterns (e.g., -tion);
- e. learn how to read and spell words with irregular elements (e.g., ocean); and
- f. spend time engaged in meaningful reading and writing activities.

Mather, N. M., & Wendling, B. J. (2012). *Essentials of dyslexia assessment and intervention*. Hoboken, NJ: John Wiley & Sons.

7. Moats (1999, pp. 7–8) states the following:

Well designed, controlled comparisons of instructional approaches have consistently supported these components and practices in reading instruction:

- a. **direct teaching** of decoding, comprehension, and literature appreciation;
- b. **phoneme awareness** instruction;
- c. **systematic and explicit instruction** in the code system of written English;
- d. daily exposure to a variety of texts, as well as incentives for children to read independently and with others;
- e. **vocabulary** instruction that includes a variety of complementary methods designed to explore the relationships among words and the relationships among word structure, origin, and meaning;
- f. **comprehension** strategies that include prediction of outcomes, summarizing, clarification, questioning, and visualization; and
- g. frequent **writing** of prose to enable a deeper understanding of what is read.

Moats, L. C. (1999). *Teaching reading is rocket science: What expert teachers of reading should know and be able to do* (Item No. 39-0372). Washington, DC: American Federation of Teachers.

8. Moats (1999, pp. 7– 20) states the following:

The **knowledge and skills needed to teach reading** include the following:

- a. The psychology of reading and reading development
 - o Basic facts about reading
 - o Characteristics of poor and novice readers
 - o Environmental and physiological factors in reading development
 - o How reading and spelling develop
 - b. Knowledge of the language structure
-

- **Phonology**
 - **Phonetics**
 - **Morphology**
 - **Orthography**
 - **Semantics**
 - **Syntax and text structure**
- c. Practical skills of instruction—use of validated instructional practices
- d. Assessment of classroom reading and writing skills

Moats, L. C. (1999). *Teaching reading is rocket science: What expert teachers of reading should know and be able to do* (Item No. 39-0372). Washington, DC: American Federation of Teachers.

9. The National Reading Panel's (2000) *Report of the National Reading Panel* highlights the following: Emphasis is placed on the importance of **identifying early** which children are at risk for reading failure and **intervening quickly** to help them.

How reading is taught matters—reading instruction is most effective when it is taught **comprehensively, systematically, and explicitly**.

National Reading Panel. (2000). *Report of the National Reading Panel: Teaching children to read: An evidence-based assessment of the scientific research literature on reading and its implications for reading instruction*. Washington, DC: National Institute of Child Health and Human Development.

10. Shaywitz (2020, pp. 281–284) outlines the following essentials for a successful reading intervention and effective early intervention program:

Essentials of a successful reading intervention include the following:

- a. **Early intervention**—The best intervention begins in kindergarten with remediation beginning in first grade.
- b. **Intense instruction**—Reading instruction must be delivered with great intensity. Optimally, a child who is struggling to read should be given instruction in a group of three and no larger than four students, and the child should receive this focused reading instruction at least four, and preferably five, days a week.
- c. **High-quality instruction**—High-quality instruction is provided by a highly qualified teacher. Recent studies highlight the difference that a teacher can make in the overall success or failure of a reading program.
- d. **Sufficient duration**—One of the most common errors in teaching a student with dyslexia to read is to withdraw prematurely the instruction that seems to be working. A child who is reading accurately but not fluently at grade level still requires intensive reading instruction.

Essentials of an effective **early intervention** program include the following:

- e. Systematic and direct instruction in the following:
 - **Phonemic awareness**—noticing, identifying, and manipulating the sounds of spoken language
 - **Phonics**—how letters and letter groups represent the sounds [of] spoken language
 - Sounding out words (decoding)
 - Spelling
 - Reading sight words
 - **Vocabulary** and concepts
 - **Reading comprehension** strategies
- f. Practice in applying the above skills in reading and in writing

g. Fluency training

- h. Enriched language experiences: listening to, talking about, and telling stories

Shaywitz, S. (2020). *Overcoming dyslexia: A new and complete science-based program for reading problems at any level.* (2nd ed.) New York, NY: Alfred A. Knopf.

11. Torgesen (2004, p. 376) states the following:

The first implication for practice and educational policy is that schools must work to provide **preventive interventions** to eliminate the enormous reading practice deficits that result from prolonged reading failure. The second implication is that schools must find a way to provide interventions for older children with reading disabilities that are appropriately focused and sufficiently intensive.

Torgesen, J. K. (2004). Lessons learned from research on interventions for students who have difficulty learning to read. In P. McCardle, & V. Chhabra (Eds.), *The voice of evidence in reading research* (pp. 355–382). Baltimore, MD: Paul H. Brookes Publishing.

12. Vaughn and Linan-Thompson (2003, pp. 299–320) state the following:

- a. Mounting evidence suggests that most students with reading problems can make significant gains in reading if provided **systematic, explicit, and intensive** reading instruction based on critical elements associated with improved reading such as **phonemic awareness, phonics, fluency in word recognition and text reading, and comprehension.**
- b. There were no statistically significant differences between students receiving intervention instruction in a teacher-to-student ratio of 1:1 or 1:3 though both groups outperformed students in a 1:10 teacher to student ratio.
- c. Student progress determined the length of intervention.

Vaughn, S., & Linan-Thompson, S. (2003). Group size and time allotted to intervention. In B. Foorman (Ed.), *Preventing and remediating reading difficulties* (pp. 275–320). Parkton, MD: York Press.

13. The International Dyslexia Association (2009, pp. 1–2) states the following:

Professional practitioners, including **teachers or therapists, should have had specific preparation in the prevention and remediation of language-based reading and writing difficulties.** Teachers and therapists should be able to state and provide documentation of their credentials in the prevention and remediation of language-based reading and writing difficulties, including program-specific training recommended for the use of specific programs.

The International Dyslexia Association. (2009, March). *Position statement: Dyslexia treatment programs.*

14. The International Dyslexia Association's *Knowledge and Practice Standards for Teachers of Reading* provides **standards for teachers** of students with dyslexia.

The International Dyslexia Association. (2010). *Knowledge and practice standards for teachers of reading.*

15. The International Multisensory Structured Language Education Council (IMSLEC) provides accreditation in quality training courses for the professional preparation of multisensory **structured language education specialists.**

International Multisensory Structured Language Education Council (IMSLEC): <http://www.imslec.org>

Ineffective Treatment for Dyslexia

Interventions that claim to treat dyslexia in the absence of print are generally ineffective. Claims of ineffective treatments for dyslexia may use terms or techniques described as “brain training,” “crossing the midline,” “balance therapy,” and others. While some treatments may ameliorate conditions other than dyslexia, their use for students with dyslexia has not been proven effective. Figure 4.2 addresses some commonly advertised interventions that may be purported to treat dyslexia, but scientific, peer-reviewed research has demonstrated ineffective results for students with dyslexia.

Figure 4.2. Treatments Ineffective for Dyslexia

Examples	What Research Has Found	Citation
Colored Overlays and Colored Lenses	“Consistent with previous reviews and advice from several professional bodies, we conclude that the use of colored overlays to ameliorate reading difficulties cannot be endorsed and that any benefits reported in clinical settings are likely to be the result of placebo, practice, or Hawthorne effects.”	Griffiths, P.G., Taylor, R.H., Henderson, L.M., & Barrett, B.T. (2016). The effect of colored overlays and lenses on reading: a systematic review of the literature. <i>Ophthalmic & Physiological Optics</i> , 36, 519–544. https://doi.org/10.1111/opo.12316
Specialized fonts designed for people with dyslexia	“Dyslexie font did not lead to improved reading compared to normal ‘Arial’ font, nor was it preferred by most students.”	Kuster, S. M., van Weerdenburg, M., Gompel, M., & Bosman, A. M. (2018). Dyslexie font does not benefit reading in children with or without dyslexia. <i>Annals of Dyslexia</i> , 68, 25-42. https://doi.org/10.1007/s11881-017-0154-6
Vision Therapy	“Scientific evidence does not support the claims that visual training, muscle exercises, ocular pursuit-and-tracking exercises, behavioral/ perceptual vision therapy, ‘training’ glasses, prisms, and colored lenses and filters are effective direct or indirect treatments for learning disabilities. There is no valid evidence that children who participate in vision therapy are more responsive to educational instruction than children who do not participate.”	Handler, S.M., Fierson, W.M., et al. (2011). Joint technical report - learning disabilities, dyslexia, and vision. <i>Pediatrics</i> , 127, e818-56. https://doi.org/10.1542/peds.2010-3670
Specific Working Memory Training Programs	“The authors conclude that working memory training programs appear to produce short-term, specific training effects that do not generalize to measures of ‘real-world’ cognitive skills. These results seriously question the practical and theoretical importance of current computerized working memory programs as methods of training working memory skills.”	Melby-Lervåg, M., Redick, T. & Hulme, C. (2016). Working memory training does not improve performance on measures of intelligence or other measures of “far transfer”: Evidence from a meta-analytic review. <i>Perspectives on Psychological Science</i> , 11, 512-534. https://DOI:10.1177/1745691616635612

Instructional Accommodations for Students with Disabilities

Students with dyslexia who receive dyslexia instruction that contains the components described in this chapter will be better equipped to meet the demands of grade-level or course instruction. In addition to dyslexia instruction, accommodations provide the student with dyslexia effective and equitable access to grade-level or course instruction in the general education classroom. **Accommodations are not one size fits all; rather, the impact of dyslexia on each individual student determines the necessary accommodation.**

Listed below are examples of reasonable classroom accommodations:

- Copies of notes (e.g., teacher- or peer-provided)
- Note-taking assistance
- Additional time on class assignments and tests
- Reduced/shortened assignments (e.g., chunking assignments into manageable units, fewer items given on a classroom test or homework assignment without eliminating concepts, or student planner to assist with assignments)
- Alternative test location that provides a quiet environment and reduces distractions
- Priority seating assignment
- Oral reading of directions or written material
- Word banks
- Audiobooks
- Text to speech
- Speech to text
- Electronic spellers
- Electronic dictionaries
- Formula charts
- Adaptive learning tools and features in software programs

Accommodations are changes to materials, actions, or techniques, including the use of technology, that enable students with disabilities to participate meaningfully in grade-level or course instruction. The use of accommodations occurs primarily during classroom instruction as educators use various instructional strategies to meet the needs of each student. A student may need an accommodation only temporarily while learning a new skill, or a student might require the accommodation throughout the school year and over several years including beyond graduation.

Decisions about which accommodations to use are very individualized and should be made for each student by that student's ARD or Section 504 committee, as appropriate. Students can, and should, play a significant role in choosing and using accommodations. Students need to know what accommodations are possible, and then, based on knowledge of their personal strengths and limitations, they select and try accommodations that might be useful for them. The more input students have in their own accommodation choices, the more likely it is that they will use and benefit from the accommodations.

When making decisions about accommodations, instruction is always the foremost priority. Not all accommodations used in the classroom are allowed during a state assessment. However, an educator's ability to meet the individual needs of a student with dyslexia or provide support for the use of an accommodation should not be limited by whether an accommodation is allowable on a state assessment.

In order to make accommodation decisions for students, educators should have knowledge of the Texas Essential Knowledge and Skills (TEKS) and how a student performs in relation to them. Educators should

also collect and analyze data pertaining to the use and effectiveness of accommodations (e.g., assignment/test scores with and without the accommodation, observational reports from parents and teachers) so that informed educational decisions can be made for each student. By analyzing data, an educator can determine if the accommodation becomes inappropriate or unnecessary over time due to the student's changing needs. Likewise, data can confirm for the educator that the student still struggles in certain areas and should continue to use the accommodation.

For more information about accommodations, see [Accommodations for students with Disabilities](https://dyslexiaida.org/accommodations-for-students-with-dyslexia/) available at <https://dyslexiaida.org/accommodations-for-students-with-dyslexia/>.

Access to Instructional Materials for Students with Disabilities

Accessible instructional materials are textbooks and related core instructional materials that have been converted into specialized formats (e.g., Braille, audio, digital text, or large print) for students who are blind or have low vision, have a physical disability, or have a reading disability such as dyslexia. Digital books or text-to-speech functions on computers and mobile devices provide access to general education curriculum for students with dyslexia. **Bookshare** and **Learning Ally** provide electronic access to digitally recorded materials for students with print disabilities. TEA provides links to these resources as well as other accessible instructional materials for students with disabilities at <https://tea.texas.gov/academics/instructional-materials/state-adopted-instructional-materials/accessible-instructional-materials>.

Texas State Student Assessment Program Accommodations for Students with Disabilities

Educators, parents, and students must understand that accommodations provided during classroom instruction and testing might differ from accommodations allowed for use on state assessments. The state assessment is a standardized tool for measuring every student's learning in a reliable, valid, and secure manner. An accommodation used in the classroom for learning may invalidate or compromise the security and integrity of the state assessment; therefore, not all accommodations suitable for instruction are allowed during the state assessments. It is important to keep in mind that the policies for accommodation use on state assessments **should not** limit an educator's ability to develop individualized materials and techniques to facilitate student learning. **Instruction comes first** and can be customized to meet the needs of each student.

For the purposes of the statewide assessments, students needing accommodations due to a disability include the following:

- Students with an identified disability who receive special education services and meet established eligibility criteria for certain accommodations
- Students with an identified disability who receive Section 504 services and meet established eligibility criteria for certain accommodations
- Students with a disabling condition who do not receive special education or Section 504 services but meet established eligibility criteria for certain accommodations

For students who receive special education or Section 504 services, the decision for student use of accommodations during the statewide assessments is made by the ARD or Section 504 committee. In those rare instances where a student does not receive services but meets the eligibility criteria due to a disabling condition, the decision about using accommodations on the statewide assessments is made by the appropriate team of people at the campus level, such as the RTI team or student assistance team. For more information about accommodations on statewide assessments, visit <https://tea.texas.gov/accommodations/>.

Enrollment in Gifted/Talented and Advanced Academic Programs

A student who has been identified with dyslexia can also be a gifted learner, or a twice-exceptional learner. A twice-exceptional learner is a child or youth who performs at or shows the potential for performing at

a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who exhibits high-performance capability in an intellectual, creative, or artistic area; possesses an unusual capacity for leadership; or excels in a specific academic field and who also gives evidence of one or more disabilities as defined by federal or state eligibility criteria.

Disability criteria may include the following:

- Learning disabilities
- Speech and language disorders
- Emotional/behavioral disorders
- Physical disabilities
- Traumatic brain injury
- Autism spectrum disorder
- Sensory disabilities (hearing impaired, visually impaired, blind-deaf)
- Other health impairments that limit strength, vitality, or alertness (such as ADHD)

Twice-exceptional students make up a highly diverse group of learners. While they do not form a simple, homogenous group, there are indicators that tend to be typical of many children who are both gifted and who also have a disability. Cognitive and affective indicators may include strengths such as extreme curiosity and questioning, high levels of problem-solving and reasoning skills, and advanced ideas/opinions which they are uninhibited about expressing. Cognitive and affective challenges twice-exceptional learners may exhibit include discrepant verbal and performance abilities, deficient or extremely uneven academic skills, and auditory and/or visual processing problems which may cause them to respond or work slowly or appear to think slowly. For more information regarding general characteristics of twice-exceptional learners, please see <https://gtequity.tea.texas.gov/> on TEA's Equity in G/T Education website.

Due to the diversity of twice-exceptional students, the identification of twice-exceptional learners can be challenging. Evaluation and identification require those vested in the education of these learners to be knowledgeable of the unique characteristics and behaviors demonstrated by twice-exceptional learners. Often the disability masks the giftedness, emphasizing barriers to learning instead of the potential that the learner has as a result of the gifted attributes. Conversely, the giftedness may mask the disability, which may result in the student experiencing gaps in learning compounded by the disability, thus affecting how the learner perceives his or her abilities.

Twice-exceptional students must be provided access to all service and course options available to other students. Section 504 and Title II of the Americans with Disabilities Act (ADA), require that qualified students with disabilities be given the same opportunities to compete for and benefit from accelerated programs and classes as are given to students without disabilities [34 C.F.R. §104.4(b)(1)(ii) and 28 C.F.R. §35.130(b)(1)(ii)].

A student with a disability such as dyslexia or a related disorder may not be denied admission to an accelerated or advanced class or program solely because of the student's need for special education or related aids or services or because the student has an IEP or Section 504 Plan.

Additionally, a student with a disability may not be prohibited from using special education or related aids as a condition of participating in an accelerated or advanced class or program. Participation by a student with a disability in an accelerated or advanced class or program generally would be considered part of the regular education referenced in IDEA and Section 504 regulations. Thus, if a qualified student with a disability requires related aids and services to participate in a regular education class or program, the school cannot deny that student the needed related aids and services in an accelerated or advanced class or program.

It is important to note that a district or school does not have to provide a student with an accommodation or modification "that fundamentally alters the nature of" an accelerated or advanced course or program. Rather, a district or school "must consider a student's ability to participate in the program with reasonable accommodations." (*G.B.L. v. Bellevue School District #405*).

In determining the appropriate courses and programs, the following questions should be considered by a twice-exceptional learner's ARD or Section 504 committee:

- Does the student meet the basic eligibility or admission requirements applied to ALL students?
- Does the student need special education or related aids and services to receive FAPE?
- Do the academic accommodations or related aids and services constitute a fundamental alteration of the program?

The U.S. Department of Education's Office for Civil Rights offers information for addressing students with disabilities seeking enrollment in advanced academic programs such as Advanced Placement and International Baccalaureate courses. For more information, see the Dear Colleague Letter regarding Access by Students with Disabilities to Accelerated Programs at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20071226.html>.

Additional support, information, and resources are available through the Equity in Gifted/Talented (G/T) Education website at <https://gtequity.tea.texas.gov/> The *Texas State Plan for the Education of Gifted/Talented Students*, available at <https://tea.texas.gov/academics/special-student-populations/gifted-and-talented-education> mandates that once any student is identified as gifted, he/she must be provided gifted/talented services that are commensurate with his/her abilities (1.4C, 1.6C, 2.1C, and 3.3C). Additionally, due to the disability, twice-exceptional learners should have an IEP through special education services or a Section 504 Plan through general education. Additional support for districts serving twice-exceptional students is available at <https://gtequity.tea.texas.gov/>.

Sources for Enrollment in Gifted/Talented and Advanced Academic Programs

G.B.L. v. Bellevue Sch. Dist. #405. IDELR 186. No. 2:2012cv00427. (U.S. District Court, W.D. Washington, 2013).

Texas Education Agency. (2008–2015). Equity in G/T Education: Twice-Exceptional Students and G/T Services. Retrieved from <http://www.gtequity.org>.

Texas State Board of Education. (2009). *Texas State Plan for the Education of Gifted/Talented Students*.

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5. DYSGRAPHIA

Texas state law requires districts and charter schools to identify students who have dyslexia and related disorders. TEC §38.003 identifies the following examples of related disorders: developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability. Recent research in the field of dysgraphia has prompted the addition of the following guidance regarding the evaluation, identification, and provision of services for students with dysgraphia.

Definition and Characteristics of Dysgraphia

Difficulty with handwriting frequently occurs in children with dyslexia. When Texas passed dyslexia legislation, the co-existence of poor handwriting with dyslexia was one reason why dysgraphia was called a related disorder. Subsequently, dyslexia and dysgraphia have been found to have diverse co-morbidities, including phonological awareness (Döhla and Heim, 2016). However, dyslexia and dysgraphia are now recognized to be distinct disorders that can exist concurrently or separately. They have different brain mechanisms and identifiable characteristics.

Dysgraphia is related to dyslexia as both are language-based disorders. In dyslexia, the impairment is with word-level skills (decoding, word identification, spelling). Dysgraphia is a written language disorder in serial production of strokes to form a handwritten letter. This involves not only motor skills but also language skills—finding, retrieving and producing letters, which is a subword-level language skill. The impaired handwriting may interfere with spelling and/or composing, but individuals with only dysgraphia do not have difficulty with reading (Berninger, Richards, & Abbott, 2015).

A review of recent evidence indicates that dysgraphia is best defined as a neurodevelopmental disorder manifested by illegible and/or inefficient handwriting due to difficulty with letter formation. This difficulty is the result of deficits in graphomotor function (hand movements used for writing) and/or storing and retrieving orthographic codes (letter forms) (Berninger, 2015). Secondary consequences may include problems with spelling and written expression. The difficulty is not solely due to lack of instruction and is not associated with other developmental or neurological conditions that involve motor impairment.

The characteristics of dysgraphia include the following:

- Variably shaped and poorly formed letters
- Excessive erasures and cross-outs
- Poor spacing between letters and words
- Letter and number reversals beyond early stages of writing
- Awkward, inconsistent pencil grip
- Heavy pressure and hand fatigue
- Slow writing and copying with legible or illegible handwriting (Andrews & Lombardino, 2014)

Additional consequences of dysgraphia may also include:

- Difficulty with unedited written spelling
- Low volume of written output as well as problems with other aspects of written expression

Dysgraphia is not:

- Evidence of a damaged motor nervous system
- Part of a developmental disability that has fine motor deficits (e.g., intellectual disability, autism,

cerebral palsy)

- Secondary to a medical condition (e.g., meningitis, significant head trauma, brain trauma)
- Association with generalized developmental motor or coordination difficulties (Developmental Coordination Disorder)
- Impaired spelling or written expression with typical handwriting (legibility and rate) (Berninger, 2004)

Dysgraphia can be due to:

- Impaired feedback the brain is receiving from the fingers
- Weaknesses using visual processing to coordinate hand movement and organize the use of space
- Problems with motor planning and sequencing
- Difficulty with storage and retrieval of letter forms (Levine, 1999)

Despite the widespread beliefs that handwriting is purely a motor skill or that only multisensory methods are needed to teach handwriting, multiple language processes are also involved in handwriting. Handwriting draws on language by hand (letter production), language by ear (listening to letter names when writing dictated letters), language by mouth (saying letter names), and language by eye (viewing the letters to be copied or reviewing for accuracy the letters that are produced from memory) (Berninger & Wolf, 2016).

Sources for Definition and Characteristics of Dysgraphia

Andrews, J. and Lombardino, L. (2014). Strategies for teaching handwriting to children with writing disabilities. *ASHA SIG1 Perspectives on Language Learning Education*. 21:114-126.

Berninger, V.W. (2004). Understanding the graphia in dysgraphia. In *Developmental Motor Disorders: A Neuropsychological Perspective*. D. Dewry and D. Tupper (Eds.), New York, NY, US: Guilford Press.

Berninger, V.W. (2015). *Interdisciplinary frameworks for schools: Best practices for serving the needs of all student*. Washington, D.C.: American Psychological Association.

Berninger, V.W., Richards, T.L. and Abbott, R. D. (2015) *Differential Diagnosis of Dysgraphia, Dyslexia, and OWL LD: Behavioral and Neuroimaging Evidence*. *Read Writ*. 2015 Oct;28(8):1119-1153.

Berninger, V., & Wolf, B. (2016). *Dyslexia, Dysgraphia, OWL LD, and Dyscalculia: Lessons from Science and Teaching* (Second ed.). Baltimore, Maryland: Paul H Brookes Publishing.

Döhla, D. and Heim, S. (2016). *Developmental dyslexia and dysgraphia: What can we learn from the one about the other?* *Frontiers in Psychology*. 6:2045.

Levine, M.D. (1999). *Developmental Variation and Learning Disorders*. Cambridge, MA: Educators Publishing Service, Inc.

Procedures for Identification

The process of identifying dysgraphia will follow Child Find procedures for conducting a full individual and initial evaluation (FIE) under the IDEA. These procedural processes require coordination among the teacher, campus administrators, diagnosticians, and other professionals as appropriate when factors such as a student's English language acquisition, previously identified disability, or other special needs are present.

The first step in the evaluation process, data gathering, should be an integral part of the district's or charter school's process for any student exhibiting learning difficulties.

Documentation of the following characteristics of dysgraphia could be collected during the data gathering phase:

- Slow or labored written work
- Poor formation of letters
- Improper letter slant
- Poor pencil grip
- Inadequate pressure during handwriting (too hard or too soft)
- Excessive erasures
- Poor spacing between words
- Poor spacing inside words
- Inability to recall accurate orthographic patterns for words
- “b” and “d” reversals beyond developmentally appropriate time
- Inability to copy words accurately
- Inability of student to read what was previously written
- Overuse of short familiar words such as “big”
- Avoidance of written tasks
- Difficulty with visual-motor integrated sports or activities

While schools must follow federal and state guidelines, they must also develop procedures that address the needs of their student populations.

Schools shall recommend evaluation for dysgraphia if the student demonstrates the following:

- Impaired or illegible handwriting that is unexpected for the student’s age/grade
- Impaired handwriting that interferes with spelling, written expression, or both that is unexpected for the student’s age/grade

Data Gathering

Schools collect data on all students to ensure that instruction is appropriate and scientifically based. Essential components of comprehensive literacy instruction, including writing, are defined in Section 2221(b) of ESSA as explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff.

Any time from kindergarten through grade 12 a student continues to struggle with one or more components of writing, schools must collect additional information about the student. Schools should use previously collected as well as current information to evaluate the student’s academic progress and determine what actions are needed to ensure the student’s improved academic performance. The collection of various data, as indicated in Figure 5.1 below, will provide information regarding factors that may be contributing to or primary to the student’s struggles with handwriting, spelling, and written expression.

Cumulative Data

The academic history of each student will provide the school with the cumulative data needed to ensure that underachievement in a student suspected of having dysgraphia is not due to lack of appropriate instruction in

handwriting, spelling, and written expression. This information should include data that demonstrate that the student was provided appropriate instruction and include data-based documentation of repeated evaluations of achievement at reasonable intervals (progress monitoring), reflecting formal evaluation of student progress during instruction. This cumulative data also include information from parents/guardians. Sources and examples of cumulative data are provided in Figure 5.1.

Figure 5.1. Sources and Examples of Cumulative Data

- Vision screening
- Hearing screening
- Teacher reports of classroom concerns
- Parent reports of concerns about handwriting, spelling, or written expression
- Classroom handwriting assessments
- Classroom spelling assessments
- Samples of written work (e.g., journal, story responses, writing samples, etc.)
- Accommodations or interventions provided
- Academic progress reports (report cards)
- Gifted/talented assessments
- Samples of written schoolwork (both timed and untimed)
- State student assessment program results as described in TEC §39.022
- Observations of instruction provided to the student
- Full Individual and Initial Evaluation
- Outside evaluations
- Speech and language assessment
- School attendance
- Curriculum-based assessment measures
- Instructional strategies provided and student’s response to the instruction
- Universal screening
- Parent survey

Formal Evaluation

After data gathering, the next step in the process is formal evaluation. This is not a screening; rather, it is an individualized evaluation used to gather evaluation data. Formal evaluation includes both formal and informal data. All data will be used to determine whether the student demonstrates a pattern of evidence for dysgraphia. Information collected from the parents/guardians also provides valuable insight into the student’s early years of written language development. This history may help to explain why students come to the evaluation with many different strengths and weaknesses; therefore, findings from the formal evaluation will be different for each child. Professionals conducting evaluations for the identification of dysgraphia will need to look beyond scores on standardized assessments alone and examine the student’s classroom writing performance, educational history, and early language experiences to assist with determining handwriting, spelling, and written expression abilities and difficulties.

Notification and Permission

When an FIE is recommended, parents are provided:

- Prior Written Notice (PWN);
- Notice of Procedural Safeguards
- Overview of Special Education for Parents Form
- Opportunity for parent to provide written consent to evaluate

Tests and Other Evaluation Materials

When formal evaluation is recommended, the school must complete the evaluation procedures as outlined under IDEA.

Test instruments and other evaluation materials must meet the following criteria:

- Be used for the purpose for which the evaluation or measures are valid or reliable
- Include material tailored to assess specific areas of educational need and not merely materials that are designed to provide a single general intelligence quotient
- Be selected and administered to ensure that, when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude, achievement level, or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills
- Be selected and administered in a manner that is not racially or culturally discriminatory
- Include multiple measures of a student's writing abilities such as informal assessment information (e.g., anecdotal records, district universal screenings, progress monitoring data, criterion-referenced evaluations, samples of written work, classroom observations)
- Be administered by trained personnel and in conformance with the instructions provided by the producer of the evaluation materials
- Be provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information regarding what the child can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer

Domains to Assess

Academic Skills

The school administers measures that are related to the student's educational needs. Difficulties in the areas of letter formation, orthographic awareness, and general handwriting skills may be evident dependent on the student's age and writing development. Additionally, many students with dysgraphia may have difficulty with spelling and written expression.

Cognitive Processes

The process of handwriting requires the student to rely on memory for letters or symbol sequences, also known as orthographic processing. Memory for letter patterns, letter sequences, and the letters in whole words may be selectively impaired or may coexist with phonological processing weaknesses. When spelling, a student must not only process both phonological and orthographic information, but also apply their knowledge of morphology and syntax (Berninger & Wolf, 2009).

Figure 5.2. Areas for Evaluation of Dysgraphia

Academic Skills	Cognitive Processes	Possible Additional Areas
<ul style="list-style-type: none">• Letter formation• Handwriting• Word/sentence dictation (timed and untimed)• Copying of text• Written expression• Spelling• Writing fluency (both accuracy and fluency)	<ul style="list-style-type: none">• Memory for letter or symbol sequences (orthographic processing)	<ul style="list-style-type: none">• Phonological awareness• Phonological memory• Working memory• Letter retrieval• Letter matching

Berninger, V. W., & Wolf, B. (2009). Teaching students with dyslexia and dysgraphia lessons from teaching and science. Baltimore, MD: Paul H. Brookes Publishing.

To make an informed determination the ARD committee must include members who are knowledgeable about the following:

- Student being assessed
- Evaluation instruments being used
- Interpretation of the data being collected

Additionally, the committee members should have knowledge regarding

- the handwriting process;
- dysgraphia and related disorders;
- dysgraphia instruction, and;
- district or charter school, state, and federal guidelines for evaluation.

There likely may be a need for an occupational therapist on the committee to assist in addressing all required areas of evaluation for dysgraphia.

Review and Interpretation of Data and Evaluation

The MDT, using input from the parent/guardian, completes the FIIE, which determines if the student meets the criteria for dysgraphia, and, if so, explains the impact of dysgraphia on the student's access and progress in the enrolled grade-level general curriculum. The next step is for the ARD committee, which includes the parent/guardian as a committee member, to determine prong 1 and prong 2, which means the student has both the identification of a qualifying disability and the need for special education and related services. Eligibility is determined by the ARD committee in accordance with federal and state law and regulations.

The ARD committee will review the FIIE and all available data to determine eligibility for special education and related services. When a student is determined to have dysgraphia and the data shows a need for specially designed instruction, then the student meets the two prongs of special education eligibility. That is, the student has a qualifying disability – as dysgraphia is an SLD under the IDEA– and demonstrates a need for specially designed instruction.

To appropriately understand evaluation data, the MDT and ARD committee must interpret tests results in light of the student's educational history, linguistic background, environmental or socioeconomic factors, and any other pertinent factors that affect learning.

A determination must first be made regarding whether a student's difficulties in the areas of writing and spelling reflect a pattern of evidence for the primary characteristics of dysgraphia with unexpectedly low performance for the student's age and educational level in some or all of the following areas:

- Handwriting
- Writing fluency (accuracy and rate)
- Written Expression
- Spelling

Based on the above information and guidelines, should the MDT find that the student exhibits weakness in writing and spelling (i.e., academic deficits in areas associated with dysgraphia), the MDT will then examine all of the student's data to determine whether these difficulties are unexpected in relation to the student's other abilities, sociocultural factors, language differences, irregular attendance, or lack of appropriate and effective instruction. For example, the student may exhibit strengths in areas such as reading comprehension, listening comprehension, oral verbal ability, or math reasoning yet still have difficulty with writing and spelling. The MDT reports the analysis of strengths and weaknesses within the FIEE.

Therefore, it is not one single indicator, but a preponderance of informal and formal data that provide the team with evidence for whether these difficulties are unexpected.

Dysgraphia Identification

If the student's difficulties are unexpected in relation to other abilities, the ARD committee must then determine if the student has dysgraphia and the need for special education and related services. The list of questions in Figure 5.3 below must be addressed by the MDT in the evaluation report to assist the ARD Committee when determining eligibility, which includes that dysgraphia is present and there is a need for special education and related services.

Figure 5.3. Questions to Determine the Identification of Dysgraphia

- Do the data show the following characteristics and consequences of dysgraphia?
 - Illegible and/or inefficient handwriting with variably shaped and poorly formed letters
 - Difficulty with unedited written spelling
 - Low volume of written output as well as problems with other aspects of written expression
- Do these difficulties (typically) result from a deficit in graphomotor function (hand movements used for writing) and/or storing and retrieving orthographic codes (letter forms)?
- Are these difficulties unexpected for the student's age in relation to the student's other abilities and the provision of effective classroom instruction?

If through the evaluation process, it is established that the student meets the criteria for dysgraphia, then the student meets the first prong of eligibility under the IDEA (identification of condition). In other words, the identification of dysgraphia, using the process outlined in this chapter, meets the criterion for the condition of a specific learning disability. However, the presence of a disability condition alone is not sufficient to determine if the student is a student with a disability under the IDEA. Eligibility under the IDEA consists of both identification of the condition and a corresponding need for specially designed instruction as a result of the disability.

The ARD committee will determine whether the student who has dysgraphia is eligible under IDEA as a student with a specific learning disability. The student is eligible for services under IDEA if he/she has dysgraphia and, because of the dysgraphia needs special education services. The October 23, 2015 letter from the Office of Special Education and Rehabilitative Services (OSERS) (Dear Colleague: Dyslexia Guidance) states that dyslexia,

dyscalculia, and dysgraphia are conditions that could qualify a child as a child with a specific learning disability under IDEA. The letter further states that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluation, eligibility determinations, or IEP documents. For more information, please visit <https://sites.ed.gov/idea/idea-files/osep-dear-colleague-letter-on-ideaiep-terms/>

Once dysgraphia has been identified as the IDEA eligible disability, a determination must be made by the ARD committee regarding the most appropriate way to serve the student. If the student with dysgraphia is found eligible for special education, the student's IEP must include appropriate writing instruction, which might include instruction from a related services provider.

If the student is identified with dysgraphia but is determined by the ARD committee as not eligible for special education and related services (because the student does not need specially designed instruction), then the student may be eligible to receive appropriate accommodations and services under Section 504.

A student who is found not eligible under the IDEA but who is identified with dysgraphia through the FIIE process should not be referred for a second evaluation under Section 504. Instead, the Section 504 committee will use the FIIE and determine eligibility for Section 504 as necessary

For students eligible for Section 504, a Section 504 committee will develop the student's Section 504 Plan, which must include appropriate instructional accommodations to meet the individual needs of the student.

Instruction for Students with Dysgraphia

“. . . Done right, early handwriting instruction improves students' writing. Not just its legibility, but its quantity and quality.” (p. 49)

—S. Graham, *Want to Improve Children's Writing? Don't Neglect Their Handwriting*, *American Educator*, 2010

Graham and his colleagues describe two reasons for teaching handwriting effectively. The first reason is what they call the Presentation Effect. Research demonstrates that, in general, a reader's evaluation of a composition's quality is influenced by how neatly it is written (Graham, Harris, & Hebert, 2011). The second reason that educational scientists give for teaching handwriting effectively is called the Writer Effect.

Research demonstrates that handwriting difficulties interfere with other writing processes such as expression of ideas and organization. In fact, a 2016 meta-analysis showed that handwriting instruction improved students' writing fluency, quantity, and quality. The findings of this research report were dramatic, showing moderate effects on writing fluency and very large effects on the number of words students wrote and the quality of their compositions (Santangelo & Graham, 2016).

Handwriting interferes with other writing processes or consumes an inordinate amount of cognitive resources, at least until handwriting becomes automatic and fluent ... Handwriting-instructed students made greater gains than peers who did not receive handwriting instruction in the quality of their writing, how much they wrote, and writing fluency. (p. 226)

—Santangelo & Graham, *A Comprehensive Meta-Analysis of Handwriting Instruction*, 2016

Supporting Students Struggling with Handwriting

Between 10% and 30% of students struggle with handwriting. Early difficulties in this area are significantly correlated with poorer performance on composition tasks. The following are research-based elements of effective handwriting instruction.

These elements, which apply to both manuscript and cursive handwriting, may not necessarily apply to an entire class but instead may be used to support instructional methods delivered in small groups with students whose penmanship is illegible or dysfluent.

- Show students how to hold a pencil.
- Model efficient and legible letter formation.
- Provide multiple opportunities for students to practice effective letter formation.
- Use scaffolds, such as letters with numbered arrows showing the order and direction of strokes.
- Have students practice writing letters from memory.
- Provide handwriting fluency practice to build students' automaticity.
- Practice handwriting in short sessions.

—Adapted from Berninger et al., 1997; Berninger et al., 2006; Denton, Cope, & Moser, 2006; Graham et al., 2012; Graham, Harris, & Fink, 2000; Graham & Weintrub, 1996.

Some students who struggle with handwriting may actually have dysgraphia. Dysgraphia may occur alone, or with dyslexia. An assessment for dysgraphia, as it relates to dyslexia, is important in order to determine whether children need additional explicit, systematic instruction in handwriting only; handwriting and spelling; or handwriting, spelling, and written expression along with word reading and decoding (IDA, 2012).

TEC §38.003(b) states, "In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder."

While it is important for students with dysgraphia to receive the research-based elements of handwriting, spelling, and written language instruction as part of the core curriculum, for those students who require additional supports and services for dysgraphia, instructional decisions must be made by a committee (either Section 504 or ARD) that is knowledgeable about the instructional elements and delivery of instruction that is consistent with research-based practice.

Handwriting

The research-based elements for effective instruction of handwriting as stated above for all students are the same for students with dysgraphia. However, the intensity, frequency, and delivery of instruction may need to be adjusted to meet specific student need as determined by the Section 504 or ARD committee. Figure 5.4 below provides a hierarchy of instruction for handwriting as a reference to best practice:

Figure 5.4. Handwriting Hierarchy of Instruction

Posture

Also known as "Watch Our Writing" (W.O.W)

- Feet are flat on the floor
- Back is straight
- Paper slanted so that the edge of the paper is parallel to the writing arm
- Paper anchored with non-writing hand
- Pencil grip and position correct

Grip

Normal tripod grip with pencil resting on first joint of middle finger with the thumb and index fingers holding the pencil in place at a 45° angle.

Letter Formation

Emphasis placed in the following order:

- Shape
- Proportion
- Size
- Rhythm/fluency
- Slant

Sequence

- Lower case letters first; Capitals as needed beginning with first letters of student name
- Manuscript – group by stroke formation
- Cursive – group by beginning approach stroke
- Letters
- Syllables
- Words
- Phrases
- Sentences
- Paragraphs

Spelling

Handwriting supports spelling, a complex process of translating a phoneme (spoken sound) to the corresponding grapheme (orthographic representation) in order to generate written text to express an idea. Orthography is the written spelling patterns and rules in a given language. Students must be taught the regularity and irregularity of the orthographic patterns of a language in an explicit and systematic manner. The instruction should be integrated with phonology and sound-symbol knowledge.

Because spelling is meaning driven and draws upon the phonological, orthographic, and morphological aspects of words, students will benefit from systematic, explicit instruction based on the following guiding principles:

- Phoneme-grapheme correspondence
- Letter order and sequence patterns, or orthographic conventions:
 - syllable types
 - orthographic rules
 - irregular words
- Position of a phoneme or grapheme in a word
- Meaning (morphology) and part of speech
- Language of origin (Moats, 2005)

Writing

A potential secondary consequence of dysgraphia is difficulty with students expressing themselves in written text. This difficulty may be attributed to deficits in handwriting, spelling, language processing, or the integration of each of those skills. In Chapter 4 of this handbook, Moats and Dakin (2008) are quoted as stating:

The ability to compose and transcribe conventional English with accuracy, fluency, and clarity of expression is known as basic writing skills. Writing is dependent on many language skills and processes and is often even more problematic for children than

reading. Writing is a language discipline with many component skills that must be directly taught. Because writing demands using different skills at the same time, such as generating language, spelling, handwriting, and using capitalization and punctuation, it puts a significant demand on working memory and attention. Thus, a student may demonstrate mastery of these individual skills, but when asked to integrate them all at once, mastery of an individual skill, such as handwriting, often deteriorates. To write on demand, a student has to have mastered, to the point of being automatic, each skill involved (p. 55).

Students with written expression difficulties because of dysgraphia would benefit from being taught explicit strategies for composing including planning, generating, reviewing/evaluating, and revising different genre including narrative, informational, compare and contrast, and persuasive compositions (IDA, 2012).

Delivery of Intervention

The way the content is delivered should be consistent with the principles of effective intervention for students with dysgraphia including the following:

Simultaneous, multisensory (VAKT) — “Teaching is done using all learning pathways in the brain (visual, auditory, kinesthetic-tactile) simultaneously in order to enhance memory and learning” (Birsh, 2018, p. 19). “Children are actively engaged in learning language concepts and other information, often by using their hands, arms, mouths, eyes, and whole bodies while learning” (Moats & Dakin, 2008, p. 58).

Systematic and cumulative — “Multisensory language instruction requires that the organization of material follow order of the language. The sequence must begin with the easiest concepts and most basic elements and progress methodically to more difficult material. Each step must also be based on [elements] already learned. Concepts taught must be systematically reviewed to strengthen memory” (Birsh, 2018, p. 19).

Explicit instruction — “Explicit instruction is explained and demonstrated by the teacher one language and print concept at a time, rather than left to discovery through incidental encounters with information. Poor readers do not learn that print represents speech simply from exposure to books or print” (Moats & Dakin, 2008, p. 58). Explicit Instruction is “an approach that involves direct instruction: The teacher demonstrates the task and provides guided practice with immediate corrective feedback before the student attempts the task independently” (Mather & Wendling, 2012, p. 326).

Diagnostic teaching to automaticity — “The teacher must be adept at prescriptive or individualized teaching. The teaching plan is based on careful and [continual] assessment of the individual's needs. The content presented must be mastered to the degree of automaticity” (Birsh, 2018, p. 27). “This teacher knowledge is essential for guiding the content and emphasis of instruction for the individual student” (Moats & Dakin, 2008, p. 58). “When a reading skill becomes automatic (direct access without conscious awareness), it is performed quickly in an efficient manner” (Berninger & Wolf, 2009, p. 70).

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Instructional Accommodations for the Student with Dysgraphia

By receiving instruction based on the elements described in this chapter, a student with dysgraphia is better equipped to meet the demands of grade-level or course instruction. In addition to targeted instruction, accommodations provide the student with dysgraphia effective and equitable access to grade-level or course instruction in the general education classroom. **Accommodations are not a one size fits all; rather, the impact of dysgraphia on each individual student determines the accommodation.**

When considering accommodations for the student with dysgraphia, consider the following:

- The rate of producing written work
- The volume of the work to be produced
- The complexity of the writing task
- The tools used to produce the written product
- The format of the product (Texas Scottish Rite Hospital for Children, 2018, p. 5).

Listed below are examples of reasonable classroom accommodations for a student with dysgraphia based on the above considerations:

- Allow more time for written tasks including note taking, copying, and tests
- Reduce the length requirements of written assignments
- Provide copies of notes or assign a note taking buddy to assist with filling in missing information

- Allow the student to audio record important assignments and/or take oral tests
- Assist student with developing logical steps to complete a writing assignment instead of all at once
- Allow the use of technology (e.g., speech to text software, etc.)
- Allow the student to use cursive or manuscript, whichever is most legible and efficient
- Allow the student to use graph paper for math, or to turn lined paper sideways, to help with lining up columns of numbers
- Offer an alternative to a written project such as an oral report, dramatic presentation, or visual media project

Accommodations are changes to materials, actions, or techniques, including the use of technology, that enable students with disabilities to participate meaningfully in grade-level or course instruction. The use of accommodations occurs primarily during classroom instruction as educators use various instructional strategies to meet the needs of each student. A student may need an accommodation only temporarily while learning a new skill, or a student might require the accommodation throughout the school year or over several years including beyond graduation.

Decisions about which accommodations to use are very individualized and should be made for each student by that student's ARD or Section 504 committee, as appropriate. Students can, and should, play a significant role in choosing and using accommodations. Students need to know what accommodations are possible, and then, based on knowledge of their personal strengths and limitations, they select and try accommodations that might be useful for them. The more input students have in their own accommodation choices, the more likely it is that they will use and benefit from the accommodations.

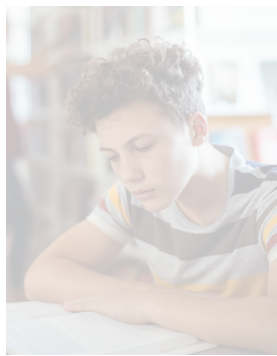
When making decisions about accommodations, instruction is always the foremost priority. Not all accommodations used in the classroom are allowed during a state assessment. However, an educator's ability to meet the individual needs of a student with dysgraphia or provide support for the use of an accommodation should not be limited by whether an accommodation is allowable on a state assessment.

In order to make accommodation decisions for students, educators should have knowledge of the Texas Essential Knowledge and Skills (TEKS) and how a student performs in relation to them. Educators should also collect and analyze data pertaining to the use and effectiveness of accommodations (e.g., assignment/test scores with and without the accommodation, observational reports from parents and teachers) so that informed educational decisions can be made for each student. By analyzing data, an educator can determine if the accommodation becomes inappropriate or unnecessary over time due to the student's changing needs. Likewise, data can confirm for the educator that the student still struggles in certain areas and should continue to use the accommodation.

For more information about accommodations, see [At a Glance: Classroom Accommodations for Dysgraphia](https://www.understood.org/en/school-learning/partnering-with-childs-school/instructional-strategies/at-a-glance-classroom-accommodations-for-dysgraphia), available at <https://www.understood.org/en/school-learning/partnering-with-childs-school/instructional-strategies/at-a-glance-classroom-accommodations-for-dysgraphia>

Technology Tools

There are many technology resources to assist a student with dysgraphia. The *Technology Integration for Students with Dyslexia* online tool (TEC §38.0031) is a resource developed to support school districts and charter schools in making instructional decisions regarding technology that benefit students with dyslexia and related disorders. For more information and to view this source, visit [Dyslexia and Related Disorders | Texas Education Agency](#).



THE TEXAS DYSLEXIA HANDBOOK: FREQUENTLY ASKED QUESTIONS (FAQs)

This document represents frequently asked questions (FAQs) received by the Texas Education Agency (TEA) in relation to the State Board of Education's (SBOE's) [Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders, 2024 Update](#) (Handbook). This FAQ is attached to the electronic PDF version of the Handbook as a courtesy to the reader, but it is **not** a document approved by the SBOE. This FAQ is a guidance document prepared by TEA. It does not constitute an administrative rule and thus does not impose any requirements beyond those required under applicable law, rules, and regulations. The intent is to offer general assistance to local educational agencies (LEAs) in implementing the Handbook. For additional technical assistance related to dyslexia and other specific learning disabilities (SLDs), see Texas SPED Support at spedsupport.tea.texas.gov.

[The Dyslexia Handbook on TEA's Dyslexia and Related Disorders webpage.](#)

This FAQ is informational only and not intended as, nor should it be considered as, providing legal advice. For legal advice on specific implementation issues, please consult an attorney.

AUGUST 2024

Chapters for FAQs:

Chapter 1: Definitions and Characteristics of Dyslexia.....69
 Chapter 2: Screening.....70
 Chapter 3: Procedures for the Evaluation and Identification of Students with Dyslexia.....70
 Chapter 4: Critical, Evidence-Based Components of Dyslexia Instruction.....76
 Chapter 5: Dysgraphia.....82
 Other Frequently Asked Questions About Dyslexia and Related Disorders.....83

Chapter 1: Definitions and Characteristics of Dyslexia:

1. What are “related disorders” of dyslexia?

There is no nationally recognized list of related disorders to dyslexia. The Texas Education Code (TEC) defines “related disorder” in [Section 38.003](#) for purposes of that section as a disorder similar or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability. It is important to note that this TEC definition dates to at least 1995 and much research and evidence-based instructional practices have evolved since that time. Additionally, the Handbook does not discuss how to screen or evaluate for these disorders, with the exception of evaluating for dysgraphia and instructional considerations for dysgraphia [see Chapter 5].

The Individuals with Disabilities Education Act (IDEA), through its regulations at [34 Code of Federal Regulations \(CFR\) §300.8](#), defines an SLD to be a disorder of one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, or spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

While dyslexia is mentioned as an example of an SLD, there is no list in the IDEA about those SLDs that are, or may be, related disorders of dyslexia. Guidance from the Office of Special Education and Rehabilitative Services (OSERS) within the United States Department of Education (Department), through the publication of a [Dear Colleague letter from October 2015](#), states that the list referenced above at [34 CFR §300.8](#) is not exhaustive. The letter stresses that nothing in the IDEA or its implementing regulations prohibits the use of the terms dyslexia, dyscalculia, or dysgraphia – conditions that could qualify a child as a child with an SLD under IDEA – in IDEA evaluation, eligibility determinations, or individualized education program (IEP) documents. Again, this letter stresses that nothing prohibits the use of these terms, but it does not specifically state what disorders are related disorders to dyslexia.

Through its responsibility listed in [TEC §7.102\(c\)\(28\)](#) and [§38.003](#) to approve a program for testing students for dyslexia and related disorders, the SBOE has specifically addressed dysgraphia as a related disorder to dyslexia in the Handbook [see Chapter 5] because “...both are language-based disorders” (p. 55).

Additionally, [TEC §48.103](#) outlines a funding allotment for students who have been identified as having dyslexia or a related disorder. Dysgraphia is the related disorder that is included with this allotment.

Therefore, while the Handbook reflects dysgraphia as a related disorder to dyslexia, the critical piece for school systems to remember is that **many** conditions can fall within the eligibility category of SLD under the IDEA.

Also see Chapter 5: Dysgraphia below for more information about that condition.

2. Does a child with dyslexia have to have a co-occurring disability in order to qualify for special education and related services?

No. If a child is determined eligible for the first prong (qualifying disability) of special education and related services based on an identification of dyslexia, and the admission, review, and dismissal (ARD) committee determines that the student requires dyslexia instruction, this would make the child eligible under the second prong of special education and related services eligibility, which is the need for special education, or specially designed instruction (SDI).

Dyslexia and dysgraphia are both SLDs, which means identification of either or both could result in a child being eligible for special education and related services if the child is identified with the disability and is determined to need SDI because of the disability.

Chapter 2: Screening

1. Can a parent/guardian exempt their child from administration of the required dyslexia screener under TEC §38.003?

There is no specific opt-out right for parents/guardians for their child not to be administered the required dyslexia screener in kindergarten and grade 1. Universal screeners – given that they are administered to all students – do not require individual parental consent prior to their administration to students. However, parents/guardians do have general opt-out rights under [TEC §26.010](#) regarding exemption from instruction. To the extent a parent/guardian exercises this right in relation to the dyslexia screeners, they may do so.

2. Is the screener required for a child who is already receiving special education and related services in kindergarten or grade 1?

Yes, unless the student's ARD committee determines the screener is not appropriate. An ARD committee should only determine that a screener is not appropriate if the student's data clearly indicates that the intent of a screener to identify those who may be at risk for dyslexia or reading difficulties has already been satisfied through an FIE, the provision of SDI, or by other means.

3. Are there approved screener criteria for dysgraphia or other related disorders?

No. There are currently no SBOE-approved criteria for dysgraphia screeners nor for other related disorders. Teachers should be aware of the common characteristics of dysgraphia [pp. 55-57] that might present in one of their students.

Chapter 3: Procedures for the Evaluation and Identification of Students with Dyslexia

1. Can the required multidisciplinary team (MDT) and ARD committee member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction (required dyslexia member) be someone who is already serving a required role on the team or committee?

Potentially. [TEC §29.0031\(b\)](#) and the Handbook are clear that unless a licensed dyslexia therapist (LDT) or a person with the most advanced dyslexia-related certification is not available, individuals in those positions **must** serve as the required dyslexia member.

If individuals in these roles are not available, the Handbook allows others who meet specific training requirements (pp 29 and 32) to serve as the required dyslexia member.

The SBOE rule at [19 Texas Administrative Code \(TAC\) §74.28](#), including the Handbook, which is incorporated by reference into that rule, does not list any prohibition in serving as this member if the individual is already serving another role on the MDT or ARD committee. Therefore, a person who meets the criteria to serve as the required dyslexia member should be able to serve another role on an MDT or ARD committee, as long as the person is eligible by law or rule to serve in that original MDT or ARD committee role.

When designating the required dyslexia member for an MDT and ARD committee, LEAs – which include both school districts and open enrollment charter schools – need to focus on the required expertise of this member. This member must have specific knowledge of dyslexia and related disorders, the reading process, and dyslexia instruction. The reference to dyslexia instruction is not necessarily the same as the requirement for a provider of dyslexia instruction (PDI) [see Chapter 3, question 3] to be fully trained in the district’s instructional materials related to dyslexia instruction. **The critical piece to remember about this member is that they should play a pivotal role in a student’s evaluation and potential identification of dyslexia. LDTs and those with the most advanced dyslexia related certifications should have that expertise by nature of their license and certification, which is likely why the law specifically pointed to those individuals first.** To meet the intent of the statute and SBOE rule when those individuals are not available, LEAs need to feel confident that the member they designate brings the expertise to the evaluation and identification process.

For example, if an LEA determines that an LDT or someone with the most advanced dyslexia-related certification is not available, they might determine that their educational diagnostician, who is already well-versed in the evaluation of students and interpreting instructional implications of evaluation results, should be the one designated to be the required dyslexia member in an LDT’s absence once they receive the required training, while also fulfilling the IDEA requirements of a person who can interpret evaluation results. In this example, the diagnostician’s training would be the training that is described on pages 29 and 32, which includes registering and completing the TEA Texas Dyslexia Academies and registering and completing the Guidance for the Comprehensive Evaluation of a Specific Learning Disability training. The LEA must also be able to document that the diagnostician has training in current research and evidence-based assessments that are used to identify the most common characteristics of dyslexia.

When designating this member, consider that the law’s intent was likely not to simply have an individual look at assessment scores and weigh in with their expertise, especially in light of the importance of observing student behaviors in the data gathering process when determining whether a student demonstrates characteristics of dyslexia.

2. How should the required dyslexia member document their participation in an evaluation and IEP?

[TEC §29.0031](#) requires the dyslexia member of the MDT or ARD committee to sign a document describing their involvement and participation in the evaluation and any resulting IEP. TEA expects the member to actively participate in a student’s evaluation and sign the evaluation report conducted by the MDT. Signatures from the professionals serving on the MDT indicate consensus with the overall interpretations and conclusions contained within the evaluation. In situations where members of the MDT have different interpretations, they must work collaboratively to review the various sources of data and gather additional information as necessary to complete a single comprehensive evaluation report that is compliant with state and federal requirements and present the results for ARD committee consideration.

Participation and involvement in an ARD committee meeting should be noted on an IEP signature page and clearly indicate that the person is fulfilling the role required by [TEC §29.0031\(b\)](#).

3. Is a provider of dyslexia instruction (PDI) the same as the required dyslexia member?

Not always. If the PDI is an LDT or a certified academic language therapist (CALT), for example, who also administers dyslexia instruction to identified students, then the LDT and CALT are considered both the required dyslexia member (if they are available and serving in that role) and the PDI. However, a PDI can be different from the required dyslexia member. For example, if the PDI has been trained in the LEA's instructional materials for dyslexia instruction but does not also meet the requirements for the required dyslexia member, the PDI may not serve as the required dyslexia member.

An important concept to remember is that the **required dyslexia member should have extensive experience surrounding the evaluation and identification of dyslexia** [see also Chapter 3, question 1], **whereas a PDI must be fully trained in all the LEA's instructional materials for dyslexia instruction**. This *can* be the same person but will not always be the same person.

4. What does it mean to be trained in current research and evidence-based assessments that are used to identify most common characteristics of dyslexia?

The required dyslexia member must be trained in how to administer and interpret any norm-referenced tests used to identify the most common characteristics of dyslexia. Likewise, the dyslexia member must be trained in how to administer and interpret curriculum-based measurements used to assess the most common characteristics of dyslexia. An LDT or someone with the most-advanced dyslexia-related certification will be familiar with this by nature of their license or certification, so this will be required for the third option when either of those individuals are not available. An LEA will need to document how the individual meets this requirement.

5. Will you explain the “most advanced dyslexia certification” requirements?

To meet the credentials of the most advanced dyslexia-related certification, the individual must have received certification or training from the following programs or providers: Academic Language Therapy Association, the International Dyslexia Association, the Orton Gillingham Academy, Wilson Language Training, or have received training through an International Multisensory Structured Language Education Council-(IMSLEC)- accredited course at the teaching or therapy level [pp. 29, 32].

6. Must the required dyslexia member attend every ARD committee meeting?

No. The member must be part of any ARD committee meeting convened to determine a student's eligibility for special education and related services. This means that the member must be a part of an ARD committee meeting that determines initial eligibility and any meeting at which a change in and/or continued eligibility is discussed, as in a re-evaluation.

Keep in mind, however, that a student's PDI must be involved in the development and implementation of the student's IEP. The PDI is not always the same as the required dyslexia member, but many times will be the same. So, in the circumstances where they are the same person, even if the PDI is not specifically required in the role as the required dyslexia member because continued eligibility isn't being discussed, **the PDI will likely be a critical ARD committee member since he or she is a special education provider for that student.**

7. Is a dyslexia evaluation separate and apart from an SLD evaluation?

No. Dyslexia is an SLD. The Handbook does list specific evaluation domains and questions that must be considered when determining the presence of dyslexia. However, this does not mean it is a separate evaluation. The MDT will be completing a comprehensive evaluation for the presence of an SLD, which

includes those domains and questions in the Handbook associated with dyslexia. Dyslexia identification is then based on the preponderance of evidence. Remember also that an evaluation is not exclusively about standardized tests or assessments [also see question 8, below]. Part of the MDT's comprehensive evaluation would likely include a careful review of informal student data that analyzes whether the primary characteristics of dyslexia are present, and the MDT could then use particular instruments designed to further assist in identifying whether those characteristics are present. A careful review of that evidence may show the MDT that weaknesses in reading and spelling are unexpected as compared to the other student data it has analyzed. That may then lead to a confirmation by the MDT that the student meets the criteria for dyslexia using the questions on pages 33 and 34 (and referenced in question 10, below) independent or in lieu of standardized or other types of formal assessments.

8. The Handbook says to consider cognitive processes in a dyslexia evaluation. Is this the same thing as an IQ and achievement test?

No. It is not required that a student demonstrate a specific cognitive weakness on standardized assessments as demonstrated by achieving below a certain threshold to otherwise display a pattern of strengths and weakness relevant to the identification of dyslexia.

The MDT and ARD committee must interpret evaluation test results in light of a student's educational history, linguistic background, environmental or socioeconomic factors, and any other pertinent factors that affect learning. The team must first look for **a pattern of evidence reflective of the primary characteristics of dyslexia, i.e., unexpectedly low performance in some or all of the following areas: reading words in isolation, decoding unfamiliar words accurately and automatically, reading fluency for connected text (rate and/or accuracy and/or prosody), and spelling (an isolated difficulty in spelling would not be sufficient to identify dyslexia).**

Teams should keep in mind that a deficit in one area of phonological awareness can limit reading progress and should consider discreet skills (vs. composite scores), when drawing conclusions. As referenced in question 7 above, determining the presence of dyslexia or any other SLD based on a strengths and weaknesses model does not always require the administration of standardized assessments; there are different ways that a pattern of strengths and weaknesses model can be conceptualized by an MDT. Teams should also keep in mind that the presence of a sensory impairment, such as visual impairment, deaf-blindness, or being deaf or hard of hearing, [does not rule out the possibility](#) of the presence of an SLD, including dyslexia.

9. How do the exclusionary factors listed in IDEA relate to the identification of dyslexia?

IDEA recognizes that an SLD does not include learning problems that are [primarily](#) the result of a visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency. These are often referred to as exclusionary factors. A common misconception is that the mere presence of an exclusionary factor automatically rules out an SLD. This is not true. An exclusionary factor can coexist with an SLD (including dyslexia and related disorders).

MDTs and ARD committees need to consider the possibility that an SLD is not primarily resulting from exclusionary factors, particularly when students' academic skills are not progressing as expected despite receiving adequate instruction and appropriate supports and services to meet the needs that result from the exclusionary factors. It may be that the exclusionary factor does not fully explain the student's current academic underachievement. For some students, the exclusionary factor may be a contributing factor but is not what is primarily causing the observed academic underachievement. In these circumstances, an SLD may also be present. The presence of an SLD in addition to an exclusionary factor may create obstacles to learning and affect rates of progress and growth. Understanding if additional disabilities are present can help educators develop appropriate interventions and plan for an effective IEP that meets all the student's needs.

It is critical for educators to understand that having dyslexia makes reading and writing tasks difficult, which can lead to chronic stress and anxiety about academic performance, including for twice exceptional students who demonstrate both high achievement and evidence of one or more disabilities.

10. How do we determine unexpectedness?

If the MDT determines that the student exhibits weaknesses in reading and spelling, the team will then examine the student’s data to determine whether these difficulties are unexpected in relation to the student’s other abilities (not limited to academics), sociocultural factors, language differences, irregular attendance, or lack of appropriate and effective instruction. **It is not one single indicator but a preponderance of data (both informal and formal) that provides the team with evidence for whether these difficulties are unexpected.** In other words, the following questions must be considered when making a determination regarding dyslexia:

- ◆ Do the data show the following characteristics of dyslexia?
 - ◇ Difficulty with accurate and/or fluent word reading
 - ◇ Poor spelling skills
 - ◇ Poor decoding ability
- ◆ Do these difficulties (typically) result from a deficit in the phonological component of language? (Be mindful that average phonological scores alone do not rule out dyslexia.)
- ◆ Are these difficulties unexpected for the student’s age in relation to the student’s other abilities and provision of effective classroom instruction?

11. Do we use dyslexia in the evaluation report and IEP, or do we use SLD in basic reading or reading fluency?

Dyslexia **is** an SLD. [TEC §29.0031](#) states dyslexia is an example of and meets the definition of an SLD under IDEA. This is in conformity with IDEA’s federal regulations at [34 CFR §300.8\(c\)\(10\)](#), which specifically lists dyslexia as an example of an SLD. **The condition of dyslexia, if identified, must be documented and used in a student’s evaluation report and any resulting IEP.** Only for purposes of the Public Education Information Management System (PEIMS) data entry will an ARD committee report simply “SLD” as the eligibility category, per [34 CFR §300.311](#),

The agency understands that most LEAs typically use the list of the eight common areas of underachievement for an SLD (e.g., basic reading skill, mathematics calculation, reading fluency skills, written expression, etc.), but there is no legal requirement to report that data to the state. Additionally, it would not be in alignment with the Handbook if an LEA operated under a rigid practice that only formal, standardized assessments can prove the presence or absence of dyslexia by whether or not a student meets a certain threshold for the basic reading or reading fluency area on those assessments. That said, in the case of dyslexia, **it is important to indicate the presence of dyslexia as the SLD in the IEP for purposes of instructional planning and communicating a student’s needs.** Therefore, the agency expects that IEP program software vendors add the area of dyslexia to any type of pre-programmed options currently used for the areas of underachievement to also allow an ARD committee to indicate dyslexia as the type of SLD identified. Documentation of the identification of dyslexia is also important for purposes of any state monitoring of [TEC §48.103](#) and the receipt of the dyslexia allotment for certain children.

12. Are there tests that rule in or rule out dyslexia?

No. There is no single instrument, score, or formula that will automatically rule in or rule out dyslexia. A formal evaluation includes both formal and informal data, and all data will be used to determine whether the student demonstrates a pattern of evidence that indicates dyslexia [p. 28].

Additionally, it is important to note that standardized instruments are not always sensitive to skill variations in young children. Therefore, when a child in kindergarten or grade 1, for example, is being evaluated because he or she is not meeting basic standards of early reading instruments despite active participation in high-quality reading instruction, an MDT will need to engage in extensive data gathering and not rely on standardized instruments alone.

13. What if a student is already receiving special education and related services but is now suspected of having dyslexia?

The ARD committee will follow requirements for a re-evaluation to determine evaluation needs and must follow the process for evaluation and identification for dyslexia as described in the Handbook.

14. How would a student be referred for Section 504 if an ARD committee determines the student has dyslexia but does not qualify for special education and related services?

When determining whether a student identified with dyslexia requires special education and related services, the ARD committee must carefully analyze the student's evaluation report and compare the student's data with the expectations of the student's same aged peers and enrolled grade level curriculum. If the student needs SDI because of his or her disability in order to meet those expectations – including through the provision of dyslexia instruction – then the ARD committee would determine the student eligible for special education and related services. If a student identified with dyslexia is not eligible for special education and related services because the ARD committee has determined that the student does not need dyslexia instruction (i.e., SDI), the student may be eligible to receive accommodations under Section 504. A student who is found not eligible under the IDEA but who is identified with dyslexia through the FIIE process should not be referred for a second evaluation under Section 504. Instead, the Section 504 committee will use the FIIE and determine eligibility for Section 504, as necessary.

For students eligible for Section 504, a Section 504 committee will develop the student's Section 504 accommodation plan, which must include appropriate instructional accommodations to meet the individual needs of the student. A student identified with dyslexia and who needs dyslexia instruction would **not** be served under Section 504, as this is SDI.

15. Must an emergent bilingual (EB) student receive a certain number of years of bilingual or English as a second language (ESL) instruction before requesting consent to conduct a special education evaluation?

No, there is no fixed amount of time that an EB student must receive bilingual or ESL instruction before an evaluation for dyslexia or a related disorder is considered. Dyslexia is found in all student populations and languages. The identification and service delivery process for dyslexia must be aligned to the student's linguistic environment and educational background, and involvement of the Language Proficiency Assessment Committee (LPAC) is required. Additional data sources for EB students are provided in Figure 3.3 in the Handbook (p 28).

16. What if a parent/guardian does not consent to a special education evaluation (full individual and initial evaluation, or FIIE) when a student is suspected of having dyslexia and a need for special education and related services, or if a parent/guardian refuses to consent to the provision of special education and related services if the student is found eligible based on dyslexia?

As of the 2023-2024 school year, a student is not entitled to receive dyslexia instruction if a parent/guardian refuses to consent to an FIIE based on suspicion of dyslexia or to the provision of special education and related services after an ARD committee has determined that the student is eligible for special education based on the identification of dyslexia and a need for dyslexia instruction. Under IDEA at [34 CFR §300.300\(b\)](#), a parent/guardian of a child with a disability is entitled to decline the provision of special education and related services. Because dyslexia instruction and the use of evidence-based dyslexia programs are considered SDI and therefore special education services, the provision of those services must follow the IDEA requirements. A parent's/guardian's refusal to consent to an evidence-

based dyslexia program through IDEA means that the parent/guardian is refusing the child's special education and related services. Therefore, if a parent refuses to consent to an FIE or indicates that they may refuse consent, the parent/guardian should be informed of the following:

- ◆ The provision of an evidence-based dyslexia program is considered SDI, as that term is defined under IDEA. This means that an evidence-based dyslexia program is only available to students who are served under IDEA, which prescribes the legal requirements for special education and related services.
- ◆ Evidence-based dyslexia programs are not considered to be “regular” education aids and services. Regular aids and services are things like accommodations provided to a student to assist in classroom instruction and access to instruction, such as giving extra time for assignments and allowing speech-to-text capabilities when given a writing assignment. While a Section 504 accommodation plan could be appropriate for those needs, the need for an evidence-based dyslexia program crosses over into a special education need.
- ◆ Receiving special education and related services does not equate to a “place” where students are sent or that a student will necessarily see a dramatic shift in their services and schedules. The term special education and related services is drawn from IDEA and its terminology of requiring SDI because of an identified disability. IDEA provides unique parent/guardian and student protections under the law.
- ◆ Receiving special education and related services does not prevent a student from enrolling in and receiving support in advanced or honors courses, including college-credit bearing courses, solely because they are receiving these services.

Chapter 4: Critical, Evidence-Based Components of Dyslexia Instruction

1. How should an LEA document that the evidence-based dyslexia program(s) that it chooses to use meets the requirements of the Handbook?

Each LEA is responsible for knowing and being able to discuss how their evidence-based dyslexia program(s) addresses the following:

- ◆ The required components of dyslexia instruction;
- ◆ The required instructional delivery methods;
- ◆ How teaching the program with fidelity is defined (e.g., grouping formats, duration of program, required days and minutes for the instruction); and
- ◆ The PDI's training and skill level required for the program.

2. Why does an LEA have to consider an evidence-based dyslexia program for a student instead of initially developing its own SDI for a student with dyslexia?

An LEA's first consideration for every student who requires dyslexia instruction should be an evidence-based dyslexia program taught with fidelity and in accordance with all SBOE dyslexia program requirements. This is because the program has demonstrated evidence that students have made progress when provided the program with fidelity. The student's present levels of academic achievement and functional performance (PLAAFP) and the goals developed based on the PLAAFP will also target the student's specific reading goals as determined by the ARD committee. While a PDI is teaching the program, the PDI should always consider individual student needs while progressing through the program. As they track the student's progress on his or her IEP goals and through the program's progress monitoring checks, the PDI and cooperating special education teacher might determine that a student

requires additional services and supports, such as lowering the group size or utilizing a slower pace than what the program anticipates, while still maintaining the fidelity of the program. These types of determinations should be communicated to a parent/guardian, likely in the form of the required progress report, even when the additional services and supports do not affect the student's special education minutes or placement.

An ARD committee should only consider deviations from the program's fidelity requirements when data collection from progress monitoring, a student's PLAAFP, and other areas of the student's IEP clearly indicate the need for individualized modifications. **An ARD committee cannot create its own type of SDI when the evidence-based dyslexia program is adequate to meet a student's needs, with or without some additional supports, unless it can specifically identify how the modified plan will offer and monitor all required components of dyslexia instruction.**

3. How do you determine what is and what is not teaching with fidelity?

Modifications to the program's fidelity statements and expectations should be made only for the direct benefit of the student based on his or her individual needs and must not be made deliberately to circumvent the components of fidelity that do not directly benefit the student (e.g., expanding the recommended group size).

However, if there are accommodations made to a program's fidelity statements that do not circumvent the evidence-based results of the program, an LEA can still determine that the program is being taught with fidelity. For example, if a program's fidelity statement includes the provision of instruction for 45 minutes a day, 5 days a week but an LEA with a 4-day instructional week schedule provides the instruction for 1 hour a day, 4 days a week, the program could be considered as still being taught with fidelity as long as the scope and sequence of the program is not fundamentally altered.

4. How does an ARD committee discuss and document the use of an evidence-based dyslexia program in a student's IEP?

An ARD committee must address how the program addresses the required components of dyslexia instruction and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented with a focus on one or more components; how the program addresses the required instructional delivery methods and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented to meet the student's needs; the fidelity statements/requirements that are included with the program and how those will be delivered and/or intensified for the student; and confirm that the PDI is fully trained in the instructional materials to implement the program and how to differentiate the program, as determined by the ARD committee.

The evidence-based dyslexia program will be documented as a special education service that is received in a special education location. An ARD committee will document frequency and duration of services in accordance with the evidence-based dyslexia program requirements unless the ARD committee is adding to or extending the SDI that is required to meet the student's needs.

TEA notes that the Handbook does not specifically require that the program being utilized by the LEA for the student be written in the student's IEP. However, given the specific program considerations that an ARD committee is required to discuss, it may make sense to the ARD committee that the program be listed in the student's IEP. Where these discussions are documented in a student's IEP would be at the discretion of the ARD committee.

TEA is currently discussing with stakeholders whether a dyslexia "supplement," similar to the nomenclature and implementation of the "autism supplement" that ARD committees use to discuss and include in an IEP when a student is identified with autism, would be helpful to the field and to parents.

5. Can a campus delay the provision of SDI if, for example, they do not otherwise have a beginner dyslexia instruction group to put the child in?

No. Once an IEP is developed, the parent consents to initial placement and services, and an implementation date has been determined, the provision of SDI must begin that aligns with the student's IEP. While it is possible that the PDI may need some time to observe and collect progress monitoring data on the student to determine an appropriate group in which to place the child to align the program with the child's needs before beginning the actual program, the student's IEP must be implemented without delay to provide the necessary SDI described in the student's IEP.

6. Should students currently receiving dyslexia instruction under Section 504 be removed from this instruction?

LEAs cannot unilaterally decide to discontinue the provision of an evidence-based dyslexia program to a student who currently receives it through a Section 504 accommodation plan. Additionally, if a student is currently receiving only instructional accommodations and other general education aids and services under a Section 504 accommodation plan (i.e., is not being provided an evidence-based dyslexia program), an LEA cannot discontinue those protections and plan with the exception of the already required periodic Section 504 reviews to document a student's continued impairment and continued need for 504 protections.

Because [TEC §29.0031](#) has been in effect since the beginning of the 2023-2024 school year, Section 504 committees of students who are receiving dyslexia instruction through a Section 504 accommodation plan should have already been discussing the need for an FIIE if the student continues to require this instruction, and, if so, those referrals for an FIIE should have taken place. Remember that an LEA must refer the student for an FIIE if he/she requires the SDI. In these cases, the student should continue to receive instruction through an evidence-based dyslexia program while awaiting parental consent for the FIIE, its completion, and the subsequent eligibility determination. ARD committees must make eligibility determinations so that each eligible student could begin services under an IEP as soon as possible but no later than the beginning of the 2025-2026 school year.

Note that many of these students may have had a recent FIIE as part of the identification of dyslexia (a requirement since the 2021 update to the Handbook), and the ARD committee may have determined the student was not eligible to receive special education services. In these cases, an LEA must still operate as if a new initial evaluation is taking place, which means asking parents/guardians to provide informed consent for evaluation and adhering to [34 C.F.R §300.301](#) and [19 TAC §89.1011](#). However, during the review of existing evaluation data (REED), the MDT, which includes input and data from the student's parents/guardians, might determine that an updated student observation and collection of recent informal student data would be the only items necessary to include along with the recent evaluation report to determine eligibility and educational needs. If the parent/guardian of a student receiving this type of instruction under a Section 504 accommodation plan refuses to consent to an FIIE, the LEA has the option of using due process and/or mediation to seek consent to evaluate.

If an LEA receives a transfer student identified with dyslexia who was receiving an evidence-based dyslexia program through a Section 504 accommodation plan at the student's former LEA, the receiving LEA should take the necessary steps to accept and implement the Section 504 accommodation plan. The receiving LEA should provide the student the evidence-based dyslexia program while it initiates the process to refer the student for an FIIE.

7. If a student is not entitled to an evidence-based dyslexia program because a parent/guardian refused consent for an FIIE or the provision of special education and related services, what is the LEA's obligation to provide the student supports?

For those students who are having difficulty in the general classroom, all LEAs must consider tutorials, interventions, and other academic or behavioral support services available to all students, including a multi-tiered system of supports (MTSS). A parent's/guardian's refusal to consent to an FIIE does not

prohibit the student from receiving other support services from which they may benefit and that are available to all students. A student with a Section 504 accommodation plan would also be entitled to those support services. However, an evidence-based dyslexia program is considered SDI (i.e., a special education service not available to all students); therefore, the program will be provided to students whose parents/guardians consented to the provision of special education and related services. Note that a reading intervention program that addresses all of the required components and instructional methods of dyslexia instruction as listed in the Handbook would be considered an evidence-based dyslexia program. While a student determined to be at risk for dyslexia or other reading difficulties based on a dyslexia screener would likely receive temporary targeted interventions as part of the LEA's data-gathering process to determine whether the student is suspected of having dyslexia – which will likely overlap with some of the same components and instructional methods – it would be inappropriate to utilize a program that is designed to be used for dyslexia instruction through the LEA's MTSS. LEAs are reminded that they must comply with [TEC §26.0081](#) whenever a child begins to receive intervention strategies. One requirement is that LEAs must provide parents/guardians notification. Additionally, LEAs are reminded that they cannot deny a parent's/guardian's request or delay an LEA referral for a special education evaluation for their child based on a requirement that students receive interventions and supports for a specific amount of time.

8. Can a fully online program be used as long as it meets the components and methods?

Current research does not support the teaching of reading through an asynchronous, online program. While a synchronous program with live access to a trained PDI may be able to meet all required components and methods for dyslexia instruction and therefore be acceptable, an ARD committee will need to discuss if this meets a student's needs. Any program that does not provide access to a synchronous PDI could only be used for practice or reinforcement and must not be used as a substitute for, or an alternative to, following the program's fidelity requirements.

9. Is the IEP goal progress report enough to satisfy the dyslexia progress report?

Potentially. [TEC §29.0031\(d\)](#) requires that at least once each grading period, an LEA must provide a parent/guardian of a student who is receiving an evidence-based dyslexia program with information regarding the student's progress as a result of the student receiving that instruction. To the extent that the student's IEP goals – for which progress is already required by law to be reported each grading period – address the student's progress in the instruction, they could meet the same purpose. Note that any student receiving dyslexia instruction through a Section 504 accommodation plan until the end of the 2024-2025 school year would also require a progress report.

10. What are the requirements for a PDI?

Every PDI must be fully trained in the LEA's adopted instructional materials for students with dyslexia. Each LEA is responsible for ensuring compliance with this requirement. A PDI does not have to be a certified special education teacher unless the individual is employed in a special education position that requires that certification. LEAs will determine whether the position requires the certification.

The most highly trained and qualified individuals need to be the ones providing dyslexia instruction, including in an evidence-based dyslexia program. LEAs should strive to have the most highly trained and qualified individuals (e.g., CALTs, CALPs, LDTs) providing dyslexia instruction. It may divert from those efforts if LEAs use the approach of quickly training certified special educators to become PDIs as an alternative to these highly trained individuals. Similarly, requiring an LDT, CALP, or CALT to become a certified special educator may significantly reduce the applicant pool of well-qualified PDI candidates.

Because paraprofessionals must work under the supervision of teachers, a paraprofessional cannot be the person providing instruction to students in the evidence-based dyslexia program.

While literacy achievement academies are valuable resources for any teacher involved in the science of teaching reading, completion of this academy does not meet the requirements for a PDI to be considered fully trained in the LEA's instructional materials for dyslexia.

There are three relevant statutory sections in the TEC that reference training and/or education requirements for educators who teach students with dyslexia.

- ◆ [TEC §21.054\(b\) and \(c\)](#) reflect that continuing education requirements for educators who teach students with dyslexia must include training regarding new research and practices in educating students with dyslexia, which may be offered in an online course.
- ◆ [TEC §21.4552\(b-1\)](#) reflects that completion of a literacy achievement academy by an educator who teaches students with dyslexia satisfies the continuing education requirement described above under [TEC §21.054\(b\)](#) and a training requirement adopted by the SBOE pursuant to [TEC §38.003](#) related to the screening or treatment of a student for dyslexia and a related disorder.
- ◆ The third reference is [TEC §29.0032\(b\)](#), which states that completion of a literacy achievement academy under [TEC §21.4552](#) by an educator who participates in the evaluation or instruction of students with dyslexia and related disorders does not satisfy the requirements for the PDI to be considered fully trained in the LEA's instructional materials for students with dyslexia.

These statutes address different requirements. Firstly, [TEC §21.4552\(b-1\)](#) refers to the completion of a literacy achievement academy counting for continuing education for an educator's teaching certificate and/or a training requirement adopted by the SBOE related to the *screening or treatment* of a student for dyslexia or a related disorder. [19 TAC §74.28](#) defines "screening" as the administration of the universal screening instruments required in kindergarten and grade 1 and "treatment" as instructional accommodations under a Section 504 accommodation plan or instructional accommodations, modifications, and/or the provision of dyslexia instruction in accordance with a student's IEP. The SBOE requires, through text in the Handbook, that the individuals who administer the universal screeners be trained on the actual screener being used. Thus, while literacy achievement academies can fulfill training on the overall requirement to administer screeners, they do not count for the training that is required on the specific screener to be used. Additionally, there is no specific SBOE training requirement in relation to "treatment," as that word is defined in the rule. [TEC §29.0032\(b\)](#), however, requires that PDIs must be fully trained in the *district's adopted instructional materials for students with dyslexia*, which is not an SBOE training requirement related to the screening or treatment of a student for dyslexia or a related disorder. Furthermore, that same state law specifically states that a literacy achievement academy does not suffice for being trained in the district's adopted instructional materials for students with dyslexia. Thus, while a PDI could complete a literacy achievement academy for purposes of continuing education for their educator certificate, the PDI could not count the completion toward being trained for their specific role as a PDI.

11. What role does a PDI play in the development and implementation of an IEP?

The PDI will play a critical role in the development of a student's IEP. The PDI should be most familiar with the student's progress and present levels of reading performance through the provision of the evidence-based dyslexia program. If the PDI is not also the special education teacher who works with the student, the PDI and special education teacher need to collaborate on all areas of the student's IEP and progress monitoring. Note that a PDI who is not a certified special education teacher cannot fill the role of a special education teacher as a required ARD committee member, so both will likely be a part of the ARD committee. As a reminder, under [34 CFR §300.321\(a\)\(6\)](#), an LEA or parent/guardian can invite to an ARD committee meeting any person who has knowledge or special expertise regarding the child.

While TEA recognizes that staffing shortages exist across the state and respects LEA efforts to be strategic in hiring individuals to fulfill dual and specialized roles where possible, TEA cautions LEAs against an approach of using professionals like LDTs or CALTs outside of their expertise. While an LDT or CALT who is also a certified special educator might allow that professional to case manage and provide indirect supports to a student who is only receiving SDI because of the provision of an evidence-based dyslexia

program, best practice would indicate to not divide that individual's expertise and require other special education duties simply because the LDT or CALT is also a certified special educator. For example, if an LEA requires that its PDIs be both LDTs and certified special education teachers, that LDT would ideally not be assigned a role requiring the individual to teach content knowledge in math to another student receiving special education and related services simply because their teaching certification allows for it.

12. What role does the special education teacher play in the development and implementation of a student's IEP?

If the PDI is not a special education teacher, a certified special education teacher is required to be involved in the implementation of the student's IEP through the provision of direct, indirect, and/or support services to the student in the general education classroom and/or in collaboration with the student's general education classroom teacher and the PDI. The special education teacher in this scenario is likely to collaborate with the PDI and the rest of the ARD committee in the development of the student's PLAAFP and the development and implementation of the student's annual goals related to dyslexia. The special education teacher is also likely to collaborate with the student's other teachers to assist with the provision of accommodations or lesson planning. However, it is possible that a special education teacher could provide direct support in a general education setting in other content areas because of the student's identified dyslexia or other identified disabilities.

13. Once the student completes the "program," does that mean the student's SDI is complete?

A student's need for an evidence-based dyslexia program does not automatically end simply based on the student's progression through a program's full sequence of lessons. Even when a student completes the program's sequential lessons, the PDI and cooperating special education teacher should work to identify whether the student continues to exhibit a need for an evidence-based dyslexia program based on identified skill gaps or any required components that need to be targeted in order for the student to meet his or her IEP goals. Under no circumstances should an LEA contact a parent/guardian and state that the need for special education and related services has concluded based on the completion of a program; this is an ARD committee decision and must be made based on student data, not the completion of a program. LEAs also need to remember that a student with a disability cannot be dismissed from special education without a reevaluation, which includes a REED.

14. If a student no longer needs an evidence-based dyslexia program or other SDI, might that student eventually be exited from special education and placed on a Section 504 accommodation plan?

Under IDEA, it is possible for a student to no longer require special education and thus no longer qualify for an IEP. A school may only exit a student from special education after following all applicable procedures, including a reevaluation and a REED. When an ARD committee determines a student with dyslexia no longer requires an evidence-based dyslexia program or other SDI, it might determine that the student still would benefit from general education aids and services (e.g., instructional accommodations). In that case, if an evidence-based dyslexia program or other SDI for dyslexia or another SLD was the only special education and related services the student received, the ARD committee could determine that the student no longer meets prong 2 under IDEA (the student's need for SDI), exit the student from special education, and a Section 504 committee should determine eligibility and consider the student's need for a Section 504 accommodation plan as necessary.

15. How is dyslexia instruction impacted for EB students?

The provision of dyslexia instruction should be in accordance with the program model the student is currently receiving (e.g., dual language, transitional bilingual, ESL). Dyslexia instruction for EB students must also incorporate the English Language Proficiency Standards (ELPS). The ARD committee for an EB student must include a member of the LPAC and consider what language allows the student to adequately access dyslexia instruction and the student's current language of classroom instruction.

Chapter 5: Dysgraphia

1. Is a dysgraphia evaluation separate and apart from an SLD evaluation?

No. Dysgraphia **is** an SLD. The Handbook does list specific evaluation domains and questions that must be considered when determining the presence of dysgraphia. However, this does not mean it is a separate evaluation. The MDT will be completing a comprehensive evaluation for the presence of an SLD, which includes those domains and questions in the Handbook associated with dysgraphia. Dysgraphia identification is then based on the preponderance of evidence.

2. Are there tests that rule in or rule out dysgraphia?

No. There is no single instrument, score, or formula that will automatically rule in or rule out dysgraphia.

Additionally, it is important to note that standardized instruments are not always sensitive to skill variations in young children. Therefore, when a child in kindergarten or grade 1, for example, is being evaluated because he or she is not meeting basic standards of handwriting despite active participation in high-quality handwriting instruction, an MDT will need to engage in extensive data gathering and not rely on standardized instruments alone.

3. How do we categorize dysgraphia within the eight SLD areas listed in 34 CFR 300.309(a)(1)(i)-(vii) in an evaluation and an IEP?

Dysgraphia, as described in the Handbook, is a neurodevelopmental disorder characterized by illegible and/or inefficient handwriting due to difficulty with letter formation. It goes on to state the difficulty is the result of deficits in graphomotor function (hand movements used for writing) and/or storing and retrieving orthographic codes (letter forms).

TEA often gets questions in relation to how to document dysgraphia within the eight SLD areas listed in federal regulations and in [19 TAC §89.1040](#). Those areas are oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and mathematics problem solving. The question primarily comes up since the Handbook description of dysgraphia says that secondary consequences of dysgraphia *may* include problems with spelling and written expression.

For purposes of state data collection on student eligibility for special education and related services, only the category of SLD is reported. The area of SLD difficulty is not reported. However, most LEAs use IEP programs that document the area of SLD difficulty. To that end, as mentioned in the question about related disorders in the Chapter 1 section, there is nothing that would prohibit an MDT or an ARD committee from using the term dysgraphia as *the* SLD for which a student qualifies for special education and related services.

Therefore, dysgraphia could be added to the list of SLD areas for LEAs to indicate through their IEP programs as *the* SLD for which a student is eligible. To the extent that is not done, dysgraphia would fit within the area of written expression. Whereas written expression is generally referred to as the ability to communicate thoughts and ideas through writing, the area of written expression should also be viewed as including illegible and/or inefficient handwriting due to difficulty with letter formation, which is caused by deficits in graphomotor function (hand movements used for writing) and/or storing and retrieving orthographic codes (letter forms). In other words, the area of written expression for purposes of the area of SLD eligibility includes handwriting, writing fluency, and spelling.

However, just as it is important to list dyslexia in an evaluation report and any resulting IEP for purposes of instructional planning and identifying and documenting a student's needs, the same importance applies to the identification of dysgraphia.

4. When would it be appropriate for an occupational therapist to be a part of the MDT and/or ARD committee?

Because of the graphomotor component (hand movements used for writing) of dysgraphia, it would likely be appropriate for an occupational therapist to be a part of the MDT involved in the evaluation. The occupational therapist would be a part of the ARD committee if deficits in graphomotor function are identified to assist in determining whether a student qualifies for special education and related services and developing any resulting IEP.

5. How should an ARD committee determine the second prong of special education eligibility (i.e., the need for SDI) for a student with dysgraphia?

This will be an individualized determination, as it is for each ARD committee. However, it is important to remember when reviewing the student's evaluation report and the identification of dysgraphia based on the preponderance of evidence (from multiple measures, both formal and informal), that specific information should be included about how the disability affects access to and progress in the student's enrolled grade level curriculum. If the evaluation report and ARD committee ultimately determine that the content, methodology, or delivery of instruction of enrolled grade level curriculum must be adapted for that student (i.e., need for SDI) because of his or her unique needs due to the identification of dysgraphia, then the ARD committee would determine that the student is eligible for special education and related services. Section 504 addresses accommodations as opposed to SDI.

6. What type of SDI is appropriate for dysgraphia?

Dysgraphia may occur alone or with dyslexia or other disabilities. An ARD committee will need to determine whether a child with dysgraphia needs explicit, systematic instruction in handwriting only; handwriting and spelling; or handwriting, spelling, and written expression along with word reading and decoding. More information around the delivery of effective instruction for students with dysgraphia can be found in the Handbook on page 65.

Other Frequently Asked Questions About Dyslexia and Related Disorders

The remaining items reflect FAQs TEA receives about dyslexia-related issues.

1. How did the changes to 19 TAC §74.28 impact the requirements for the parent education program?

[19 TAC §74.28](#) formerly required a parent education program for parents/guardians of students with dyslexia and related disorders. The program included awareness and characteristics of dyslexia and related disorders; information on testing and diagnosis; information on effective teaching strategies; information on the qualifications of those delivering services; awareness of information on accommodations and modifications; information on eligibility, evaluation requests, and services available under IDEA and the Rehabilitation Act, §504, and information on the response to intervention process; and contact information for the relevant regional and/or LEA specialists.

The revised rule, effective June 30, 2024, states that an LEA must provide to parents of students enrolled in the LEA information on: the characteristics of dyslexia and related disorders; evaluation and identification of dyslexia and related disorders; effective instructional strategies for teaching students with dyslexia and related disorders; the qualifications of and contact information for PDIs at each campus or school; instructional accommodations and modifications; the steps in the special education process, as described in the [form](#) developed by TEA to comply with [TEC §29.0031\(a\)\(1\)](#); and how to request a copy and access the electronic version of the Handbook.

2. Are there certain definitions LEAs should consider when revising their procedures related to dyslexia screening, evaluation, identification, and instruction?

Yes. [19 TAC §74.28\(a\)](#), effective June 30, 2024, added definitions that will assist LEAs in aligning their local procedures. Those definitions relate to screening, testing, treatment, direct dyslexia instruction, and provider of dyslexia instruction.

3. What is the responsibility of the local school board of a school district or the governing board of an open enrollment charter school in their district or school complying with state and federal law and rule in relation to dyslexia screening, evaluation, identification, and instruction?

Both [TEC §38.003](#) and [19 TAC §74.28](#) require that the board of trustees of a district, or governing board of an open-enrollment charter school, provide for the treatment of any student determined to have dyslexia or a related disorder; and adopt and implement a policy requiring the district or school to comply with all rules and standards adopted by the SBOE to implement its program, including the Handbook and guidance published by the commissioner to assist with the district or school in implementing the SBOE program.

When a district or school's administration develops operating procedures related to dyslexia screening, evaluation, identification, and instruction, they must comply with and be in alignment with the Handbook. There is no direct statutory requirement for operating procedures around dyslexia; however, there are many decision points within law and the Handbook that a district or school's administration would want to make through the development and implementation of operating procedures. For example, the date or date range on which the district or school will conduct the first grade screener, given that the SBOE requires this be administered as close to the middle of the school year as possible but no later than January 31. Another topic covered in procedures might be who the district or school expects to serve on the screener data interpretation team for each student. It is very important, however, that locally developed operating procedures stay up to date with SBOE rules, the Handbook, commissioner rules, and other relevant state or federal requirements.

As part of its monitoring responsibilities, TEA can ask for artifacts to show that a district or school is complying with statute, including operating procedures. To meet the policy requirement, an LEA would show evidence of the actual board policy.

4. Are students who are receiving special education and related services but who are not identified specifically with dyslexia or dysgraphia (or another related disorder) prohibited from receiving SDI in reading, handwriting, spelling, or written expression?

No. An ARD committee will determine the SDI that is necessary for that student, regardless of the IDEA eligibility category with which the student is identified. This would include a student, for example, whose ARD committee determines that an evidence-based dyslexia program would be necessary to provide FAPE to a student who was receiving special education and related services but not identified specifically with dyslexia. However, an ARD committee cannot make these types of decisions in lieu of their Child Find responsibilities to identify students with any eligible disability or to avoid an evaluation, which is critical to the disability identification process and determination of necessary SDI.

5. Can PDIs be paid through federal or state special education funds?

Yes. PDIs will be providing instruction through the evidence-based dyslexia program that is considered a special education service documented in the IEP. Because the services are required to provide FAPE, special education funds may be used for those positions, even if the PDI is not certified in special education.

6. What can parents/guardians do if they feel their child’s LEA is not adhering to state or federal requirements in relation to dyslexia screening, evaluation, identification, or instruction?

If parents/guardians feel their child’s LEA is not adhering to state or federal requirements, they can ask the school about the dispute resolution options offered to parents. Every LEA is required to have a grievance policy and procedures for parents. There may be instances when parents/guardians wish to file [complaints](#) with TEA. TEA offers four formal options for resolving special education disagreements: state IEP facilitation, mediation services, the special education complaint resolution process, and the due process hearing program. More information about special education dispute resolution [options](#) is available on the TEA [website](#).

7. What data do LEAs report regarding dyslexia?

There are several data elements that are important to students identified with dyslexia.

[TEC §48.009](#) requires LEAs to indicate the number of students who are identified as having dyslexia. This dyslexia indicator code is reported two times per year. The first response for an LEA is to answer with yes or no as to whether a student is identified with dyslexia or a related disorder. If the response is yes, a secondary data element is collected as to whether the student is receiving special education services or is receiving accommodations under Section 504.

The second data element is what is referred to as the dyslexia services code. This code is directly linked to the dyslexia indicator code and also prompts the dyslexia allotment eligibility under [TEC §48.103](#). This data is submitted in the summer. For purposes of the dyslexia allotment, both the dyslexia indicator code and the dyslexia services code apply the same way to a student who is identified with dysgraphia.

The dyslexia risk code is associated with [TEC §38.003](#), which refers to whether or not the universal screening required in kindergarten and grade 1 indicated that the student was at risk for dyslexia. Because there are required timelines to complete the screeners, if an LEA submits a code that indicates that a screener was not administered to a child, a subsequent exception reason must be collected. The acceptable exception reason codes are things such as a student withdrew before the screener was scheduled to be administered, a parent refused the screener, or an ARD committee determined that the screening was inappropriate or unnecessary. If an LEA uses an exception code that is not allowed, it will constitute noncompliance with the legal requirement to screen students for dyslexia in kindergarten and grade 1.

8. What does TEC §38.003(b-1) mean when it says a student, “...may not be rescreened or retested for dyslexia for the purpose of reassessing the student’s need for accommodations until the district reevaluates the information obtained from the previous screening or testing of the student?”

Students receiving special education and related services already have a required re-evaluation process, which must occur every three years. The first step in any re-evaluation is a REED. Therefore, a REED would already require the review of previous student information, thereby complying with the intent of [TEC §38.003\(b-1\)](#). In situations where a student is identified with dyslexia and is being served under a Section 504 accommodation plan, a Section 504 committee would not be able to reassess the student’s need for those accommodations without reviewing the student’s previous information around screening and evaluation for dyslexia.

9. How have the program intent codes (PICs) changed because of current state law and the Handbook?

The [Financial Accountability System Resource Guide \(FASRG\)](#) has been updated as a result of recent changes to state law and SBOE rule around dyslexia. Because LEAs must expend 100% of their dyslexia allotment on dyslexia-related expenses, it is also important to code expenses to the appropriate program intent codes (PICs). The FASRG maintains the PIC of 37, which is used for dyslexia-related screening, evaluation, and identification. The FASRG also maintains the PIC of 43, which is used for dyslexia-related expenses associated with students who are identified with dyslexia or a related disorder and receive special education services. Moving forward, then, expenses associated with anything up to the actual dyslexia instruction that is provided could be coded to PIC 37, and once SDI is provided, those expenses are coded to PIC 43.

10. Can a parent/guardian request a dyslexia evaluation at any time? Can an LEA require participation in some interventions before evaluating?

A parent/guardian has the right to request a special education evaluation at any time for their child. While parents/guardians sometimes ask for a “dyslexia” evaluation, it is the LEA’s responsibility to explain that this means a comprehensive special education evaluation that adheres to IDEA requirements. The LEA cannot require a student to participate in interventions and support services for any specific length of time prior to a referral being made or a special education evaluation being conducted.

11. What happens if a parent/guardian presents the school with an outside evaluation that indicates dyslexia or a related disorder?

If a parent/guardian presents the school with an outside evaluation that indicates dyslexia or a related disorder, this may indicate the need for an evaluation. Multiple data sources must be considered, and the cumulative impact may rise to the level of suspecting a disability and need for special education services.

If the parent of a child receiving special education services obtains an IEE at the LEA’s expense or shares an evaluation obtained at private expense, the ARD committee must consider the results of that evaluation, if it meets the LEA’s criteria, when making decisions involving the provision of a FAPE to the child. The ARD committee must include an individual from the LEA who can interpret the instructional implications of evaluation results. While the ARD committee, including the parents, must consider the results of an IEE as explained above, the committee is not required by law to adopt the IEE provider’s recommendations or conclusions.

12. What if a parent/guardian disagrees with the school’s evaluation?

The parent/guardian has the right to obtain an independent educational evaluation (IEE) of their child if they disagree with the dyslexia evaluation of their child that was obtained by the school. When the parent asks for an IEE, the school must give the parent/guardian information about its evaluation criteria and where to get an IEE. A parent is not necessarily limited to the list provided by the LEA of where to get an IEE, but in order to obtain the evaluation at public expense, the evaluation and evaluator must meet the same criteria that the LEA uses to the extent the criteria is consistent with the parent’s right to an IEE. If the parent/guardian requests an IEE for their child at public expense, the school must, without unnecessary delay, either: (a) file a due process complaint to request a hearing to show that its evaluation of their child is appropriate; or (b) provide an IEE at public expense, unless the LEA demonstrates in a hearing that the IEE that the parent obtained did not meet the LEA’s criteria.

For an IEE to be paid at public expense, it must meet the same criteria that the LEA uses when evaluating for the same suspected disability, including the location of the evaluation and the qualifications of the examiner, to the extent those criteria are consistent with the parent’s right to an IEE. An evaluation must be administered by trained personnel and in conformance with instructions provided by the producer of evaluation materials. In the case of a suspicion of dyslexia, one of the qualified professionals required would be an LDT, a person with the most advanced dyslexia related certification as described in the Handbook, or a person with the required training that is listed in the Handbook.

LEAs should remember that an IEE paid at public expense cannot impose any criteria or requirements that creates a barrier for a family to obtain the information; this may include a practice of always having every family pay for an evaluation upfront with LEA reimbursement at a later date.

13. What if the LEA receives a request for a dyslexia evaluation from a private school student?

Because evaluating for dyslexia falls under an FIIE, LEAs must follow their required Child Find procedures in these instances. The LEA where the private school is located is responsible for conducting the FIIE. Note that if a parent requests the LEA of the student's residence to conduct an evaluation for purposes of making FAPE available to the student, that LEA must conduct an evaluation if it suspects that the child has a disability. Private schools in Texas include students who are homeschooled.

14. Are there restrictions as to when (such as outside the school day) an LEA can require the provision of SDI, such as the provision of an evidence-based dyslexia program, to a student.

The LEA is responsible for the provision of a free appropriate public education (FAPE) to a student. In the case of a student receiving an evidence-based dyslexia program – which typically requires a certain number of minutes per day or majority of days per week – it can be difficult to accommodate this instruction into a student's daily schedule. While an ARD committee, which includes the student's parent/guardian (or adult student), can make adjustments to accommodate the student's schedule while still developing an IEP that offers a FAPE, an LEA should not mandate the provision of special education and related services outside of school hours. An LEA also should not unilaterally decide that all students who need to receive instruction through an evidence-based dyslexia program must give up specials (e.g., music, art) or a chosen elective in order to receive that instruction. Again, whereas an ARD committee can come to agreement on certain scheduling decisions, an LEA must not place certain conditions on a student or student group that they would not impose on other students simply because of the identification of a disability and the need for special education and related services. If the evidence-based dyslexia instruction that is being considered is outside of school hours or as a replacement for a non-core class or elective, it needs to be an ARD committee decision and must not be a unilateral decision of the LEA. If the LEA and parent disagree regarding the evidence-based dyslexia program or SDI instruction time that is provided during non-core classes/electives or outside of the school day, this must be documented in the IEP, and the parent must be provided prior written notice of any resulting change in placement. LEAs are encouraged to schedule special education services first when developing the master schedule for any given school year. Providing a zero hour/advisory period/homeroom time during the school day may provide needed flexibility in a master schedule.

15. When should assistive technology (AT) be considered for a student with dyslexia or a related disorder?

Part of an ARD committee's responsibility is to determine if AT is necessary for a child in order to provide a FAPE. That means that each time an ARD committee develops, reviews, or revises a student's IEP, the committee must consider whether the child requires AT devices or services.

When initially evaluating a student for dyslexia or a related disorder, the MDT might determine that a formal AT evaluation (referred to as a functional evaluation) is an appropriate AT service for purposes of the FIIE. However, whether or not a functional AT evaluation is part of the FIIE, the MDT should consider in the evaluation report potential AT services or devices that may benefit the student should the ARD committee determine that the student is eligible for special education and related services. When an ARD committee determines that AT devices and services are needed, those would be a part of the special education and related services and supplementary aids and services that are written into an IEP.

The U.S. Department of Education issued [guidance](#) in January 2024 about the myths and facts of AT that is helpful to review.

16. How does dyslexia instruction affect a student's instructional arrangement code?

Because dyslexia instruction is a special education service provided in a special education setting (assuming the child is pulled out of their general education setting to attend the dyslexia instruction), it will impact the student's instructional arrangement (IA) code. The ARD committee will follow the processes in the Student Attendance Accounting Handbook to determine the student's IA code.

17. What is an LEA's responsibility to evaluate or re-evaluate if a student is seeking to enroll in college, and the college is requiring an updated evaluation?

The LEA is not responsible for evaluating or re-evaluating for purposes of college admission. If the college the student is seeking enrollment in meets the definition of an institution of higher education under [TEC §61.003](#), state law at [TEC §51.9701](#) prohibits the institution from reassessing a student determined to have dyslexia for the purposes of assessing the student's need for accommodations until the institution re-evaluates the information obtained from previous assessments of the student.

Students receiving special education and related services who are graduating or exiting due to age must receive a summary of performance (SOP) when they leave. An SOP includes information about the student's current academic achievement, current functional performance, and the student's postsecondary goals. When completing this, the ARD committee will determine if a student's evaluation is current, and, if it is, is not required to complete another evaluation. If a student is graduating having taken one or more courses with modified curriculum, however, an evaluation must be included as part of the SOP.

18. Does a student need to be in a certain grade level before he or she is evaluated for dyslexia?

No. Data related to reading achievement and progress of all students should be continuously monitored and reviewed. Data collection and analysis in young children is very often done by observation to determine if a student is demonstrating unexpected poor performance in reading and spelling despite high quality reading instruction.

19. Must each campus offer dyslexia instruction?

Because dyslexia instruction is SDI, placement and location of those services will be an ARD committee decision, made in accordance with federal requirements around least restrictive environment.

This FAQ is informational only and not intended as, nor should it be considered as, providing legal advice. For legal advice on specific implementation issues, please consult an attorney.