



Dyslexia Evaluation, Identification, and Instruction – House Bill (HB) 3928

[HB 3928](#) prompts changes to the [Dyslexia Handbook, 2021 Update](#), adopted by the State Board of Education (SBOE), and the Questions and Answers document related to the handbook that is housed as [Appendix A](#). While the SBOE goes through the rule making process to make the necessary changes to the Handbook, TEA is providing this document to assist in the implementation of HB 3928, as the law is currently in effect.

TEA has modified [Appendix A](#) to retain only questions and answers that are likely unaffected by future Handbook changes and the bill. Once the SBOE revises the Dyslexia Handbook, Appendix A will be revised to incorporate both the guidance provided in this FAQ and the changes made by the SBOE.

Disclaimer: TEA is issuing this FAQ and interim guidance expeditiously for the field and parents/guardians to know current requirements and recommended best practices as close to the beginning of the 2023-2024 school year as possible. Note, however, that these questions and answers are subject to modification and revision as the field, TEA, and parents/guardians learn more about the bill's impacts and the upcoming decisions of the SBOE.

Visit the [TEA Dyslexia and Related Disorders website](#) for additional information.

Definitions

It is important to provide certain definitions for terms used in this FAQ. Those are:

- **Child with a disability** - The Individuals with Disabilities Education Act (IDEA) defines a child with a disability as a child evaluated as having at least one of 13 disabilities, and by reason thereof, needs special education and related services. Therefore, in this document, the use of this term means both the presence of an eligible disability and the need for special education and related services. The need for special education and related services includes the need for instruction through the local educational agency's (LEA's) evidence-based dyslexia program based on the identified disability of dyslexia.
- **Dyslexia Handbook** – This is one component of how the SBOE complies with its statutory authority to adopt rules and standards for screening, testing, and serving students with dyslexia. Sometimes referred to as simply “the Handbook” throughout this FAQ, it is officially the 2021 update adopted by reference in SBOE rule at 19 Texas Administrative Code (TAC) §74.28. All LEAs are required to follow the Handbook.
- **Evidence-based dyslexia program** – This term refers to one or more evidence-based reading programs for dyslexia or curriculums purchased or developed by an LEA, as required by 19 TAC §74.28(e), that is/are aligned with all instructional methods and components for dyslexia instruction as described in the Dyslexia Handbook. Evidence-based dyslexia programs include instructional methods that are simultaneous and multisensory (visual, auditory, kinesthetic, and tactile); systematic and cumulative; explicit; diagnostic and taught to automaticity; synthetic; and analytic [pages 42-43 of the Dyslexia Handbook]. In addition, evidence-based dyslexia programs must address all of the required critical, evidence-based components of dyslexia instruction (phonological awareness, sound-symbol association, syllabication, orthography, morphology, syntax, reading comprehension, and reading fluency) [pages 40-42 of the Dyslexia Handbook].

Evidence-based dyslexia programs are considered specially designed instruction (SDI) (i.e., a special education service). An admission, review, and dismissal (ARD) committee will ensure, for a student with dyslexia eligible under IDEA, that the SDI contains all elements of an evidence-based dyslexia program as outlined in the Handbook. Accommodations (e.g., additional practice, smaller groups or individual instruction, longer time to progress) may be listed in the student's individualized education program (IEP) and provided based on student need. An ARD committee should only consider deviations from the program if clearly indicated by data collection, a student's present levels of academic achievement and functional performance (PLAAFP), and other areas of the student's IEP. For instance, a student who has dyslexia and a sensory impairment (e.g., blind or visually impaired, deaf or hard of hearing, deafblind) may need modifications to access the program.

The term "evidence-based dyslexia program" can be interpreted as being synonymous with "standard protocol dyslexia instruction," as that term is used in the Dyslexia Handbook, 2021 update.

- **Local educational agency (LEA)** – This term applies to both school districts and open enrollment charter schools. Where questions and answers in this document do not pertain to open enrollment charter schools, the item will specifically refer to school districts.
- **Parent** – This term generally means a child's biological or adoptive parent but may also include another person who is included in the definition of the term "parent" under IDEA at 34 C.F.R. §300.30.
- **Provider of dyslexia instruction (PDI)** – This person must be fully trained in the LEA's adopted instructional materials for students with dyslexia, as required by Texas Education Code (TEC) §29.0032 (added by HB 3928). This means that a PDI must be fully trained in the LEA's evidence-based dyslexia program and able to use individualized, intensive, multisensory, phonetic methods, and a variety of writing and spelling components described in the Dyslexia Handbook [19 TAC §74.28(e)]. While there is no required certification or license required for a PDI, LEAs are encouraged to seek out individuals who have specific licenses and certifications that focus on dyslexia identification and instruction, such as licensed dyslexia therapists (LDTs), licensed dyslexia practitioners (LDPs), certified academic language therapists (CALTs), certified academic language practitioners (CALPs), and those with structured literacy certifications. A PDI does not have to be a certified special education teacher, unless the LEA employs the PDI in a position that requires the certification. 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.
- **Specially designed instruction (SDI)** – As an element of the term special education, IDEA defines SDI as adapting, as appropriate to the needs of an eligible child with a disability, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability and to ensure access of the child to the general curriculum. [34 C.F.R. 300.39(b)(3)] In addition to the identification of a disability, the need for SDI is an area that an ARD committee considers when determining initial and continued eligibility for special education and related services.
- **Standard protocol dyslexia instruction (SPDI)** – This term, as used in the Dyslexia Handbook, 2021 Update, is defined on pages 39 and 40 of the Handbook as evidence-based, multisensory structured literacy instruction for students with dyslexia. An SPDI program must be explicit, systematic, and intentional in its approach. This term should be interpreted as being synonymous with "evidence-based dyslexia program."

Effective Dates of HB 3928

HB 3928 became effective on June 10, 2023, when Governor Abbott signed the legislation. The bill applies beginning with the 2023-2024 school year. This means that LEAs began implementing the bill on the first day of instruction of their 2023-2024 school year. There are two provisions in HB 3928 that require actions and decisions of the SBOE. One relates to a requirement that the SBOE's Dyslexia Handbook no longer provide a distinction between SPDI and other types of direct dyslexia instruction, including SDI. The SBOE has until June 30, 2024, to update the Handbook. The SBOE must also determine training requirements and credentials for a person with specific knowledge in the reading process, dyslexia and related disorders, and dyslexia instruction to serve on an LEA's multidisciplinary team (MDT) who completes evaluations and an ARD committee when determining a student's eligibility for special education and related services. The SBOE will likely incorporate its determination of training requirements into the next edition of the Handbook.

Child Find and the Initial Evaluation Process

Updated
11/15/23

1. How does HB 3928 impact an LEA's Child Find process?

Distribution of a [form](#) on rights under IDEA that may be additional to those under Section 504 of the Rehabilitation Act of 1973. If a student is suspected of having dyslexia and may be a child with a disability, including when data supports a suspicion after the reading diagnostic assessments under TEC §28.006 or screening under TEC §38.003, LEAs must distribute to parents a form, developed by TEA, explaining the rights under IDEA that may be additional to those under Section 504. The Notice of Procedural Safeguards (NPS) meets the federally required notice of IDEA rights and is part of the process of seeking informed parental consent for evaluation, but the state requirement resulting from this bill is a specific form summarizing the rights that might be additional to those offered under Section 504. The Overview of Special Education for Parents form is available in English and in [multiple languages](#).

Based on feedback from the field, the form was revised and reposted on August 24, 2023. The following adjustments have been made to the form:

- Moved the statement acknowledging receipt of the document with the parent's signature to a separate page to avoid having to photocopy the last page to give back to a parent. This change will assist the LEA in retaining the parent's acknowledgement that they received the document without risking the parent losing any content described on the form.
- Added a space to input the student's name and student ID number.

TEA does not expect LEAs to take any retroactive action if they have already distributed the form between August 16 and August 24, the date on which the form was adjusted.

In regard to the form, LEA responsibilities include the following when an initial special education evaluation has been requested by a parent, or the LEA has referred the student for an initial evaluation:

- When dyslexia is suspected, the LEA must distribute the form when the LEA issues to parents the prior written notice 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 prior written notice 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.

Updated
11/15/23

2. What are the changes to the evaluation and identification process?

Required Multidisciplinary Team (MDT) Member. The bill created a new TEC §29.0031 that now specifies that someone with specific knowledge of the reading process, dyslexia and related disorders, and dyslexia instruction must serve on the LEA's MDT when dyslexia is the suspected disability. This is a team of qualified professionals who conduct the evaluation for a student. [See **Required Member of the Multidisciplinary Team and the ARD Committee** for more specific information about requirements for this person's qualifications and participation in the evaluation and ARD committee meeting.]

Dyslexia is a specific learning disability (SLD). The bill created TEC §29.0031 that now 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 C.F.R. §300.8(c)(10), which specifically lists dyslexia as an example of an SLD. TEA provides the following guidance associated with an evaluation for dyslexia:

- The condition of dyslexia, if identified, must be documented and used in a student's evaluation and any resulting IEP. However, for purposes of the Public Education Information Management System (PEIMS), 34 C.F.R. §300.311 requires specific documentation of a child's eligibility determination as a child with an SLD. Thus, for the purpose of data reporting, an LEA would indicate the eligibility category for a student identified with dyslexia as SLD. As a result of the bill, TEA anticipates that each software vendor that contracts with LEAs for IEP development and implementation will add dyslexia to the list of SLD areas. In other words, dyslexia would be added to the existing list of SLD areas (e.g., basic reading skill, math calculations, reading fluency, written expression) so that ARD committees can simply select "dyslexia" to indicate the type of SLD identified. Whereas the current Handbook states that dyslexia is an example of an SLD in basic reading and/or reading fluency, the impact of HB 3928 is that dyslexia can instead be listed on its own as the area of SLD identified. [OSERS's October 23, 2015 Dear Colleague letter on](#) dyslexia clarifies that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluations, eligibility determinations, or IEP documents.
- There are specific evaluation domains and questions outlined in the Handbook that must be used when determining the presence of dyslexia. **There is no single instrument, score, or formula that will automatically rule in or rule out dyslexia. 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.** Dyslexia identification is based on the preponderance of evidence. The ARD committee must interpret evaluation test results in light of the 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 consider discreet skills (vs. composite scores), when drawing conclusions. 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. If the ARD committee determines that the student exhibits weaknesses in reading and spelling, the committee will then examine 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. It is not one single indicator but a preponderance of data (both informal and formal) that provides the committee 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?

Required Member of the Multidisciplinary Team and the ARD Committee

3. Who can serve as the required MDT and ARD committee member when dyslexia is suspected and special education eligibility is determined?

Requirements for Member With Dyslexia and Reading Knowledge. When dyslexia is suspected, a person with specific knowledge in the reading process, dyslexia and related disorders, and dyslexia instruction must serve on the LEA's MDT and any ARD committee that is convened to determine eligibility for special education and related services. The bill created new TEC §29.0031, which lists three means to satisfy this membership requirement:

- Be an LDT;
- Be an individual who holds 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, either the rules or Handbook adopted by the SBOE; or
- If neither of the first two is available, be an individual who meets applicable training requirements adopted by the SBOE.

Because the SBOE must decide on certain qualifications and training requirements, each LEA should analyze the current credentials and qualifications of existing staff and determine who is most appropriately trained to meet the specific knowledge required by the bill. TEA anticipates the SBOE will address not only the recognized associations and the training requirements, but also the interpretation of availability/unavailability and whether someone could serve dual roles on an MDT and in an ARD committee meeting.

Updated
11/15/23

4. How should this member document their participation in a student's evaluation and any resulting IEP?

The bill created a new TEC §29.0031 that now 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 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 of this required member. In this case, it might be appropriate to document the member's role as the member required by TEC §29.0031(b).

5. Is this member required for every ARD committee meeting?

No. The bill states that this 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. While the student's PDI does not necessarily have to meet the criteria listed for this required member, the PDI will also have knowledge of the reading process, dyslexia and related disorders, and dyslexia instruction since the PDI is required to be fully trained in the LEA's adopted instructional materials for students with dyslexia. [See **Providers of Dyslexia Instruction (PDIs)**, below]

Determining Eligibility for Special Education and Related Services

Updated
11/15/23

6. Is an evidence-based dyslexia program (also known as SPDI) considered SDI, i.e., a special education service?

Yes, an evidence-based dyslexia program is a special education service. The bill amends TEC §7.102(c)(28) regarding the SBOE authority on dyslexia services and gives the SBOE until June 30, 2024, to complete the rulemaking process required to update the Handbook to no longer provide a distinction between standard protocol dyslexia instruction and other types of dyslexia instruction. Therefore, in order to provide clear guidance on how to implement the bill while the field waits for the Handbook changes, this document explains how LEAs should comply with the requirement not to have such distinctions in dyslexia instruction. An evidence-based dyslexia program, then, is SDI that is required for students who need it. The term evidence-based dyslexia program includes SPDI that is used in the current Handbook. Both terms refer to the programs purchased or developed by each LEA, as required by SBOE rule, and should be considered for each student identified with dyslexia.

To establish a student's eligibility under IDEA, an ARD committee must address two qualifying factors, commonly referred to as prong 1 and prong 2. For purposes of this bill that addresses *dyslexia* specifically, first, to determine whether a student has a qualifying disability under prong 1, an ARD committee reviews evaluation reports and other appropriate information to determine whether a student has dyslexia. Second, if prong 1 is established, the ARD committee next determines prong 2, whether the student needs special education and related services. For a student with dyslexia, the prong 2 decision should include whether a student needs an evidence-based dyslexia program or any other SDI to make progress. Therefore, if a student has been identified as a student with dyslexia and has been determined to need an evidence-based dyslexia program or other SDI, then the student qualifies for special education and related services under IDEA as a student with an SLD for dyslexia. To reiterate, any student needing the evidence-based dyslexia program containing all elements in the Handbook (or what is currently considered to be SPDI), should now be treated as reaching eligibility for prong 2.

For a student with a disability who is in need of special education, the ARD committee determines the SDI that meets the unique needs of the student. Note that an ARD committee is NOT prohibited from determining that an evidence-based dyslexia program is an appropriate special education service for any IDEA-eligible student with a disability who may not be formally identified with dyslexia. A student with a disability has access to the SDI needed in order for that student to make progress on his or her IEP. If a student needs instruction through an evidence-based dyslexia program, the ARD committee would document in the PLAAFP the student's needs in the area of reading with baseline data, an annual goal for that area of reading, and evidence of progress is documented when goals are monitored.

Updated
11/15/23

7. What about students who currently receive evidence-based dyslexia programs through an accommodation plan under Section 504?

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 plan. Additionally, if a student is currently receiving only instructional

accommodations and other regular 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. As the field begins to transition to the change that a student's identification of dyslexia and need for an evidence-based dyslexia program will be considered SDI and qualifies the student as eligible for special education and related services, action will be required for those students whose LEAs currently offer the evidence-based dyslexia program through Section 504. **Section 504 committees must begin the process of discussing a student's continued need for an evidence-based dyslexia program and submitting referrals for full individual and initial evaluations (FIEs).** Absent any directives prescribed by the SBOE through its upcoming rule and Handbook revisions, **TEA anticipates that each LEA should hold a Section 504 meeting as soon as possible but no later than by the end of the 2024-2025 school year to determine whether the student continues to require an evidence-based dyslexia program. If so, the LEA must refer the student for an FIE.** In these cases, the student should continue to receive instruction through an evidence-based dyslexia program while awaiting parental consent for the FIE, its completion, and the subsequent eligibility determination. LEAs should prepare for eligibility determinations to be made 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 recently had an FIE 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 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) process, the MDT, which includes input and data from the student's parents, 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 in order to determine eligibility and educational needs. If the parent of a student receiving this type of instruction under a Section 504 accommodation plan refuses to consent to an FIE, 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 FIE.

Absent any directives prescribed by the SBOE through its upcoming rule and Handbook revisions, TEA expects that a student will no longer be eligible to receive instruction in an evidence-based dyslexia program through a Section 504 accommodation plan if a parent refuses to consent to an FIE. As LEAs begin this transition, they are encouraged to prioritize referrals for FIEs during this timeframe to those students who are currently receiving this type of instruction through a 504 plan because the LEA initially declined to evaluate under IDEA, as well as to those students who are not progressing appropriately through their evidence-based dyslexia program. A parent may request an evaluation at any time.

Updated
11/15/23

8. What if a parent does not give consent for either an FIE when dyslexia is suspected or for the provision of special education and related services when dyslexia is identified?

Beginning with the 2023-2024 school year, which is the school year in which HB 3928 first applies, a student will not be entitled to receive an evidence-based dyslexia program if a parent refuses to consent to the provision of special education and related services following an FIE or after an ARD committee has determined that the student is eligible for special education based on the identification of dyslexia and a need for an evidence-based dyslexia program. Under IDEA at 34 C.F.R. §300.300(b), a parent of a child with a disability is entitled to decline the provision of special education and related services.

Because 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 refusal to consent to an evidence-based dyslexia

program through IDEA means that the parent is refusing the child’s special education and related services. Therefore, a parent 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 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 and student protections under the law.

Updated
11/15/23

9. If a student is not entitled to an evidence-based dyslexia program because a parent refused consent for an FIE 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 regular 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 refusal to consent to an FIE 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, with the passage of HB 3928, implementation of the LEA’s purchased or developed evidence-based dyslexia program is now considered SDI (i.e., a special education service not available to all students); therefore, the program will be provided to a student whose parent consents 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 of the requirements is that LEAs must provide parents notification. Additionally, LEAs are reminded that they cannot deny a parent’s request for a special education evaluation for their child based on a requirement that students receive interventions and supports for specific amount of time.

Updated
11/15/23

10. If a student no longer needs an evidence-based dyslexia program, might that student eventually be exited from special education and placed on a Section 504 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. When an ARD committee determines a student with dyslexia no longer requires an evidence-based dyslexia program, it might determine that the student still would benefit from regular education aids and services (e.g., instructional accommodations). In that case, if an evidence-based dyslexia program 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 plan as necessary.

Determining and Documenting Special Education and Related Services in the IEP

Updated
11/15/23

11. Once a student is determined eligible for special education and related services based on identification of dyslexia and a need for an evidence-based dyslexia program, how does an ARD committee determine and document the program in the IEP?

Every eligible student with dyslexia needs to be considered for the LEA's evidence-based dyslexia program. Each LEA's program is already required to address every component of dyslexia instruction and each instructional delivery method required in the Handbook. Accordingly, every ARD committee should be able to communicate and discuss how the program 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, how often and for how long a student receives the program); and
- The PDI's training and skill level required for the program.

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. The student's 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, 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, 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.

Note that alterations from 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 or shortening the number of days/minutes per week for the instruction because of staff or scheduling capacity).

A student's need for an evidence-based dyslexia program might not end simply based on the student's progression through the program's 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.

12. How does an ARD committee document the evidence-based dyslexia program on the schedule of services of an IEP, and how does the program impact instructional arrangement (IA) coding for purposes of state funding?

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. Note that 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 in 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 in 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.

The following chart reflects common situations on how an evidence-based dyslexia program could impact the schedule of services and a student’s IA:

Arrangement A	
Role of PDI and Special Education Teacher	
The evidence-based dyslexia program is taught by a trained PDI who is not a certified special education teacher, and the student is provided indirect special education teacher supports.	
Impact on Schedule of Services	
The evidence-based dyslexia program is documented in the IEP as a special education service required for the provision of a free appropriate public education (FAPE). A certified special education teacher provides indirect or support/consultative services. The IEP includes measurable annual goals, progress monitoring, and any appropriate accommodations. The student receives no other special education and related services.	
Impact on IA	
Where the student receives the evidence-based dyslexia program is considered a special education location. The ARD committee will determine the indirect or support/consultative services that are necessary for the student and document those accordingly. If the required frequency of the program and indirect supports result in less than 21 percent of the student’s instructional day in a special education setting, the IA code will be PEIMS code 41.	
Arrangement B	
Role of PDI and Special Education Teacher	
The evidence-based dyslexia program is taught by a trained PDI who is not a certified special education teacher, and the student is provided direct special education teacher supports and/or related services.	
Impact on Schedule of Services	
The evidence-based dyslexia program is documented in the IEP as a special education service required for the provision of FAPE. A certified special education teacher provides direct supports to the student in one or more content areas, and/or the student receives related services.	
Impact on IA	
Where a student receives the evidence-based dyslexia program is considered a special education location for purposes of the student’s IA. The ARD committee will determine the necessary direct supports and related services and document those accordingly. The IA code will be determined based on the percentage of the student’s instructional day the student receives special education and related services in a setting other than general education. [Calculate IA per the Student Attendance Accounting Handbook (SAAH)].	
Arrangement C	
Role of PDI and Special Education Teacher	
The evidence-based dyslexia program is taught by a trained PDI who is a certified special education teacher (the certification is required by the LEA), and the student receives no other special education and related services.	
Impact on Schedule of Services	
The evidence-based dyslexia program is documented in the IEP as a special education service required for the provision of FAPE.	

Impact on IA

Where a student receives the evidence-based dyslexia program is considered a special education location for purposes of the student's IA. If the required frequency the program results in less than 21 percent of the student's instructional day in a special education setting, the PEIMS code would be 41.

Arrangement D

Role of PDI and Special Education Teacher

The evidence-based dyslexia program is taught by a trained PDI who is a certified special education teacher (the certification is required by the LEA), and the student receives other special education and related services.

Impact on Schedule of Services

The evidence-based dyslexia program is documented in the IEP as a special education service required for the provision of FAPE. A certified special education teacher provides direct or indirect supports to the student in additional content areas, and/or the student receives related services.

Impact on IA

Where a student receives the evidence-based dyslexia program is considered a special education location for purposes of the student's IA. The ARD committee will determine the necessary direct or indirect supports and related services and document those accordingly. IA code will be determined based on the percentage of the student's instructional day the student receives special education and related services in a setting other than general education. [Calculate IA per the [Student Attendance Accounting Handbook](#) (SAAH)].

New
11/15/23

13. 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 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 each 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 (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 of 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.

New
11/15/23

14. If a student was receiving an evidence-based dyslexia program through special education and was coded as a 40 (mainstream instructional arrangement) last year, does an ARD committee meeting need to be held immediately to reflect a change in IA coding?

The IA submitted through PEIMS for a student impacts the state special education allotment generated for that student. The coding itself is not a specific part of a student's IEP since it is related to state funding rather than a student's programming. However, the IA coding is impacted by a student's schedule of services because time spent outside the general education classroom is considered in the calculation of the appropriate IA code. The LEA must first determine if

the change in this circumstance is a change in location or a change in placement. To the extent that the LEA determines that it is a change in location and not a change in placement, an IEP amendment by agreement may be an option.

Impacts on PEIMS Coding and Program Intent Codes (PICs)

15. How does HB 3928 impact the collection of PEIMS data associated with the identification of students with dyslexia under TEC §48.009?

The bill should not significantly impact the data collection associated with TEC §48.009. An LEA will still be expected to note a “0” if the student is not identified with dyslexia and a “1” if a student is identified with dyslexia. If “1” is used, the LEA will still be expected to note whether the student participates in a special education program under TEC Chapter 29 or receives services under Section 504. Over time, TEA anticipates that these numbers will show a shift of students with dyslexia being served under special education.

16. How will HB 3928 impact the coding associated with an LEA’s uses of the dyslexia allotment under TEC 48.103?

TEA is currently working on current and future impacts of the uses of PICs 37 and 43 for purposes of coding uses of the dyslexia allotment. Those plans and directives will be communicated at a later date. However, if an LEA has historically coded salaries and stipends for PDIs under PIC 37, the LEA may see a significant shift over to PIC 43 because the students served by PDIs will become almost exclusively students served by special education. **As LEAs identify students with dyslexia and the need for an evidence-based dyslexia program, which will be provided under special education, the shift to the use of PIC 43 is likely.** As mentioned, more guidance will be provided soon.

Providers of Dyslexia Instruction (PDIs)

Updated
11/15/23

17. What are the requirements for PDIs?

Every PDI must be fully trained in the LEA’s adopted instructional materials for students with dyslexia. The bill created a new TEC §29.0032 that now imposes PDI training requirements. 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.

Updated
11/15/23**18. What role does the PDI play in the development of a student's IEP and progress monitoring of goals, especially if the PDI is not a certified special education teacher?**

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 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 C.F.R. §300.321(a)(6), an LEA or parent can invite to an ARD committee meeting any person who has knowledge of 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 in instructing students with dyslexia or related disorders. 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.

19. Can PDIs who are not certified special education teachers 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.**

Progress Reporting

20. Is the required progress reporting only for students with IEPs?

No. The bill created a new section TEC §29.0031 that now imposes progress reporting specific to students receiving dyslexia instruction. During the anticipated timeframe at which students transition to receiving dyslexia instruction only under an IEP, any student that is provided an evidence-based reading program under a Section 504 accommodation plan 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 this piece of the bill.

Required Board Policy

21. What is the purpose of the required board policy stated in the bill?

The bill amended TEC §38.003(b) to **require that the board of trustees of each school district and the governing board of each open enrollment charter school adopt and implement a policy requiring the district or school to comply with all rules and standards adopted by the SBOE to implement the dyslexia program, including the Handbook and guidance published by the commissioner.** While a district or school was already required to comply with these

requirements prior to the enactment of this law, the explicit local policy requirement may assist in boards staying directly involved in the LEA's implementation of the dyslexia program requirements.

Impact on Dyslexia Monitoring

22. Will the TEA monitoring processes change as a result of this bill?

Yes. As has been the case for several years, the agency has monitoring authority to assess for compliance with IDEA and authority under TEC §38.003(c-1) to develop procedures designed to ensure LEAs are complying with the SBOE's dyslexia program (i.e., compliance with the Handbook and corresponding rules). This bill adds that the agency must now develop procedures to solicit input from parents of students enrolled in an LEA during the agency's monitoring of an LEA's implementation of the SBOE's dyslexia program.

The agency will develop a plan over the next several months to propose, adopt, and implement changes to the dyslexia monitoring process as required by this bill. **For the 2023-2024 school year, each LEA that is monitored will need to be prepared to respond to questions associated with how they have adapted practices to comply with HB 3928.**

Impact on Related Disorders

Updated
11/15/23

23. Will the bill have the same impact on dysgraphia, which is the related disorder recognized by the state when referring to dyslexia and related disorders?

The bill primarily addresses dyslexia. However, **it is reasonable to interpret most or all of the bill's requirements as applying to suspicions of, evaluation for, and instruction for dysgraphia, as it is an SLD.** Dysgraphia and dyslexia are both language-based disorders, and dysgraphia is unique from the general description of the SLD area of written expression in that it can involve both motor and language skills. While the required MDT and ARD committee member for a student suspected or identified with dyslexia is mandated as described in HB 3928, a suspicion of dysgraphia and a corresponding suspicion of the need for SDI will also require knowledgeable members on the MDT and ARD committee as a required component of the Child Find and evaluation process. These members would likely include occupational therapists and diagnosticians or other appropriate personnel who have the expertise to address all required areas of evaluation for dysgraphia that are identified in the Handbook.

Bill Requirement Not Exclusive to Dyslexia (Disciplinary Placements)

24. Why do school districts have to provide information on how to request FIEs when students are assigned to disciplinary alternative education placements (DAEPs) or when returning from DAEPs?

Students who experience exclusionary discipline may have unidentified disabilities that impact their learning. Accordingly, the bill amended TEC §37.006 and §37.023 to require **that each school district provide information to a student's parent regarding the process for requesting an FIE when the student is placed in a DAEP and as part of the student's personalized transition plan when returning to campus from a DAEP.** TEA suggests that school districts use language from the required [student handbook statements](#) regarding students who are experiencing learning difficulties when providing this information. Since the requirement refers specifically to initial evaluations, the requirement would not apply to students who are already served by special education. Also note, that as defined at LEA above, this answer specifically references school districts as these statutory sections do not apply to open enrollment charter schools.