

EDGEWOOD

INDEPENDENT SCHOOL DISTRICT

Committed to Excellence



Edgewood ISD

District Dyslexia Plan

Revised August 2020

EDGEWOOD TEXAS INDEPENDENT SCHOOL DISTRICT
DYSLEXIA COMPLIANCE MONITORING INDICATORS:
LOCAL BOARD OF TRUSTEES

DYS-1: Implementation of Board Procedures

The board of trustees of a school district must ensure that procedures for identifying a student with dyslexia or a related disorder and procedures for providing appropriate instructional services to the student are implemented in the district. [19 TAC §74.28(a)].

The district has a written plan outlining procedures and timelines for recommending for assessment, assessing students suspected of having dyslexia, identifying students with dyslexia, and implementing services including instruction for students with dyslexia or related disorders.

DYS-2: Early Identification, Intervention, and Support

A program for early identification, intervention, and support for students at risk for dyslexia or other reading difficulties is available in the district. (TEC §28.006).

Documents Reviewed

Evidence that the school district has procedures for identifying students who are at risk for dyslexia or other reading difficulties and administers the early reading instruments in Grades K – 2:

- TPRI (Texas Primary Reading Inventory) or MAP
- Results of the Grades K – 2 early reading instruments.

Evidence that the district has procedures for identifying the reading instructional needs of the students who are at risk for dyslexia and other reading difficulties and provides accelerated (intensive) reading instruction for students in Grades K – 2 who are determined to be at risk for reading difficulties:

- List of students with their instructional needs who did not perform at a typical level based on reading instrument(s) and other measures deemed appropriate by the school or district
- Roster of students receiving accelerated (intensive) instruction based on results of Grades K – 2 screening.

Evidence that the district has procedures for notifying parents and district administrators of students who are determined, on the basis of the reading instrument results, to be at risk for dyslexia or other reading difficulties:

- Documentation of parent notification (e.g., letter, phone, conference)
- Description of instruction for students with instructional needs based on the Grades K – 2 screening.

DYS-3: Parent Notification of Assessment

Before an identification or assessment procedure is used selectively with an individual student, the school district must notify the student's parent or guardian or another person standing in parental relation to the student. [19 TAC §74.28(d) and *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, Revised 2018)].

Documents Reviewed

Evidence that folders of students recommended for assessment for dyslexia contain a parent permission/denial letter signed by parent, guardian, or another person in parental relation to the student:

- Parent letter granting permission or denial for the assessment
- Student's permanent record folder or dyslexia folder

DYS-4: District Procedures Align with State Board of Education Approved Procedures A school district's procedures are implemented according to the SBOE approved procedures for (a) recommending a student for assessment for dyslexia, (b) assessing a student for dyslexia, and (c) identifying and determining services for students having dyslexia and related disorders. Evaluation procedures require multiple sources of data. Evaluation is conducted by individuals/professionals who are trained to assess students for dyslexia and related disorders. [*The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, Revised 2018)].

Documents Reviewed

Evidence of alignment between district guidelines and implementation of procedures for the (a) recommendation for assessment, (b) assessment, (c) identification, and (d) determination of instruction and services for students having dyslexia or related disorders with SBOE-approved procedures:

- Files of students referred for evaluation for dyslexia and related disorders
- Lists of students identified with dyslexia and related disorders and the services determined for each identified student
- Documentation of the decisions for each student made by the committee of knowledgeable persons concerning dyslexia.

Evidence of multiple sources of valid data for the assessment and identification of dyslexia:

- Documentation of multiple sources of data.

Evidence that staff are trained in how to determine if a student needs to be recommended for assessment for dyslexia and how to support students identified with dyslexia:

- Training of person, who assesses the student, meets the state guidelines
- District plan for staff development in recommending students for assessment for dyslexia and supporting students identified with dyslexia.

DYS-5: Parents Informed Regarding Section 504 Services and Options

Parents/guardians of students eligible under Section 504 of the Rehabilitation Act of 1973, as amended, are informed of all services and options available to the student under that federal statute. [19 TAC §74.28(e)].

Documents Reviewed

Evidence that parents/guardians were informed of services and options available to students under Section 504:].

- Documentation of parent notification of services and options under Section 504 (e.g., letter, pamphlet, handbook, parent conference)
- Teacher/parent interviews/discussion.

Evidence that funds are allocated to campuses based on greatest need:

- Interviews with district and campus administrators.

DYS-6: Reading Program for Students with Dyslexia

The school district has a reading program for students with dyslexia and related disorders that is characterized by the descriptors found in *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, Revised 2018). Teachers who teach these students are trained in instructional strategies that use individualized, intensive, multisensory, and phonetic methods to teach reading. The instructional program includes writing and spelling components. [19 TAC §74.28 (c)].

Documents Reviewed

Evidence that reading program(s) contains individualized, multisensory, and phonetic methods to teach reading and contains writing and spelling components:

- Reading program(s) used by the district and/or or campus.

Evidence that teachers have received training in individualized, intensive, multisensory, and phonetic methods to teach reading, writing, and spelling:

- Professional development record of the teacher(s) of the dyslexia program. (These indicators were extracted from the State Monitoring Guide created by Region XIII in July 2008 to assist local boards of trustees with the task of monitoring all state programs except Special Education.)

EDGEWOOD TEXAS INDEPENDENT SCHOOL DISTRICT

SOURCES OF LAWS AND RULES FOR DYSLEXIA IDENTIFICATION AND INSTRUCTION

Texas Education Code §38.003 (State Law)

Screening and Treatment for Dyslexia and Related Disorders

- (a) Students enrolling in public schools in this state shall be tested for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education.
- (b) 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.
- (b-1) Unless otherwise provided by law, a student determined to have dyslexia during testing under Subsection (a) or accommodated because of dyslexia **may not** be retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous testing of the student.
- (c) The State Board of Education shall adopt any rules and standards necessary to administer this section.
- (d) In this section:
 - (1) "*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.
 - (2) "*Related disorders*" includes disorders similar to or related to dyslexia, such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

Added by Acts 1995, 74th Legislature, Ch. 260, Sec. 1, effective May 30, 1995.

Added by Acts 2011, 82nd Legislature, R.S., Ch. 635, Sec. 3, effective. June 17, 2011. The original version of this statute was passed in 1985 through HB 157, Texas Legislature, 69th Regular Session. Subsection (b-1) was added by the 82nd Texas Legislature in 2011.

Texas Education Code §38.0031 (State Law)

Classroom Technology Plan for Students with Dyslexia

- (a) The agency shall establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia. The plan must:
 - (1) Determine the classroom technologies that are useful and practical in assisting public schools in accommodating students with dyslexia, considering budget constraints at school districts; and
 - (2) Develop a strategy for providing those effective technologies to students.
- (b) The agency shall provide the plan and information about the availability and benefits of the technologies identified under Subsection (a)(1) to school districts.
- (c) A member of the committee established under Subsection (a) is not entitled to reimbursement for travel expenses incurred by the member under this section unless agency funds are available for that purpose.

Added by Acts 2011, 82nd Legislature, R.S., Ch. 635, Sec. 4, effective, June 17, 2011.

Texas Education Code §28.006 (State Law)

Reading Diagnosis

(a) The commissioner shall develop recommendations for school districts for:

(1) Administering reading instruments to diagnose student reading development and comprehension;

(2) Training educators in administering the reading instruments; and

(3) Applying the results of the reading instruments to the instructional program. (b) The commissioner shall adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension. A district-level committee established under Subchapter F, Chapter 11, may adopt a list of reading instruments for use in the district in addition to the reading instruments on the commissioner's list. Each reading instrument adopted by the commissioner or a district-level committee must be based on scientific research concerning reading skills development and reading comprehension. A list of reading instruments adopted under this subsection must provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29.

(c) Each school district shall administer, at the kindergarten and first – and second-grade levels, a reading instrument on the list adopted by the commissioner or by the district-level committee.

The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(d) The superintendent of each school district shall:

(1) Report to the commissioner and the board of trustees of the district the results of the reading instruments; and

(2) Report, in writing, to a student's parent or guardian the student's results on the reading instrument.

(e) The results of reading instruments administered under this section may not be used for purposes of appraisals and incentives under Chapter 21 or accountability under Chapter 39. (f) This section may be implemented only if funds are appropriated for administering the reading instruments.

Funds, other than local funds, may be used to pay the cost of administering a reading instrument only if the instrument is on the list adopted by the commissioner. (g) A school district shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on

a reading instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection. (h) The school district shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language. (i) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the

commissioner may not consider Foundation School Program funds. (j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.051(b)(7) and may implement sanctions under Subchapter G, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(k) The provisions of this section relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the commissioner certifies that funds have been appropriated during a school year for administering the accelerated reading instruction program specified under this section.

Text of subsection (l) effective until January 1, 2002.

(l)(m) Expired.

Added by Acts 1997, 75th Legislature, Ch. 397, Sec. 2, effective Sept. 1, 1997. Amended by Acts 1999, 76th Legislature, Ch. 396, Sec. 2.11, effective Sept. 1, 1999.

Amended by: Acts 2006, 79th Legislature, 3rd C.S., Ch. 5, Sec. 3.05, effective May 31, 2006.

Acts 2007, 80th Legislature, R.S., Ch. 1058, Sec. 6, effective June 15, 2007.

Acts 2007, 80th Legislature, R.S., Ch. 1340, Sec. 1, effective June 15, 2007.

Acts 2009, 81st Legislature, R.S., Ch. 895, Sec. 26, effective June 19, 2009.

Texas Education Code §7.028(b) (State Law)

Limitation on Compliance Monitoring

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school has primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs.

Added by Acts 2003, 78th Legislature, Ch. 201, Sec. 4, effective Sept. 1, 2003.

Renumbered from T.T.C.A., Education Code §7.027 by Acts 2005, 79th Legislature, Ch. 728, Sec. 23.001(9), effective Sept. 1, 2005.

Texas Administrative Code §74.28 (State Board of Education Rule)

Students with Dyslexia and Related Disorders

(a) The board of trustees of a school district must ensure that procedures for identifying a student with dyslexia or a related disorder and for providing appropriate instructional services to the student are implemented in the district. These procedures will be monitored by the Texas Education Agency (TEA) with on-site visits conducted as appropriate.

(b) A school district's procedures must be implemented according to the State Board of Education (SBOE) approved strategies for screening, and techniques for treating, dyslexia and related disorders. The strategies and techniques are described in "*Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*," a set of flexible guidelines for local districts that may be modified by SBOE only with broad-based dialogue that includes input from educators

and professionals in the field of reading and dyslexia and related disorders from across the state. Screening should be done only by individuals/professionals who are trained to assess students for dyslexia and related disorders.

- (c) A school district shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in *“Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders.”* Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in *“Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders.”* The professional development activities specified by each district and/or campus planning and decision making committee shall include these instructional strategies.
- (d) Before an identification or assessment procedure is used selectively with an individual student, the school district must notify the student’s parent or guardian or another person standing in parental relation to the student.
- (e) Parents/guardians of students eligible under the Rehabilitation Act of 1973, §504, must be informed of all services and options available to the student under that federal statute.
- (f) Each school must provide each identified student access at his or her campus to instructional programs required in subsection (c) of this section and to the services of a teacher trained in dyslexia and related disorders. The school district may, with the approval of each student’s parents or guardians, offer additional services at a centralized location. Such centralized services shall not preclude each student from receiving services at his or her campus.
- (g) Because early intervention is critical, a process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available in each district as outlined in *“Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders.”*
- (h) Each school district shall provide a parent education program for parents/guardians of students with dyslexia and related disorders. This program should include: awareness of characteristics of dyslexia and related disorders; information on testing and diagnosis of dyslexia; information on effective strategies for teaching dyslexic students; and awareness of information on modification, especially modifications allowed on standardized testing.

Source: The provisions of this §74.28 adopted to be effective September 1, 1996, 21 TexReg 4311; amended to be effective September 1, 2001, 25 TexReg 7691; amended to be effective August 8, 2006, 31 TexReg 6212; amended to be effective August 24, 2010, 35 TexReg 7211.

Texas Education Code §42.006(a-1) (State Law)
Public Education Information Management System (PEIMS)

- (a-1) The commissioner by rule shall require each school district and open-enrollment charter school to report through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having dyslexia.

Source: Amended by Acts 2013, 83rd Legislature, R.S., Ch. 295 (H.B. 1264), sec. 1. Effective June 14, 2013.

Texas Education Code §21.044 (State Law)

Educator Preparation

- (a) The board shall propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction year program. The board shall specify the minimum academic qualifications required for a certificate.
- (b) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the curriculum for that degree, instruction in detection and education of students with dyslexia. This subsection does not apply to a person who obtains a certificate through an alternative certification program adopted under Section 21.049.
- (c) The instruction under Subsection (b) must:
 - (1) be developed by a panel of experts in the diagnosis and treatment of dyslexia who are:
 - (A) employed by institutions of higher education; and
 - (B) approved by the board; and
 - (2) include information on:
 - (A) characteristics of dyslexia;
 - (B) identification of dyslexia; and
 - (C) effective, multisensory strategies for teaching students with dyslexia.

*Source: Added by Acts 1995, 74th Legislature, Ch. 260, Sec. 1, effective May 30 1995.
Amended by Acts 2011, 82nd Legislature, R.S, Ch. 635, Sec. 1, effective June 17, 2011.*

Texas Education Code §21.054 Continuing Education (State Law)

Continuing Education

- (a) The board shall propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.
- (b) Continuing education requirements for an educator who teaches students with dyslexia must include training regarding new research and practices in educating students with dyslexia. (c) The training required under Subsection (b) may be offered in an online course.

*Added by Acts 1995, 74th Legislature, ch. 260, Sec. 1, effective May 30, 1995.
Amended by Acts 2005, 79th Legislature, Ch. 675, Sec. 2, effective June 17, 2005; Acts 2009, 81st Legislature, R.S, Ch. 596, Sec. 1, effective September 1, 2009; 81st Legislature, R.S., Ch. 895, Sec. 67(a), effective June 19, 2009; Acts 2011, 82nd legislature, R.S., Ch. 635, Sec. 2, effective June 17, 2011.*

Texas Education Code §51.9701 (State Law)

Assessment for Dyslexia.

Unless otherwise provided by law, an institution of higher education, as defined by Section 61.003, may not reassess a student determined to have dyslexia for the purpose of assessing the student's need for accommodations until the institution of higher education reevaluates the information obtained from previous assessments of the student.

Added by Acts 2011, 82nd Legislature, R.S., Ch. 295 (H.B. 1264), sec. 1, effective June 14, 2013. **The Dyslexia Handbook – Updated 2014: Procedures Concerning Dyslexia and Related Disorders**

School Boards MUST ensure the following:

- Procedures for identifying a student with dyslexia or a related disorder are implemented in the district (TAC §74.28)
- Procedures for providing appropriate instructional services to the student are implemented in the district (TAC §74.28)
- The district or school complies with all applicable requirements of state educational programs (TEC §7.028).

School Districts MUST do the following:

- Administer K-2 assessments (TEC §28.006)
- Provide early identification, intervention, and support (TEC §28.006)
- Apply results of early assessment instruments to instruction and report to the Commissioner of Education (TEC §28.006)
- Implement SBOE-approved procedures for students with dyslexia and related disorders (Dyslexia Handbook and TAC §74.28)
- Provide training about dyslexia to educators [TAC §74.28(c)]; (TAC §232.11)
- Ensure the procedures for identification and instruction are in place (§74.28)
- Notify parents in writing before an assessment or identification procedure is used with an individual student (TAC §74.28)
- Test for dyslexia at appropriate times (TEC §38.003)
- Ensure that assessment for the purposes of accommodations does not occur until after current testing has been reviewed [TEC §38.003(b-1)]
- Meet the requirements of §504 when assessment for dyslexia is recommended (*The Dyslexia Handbook*)
- Provide treatment (instruction) for students with dyslexia (TEC §38.003)
- Purchase or develop their own programs that include descriptors listed in the Dyslexia Handbook (TAC §74.28)
- Inform parents of all services and options available to students eligible under the §504 (TAC §74.28)
- Provide student with services of a teacher trained in dyslexia (TAC §74.28)
- Provide a parent education program (TAC §74.28)
- Report through PEIMS information regarding the number of students enrolled in the district or school who are identified as having dyslexia [TEC §42.006(a-1)]

Checklist of Procedures to Follow to Ensure Compliance with State and Federal Laws and Rules:

- Notify parents or guardians of proposal to assess student for dyslexia (§504)
- Inform parents or guardians of their rights under §504
- Obtain parent or guardian permission to assess the student for dyslexia [§504 and TEC §26.009(a)(1)]

- Administer measures using only individuals/professionals who are trained in assessment to evaluate students for dyslexia and related disorders (§74.28)
- Ensure identification of dyslexia is made by the §504 committee of persons knowledgeable about the reading process, dyslexia and dyslexia instruction, the assessments used, and the meaning of the collected data
- Provide dyslexia instruction as per TEC §38.003 (instruction is provided regardless of student eligibility for §504)
- Provide ongoing training opportunities for teachers [TEC §21.0054(b)]

Checklist of Written Documentation that is Recommended to Ensure Compliance with §504:

- Documentation that the notice of evaluation has been given to parents or guardians
- Documentation that parents or guardians were given their rights under §504
- Documentation of the parent's or guardian's consent for the evaluation [Letter to Durham, 27 IDELR 380 (OCR 1997)]
- Documentation of the evaluation data
- Documentation of the decisions made by the committee of knowledgeable persons concerning the disability (whether a disability exists) and, if a disability exists, whether the disability substantially limits a major life activity
- Documentation of the placement options and placement decisions

Section 504 of the Rehabilitation Act of 1973 (Federal Law - selected portions)

34 C.F.R. Part 104

Sec. 104.4 Discrimination Prohibited.

(a) General. No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance. (b) Discriminatory actions prohibited.

(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- (i) Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
- (ii) Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- (iii) Provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
- (iv) Provide different or separate aid, benefits, or services to persons with disabilities or to any class of persons with disabilities unless such action is necessary to provide qualified persons with disabilities with aid, benefits, or services that are as effective as those provided to others;
- (v) Aid or perpetuate discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program;
- (vi) Deny a qualified person with a disability the opportunity to participate as a member of planning or advisory boards; or

- (vii) Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.
- (2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for disabled and non-disabled persons, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.
- (3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified person with a disability the opportunity to participate in such programs or activities that are not separate or different.
- (4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration
 - (i) that have the effect of subjecting qualified persons with disabilities to discrimination on the basis of disability,
 - (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to persons with disabilities, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.
- (5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections
 - (i) that have the effect of excluding persons with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or
 - (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to persons with disabilities.
- (6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance. ...

Subpart D – Preschool, Elementary, and Secondary Education

Sec. 104.31 Application of this subpart.

Subpart D applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

Sec. 104.32 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

- (a) Undertake to identify and locate every qualified person with a disability residing in the recipient's jurisdiction who is not receiving a public education; and
- (b) Take appropriate steps to notify persons with a disability and their parents or guardians of the recipient's duty under this subpart.

Sec. 104.33 Free appropriate public education.

(a) General. A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. (b) Appropriate education.

(1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that

(i) are designed to meet individual educational needs of disabled persons as adequately as the needs of nondisabled persons are met and

(ii) are based upon adherence to procedures that satisfy the requirements of Sections 104.34, 104.35, and 104.36.

(2) Implementation of an individualized education program developed in accordance with the Individuals with Disabilities Education Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.)

(3) A recipient may place a person with a disability in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any person with a disability so placed or referred.

(c) Free education.

(1) General. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the person with a disability or to his or her parents or guardian, except for those fees that are imposed on nondisabled persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a person with a disability in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a person with a disability.

(2) Transportation...

(3) Residential placement...

(4) Placement of disabled persons by parents. If a recipient has made available, in conformance with the requirements of this section and Section 104.34, a free appropriate public education to a person with a disability and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of Section 104.36.

(d) Compliance. A recipient may not exclude any qualified person with a disability from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than September 1, 1978.

Sec. 104.34 Educational setting.

(a) Academic setting. A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified person with a disability in its jurisdiction with persons who are not

disabled to the maximum extent appropriate to the needs of the person with a disability. A recipient shall place a person with a disability in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

- (b) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in Section 104.37(a)(2), a recipient shall ensure that disabled persons participate with nondisabled persons in such activities and services to the maximum extent appropriate to the needs of the person with a disability in question.
- (c) Comparable facilities. If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for persons with disabilities, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

Sec. 104.35 Evaluation and placement.

- (a) Pre-placement evaluation. A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.
- (b) Evaluation procedures. A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education or related services which ensure that:
 - (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
 - (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
 - (3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- (c) Placement procedures. In interpreting evaluation data and in making placement decisions, a recipient shall
 - (1) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior,
 - (2) Establish procedures to ensure that information obtained from all such sources is documented and carefully considered,
 - (3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and
 - (4) Ensure that the placement decision is made in conformity with Section 104.34. (d)

Reevaluation. A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Individuals with Disabilities Education Act is one means of meeting this requirement.

Sec. 104.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons, who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Individuals with Disabilities Education Act is one means of meeting this requirement.

Sec. 104.37 Nonacademic services.

(a) General.

(1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to persons with disabilities, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) Counseling services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of disability. The recipient shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.

(c) Physical education and athletics.

(1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of disability. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified students with disabilities an equal opportunity for participation in these activities.

(2) A recipient may offer to students with disabilities physical education and athletic activities that are separate or different from those offered to nondisabled students only if separation or differentiation is consistent with the requirements of Section 104.34 and only if no qualified student with a disability is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

Sec. 104.38 Preschool and adult education programs. ...

Sec. 104.39 Private education programs. ...

Americans with Disabilities Act Amendments Act of 2008

Text of amendments passed September 25, 2008 (selected portions)

Public Law 110-325, September 25, 2008

Effective January 1, 2009

An act to restore the intent and protections of the Americans with Disabilities Act of 1990.

(b) Purposes. The purposes of this Act are -

- (1) to carry out the ADA's objectives of providing "a clear and comprehensive national mandate for the elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination" by reinstating a broad scope of protection to be available under the ADA;
- (5) ..., to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and ...

Sec. 4. Disability Defined and Rules of Construction.

(a) Definition of Disability. Section 3 of the Americans with Disabilities Act of 1990 is amended to read as follows:

"As used in this Act:

(1) Disability. The term 'disability' means, with respect to an individual –

- (A) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) A record of such an impairment; or
- (C) Being regarded as having such an impairment (as described in paragraph 3).

(2) Major Life Activities.

- (A) In general. For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- (B) Major Bodily Functions. For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as Having such an Impairment. For purposes of paragraph (1)(C): (A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of Construction Regarding the Definition of Disability. The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act. (B) The term 'substantially limits' shall be interpreted consistently with the findings and purposes of

the ADA Amendments Act of 2008.

- (C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
- (D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- (E) (i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:
 - (I) Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
 - (II) Use of assistive technology;
 - (III) Reasonable accommodations or auxiliary aids or services; or
 - (IV) Learned behavioral or adaptive neurological modifications.
- (iii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
- (iv) As used in this subparagraph –
 - (I) The term ‘ordinary eyeglasses or contact lenses’ means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
 - (II) The term ‘low-vision devices’ means devices that magnify, enhance, or otherwise augment a visual image.”

(b) Conforming Amendment. – The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

Sec. 4. Additional Definitions.

“As used in this Act:

- (1) Auxiliary Aids and Services. – The term ‘auxiliary aids and services’ includes – (A) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
- (B) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (C) Acquisition or modification of equipment or devices; and
- (D) Other similar services and actions. ...”

The Americans with Disabilities Act Amendments Act of 2008 specifically states that all of its changes also apply under Section 504 of the Rehabilitation Act. Section 504 must conform to all new standards. At this time, the Department of Education is not required to rewrite the implementing federal regulations for Section 504.

Individuals with Disabilities Education Act (Federal Law)

34 C.F.R. Part 300 (selected portions)

Reauthorized 2004, Regulations Issued August 2006.

Subpart A – General.

Sec. 300.8 Child with a Disability.

(a) General.

(1) Child with a disability means a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, **specific learning disability**, deaf-blindness, or multiple disabilities, **and** who, by reason thereof, **needs special education and related services**.

(2) (i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part....

(b) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:

(10) Specific learning disability –

(i) General. 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.

(ii) Disorders **not** included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

EDGEWOOD INDEPENDENT SCHOOL DISTRICT
GUIDELINES FOR TRANSITIONING ENGLISH LANGUAGE LEARNERS
IN THE DYSLEXIA PROGRAM

Dyslexia is a language-based learning difference which stems from the inability to fluently unlock the sounds of the written symbols of a language. All languages can be categorized in reference to its orthographic component. Some languages, which are considered to have “transparent orthographies,” have almost a perfect one-to-one sound to symbol correlation. Other languages, which are considered to have “opaque orthographies,” can have multiple sounds to symbol correlations. The Spanish language is considered to be very transparent. This means that once the student can associate the sound to each symbol (letter of the alphabet), the **process** of decoding words is mastered quickly. The English language is considered to be opaque because the 26 letters of the English alphabet can produce 44 different sounds. The consonant sounds are usually consistent, but the vowel sounds change depending on the vowel’s position in the word and/or what letter(s) precedes and/or follows. Just as languages can differ in the complexity of its orthographic component, so does the identification of Dyslexia in English Language Learners (ELL’s).

Due to the transparent orthography of the Spanish language, Spanish readers will usually be successful with grade-level language/reading tasks. While decoding, word recognition, accuracy, and spelling are important dyslexia indicators in the English orthography, in more transparent orthographies, such as Spanish, it has less influence. The inability to perform language tasks with automaticity appears to be the more decisive characteristic in the identification process of dyslexia in a language as phonetic as Spanish.

Dyslexia, as defined by both the Texas Education Code and the International Dyslexia Association, is neurological in nature. This means that the individual is born with it. Therefore, it stands to reason that once an individual is identified with Dyslexia, he/she will require continued support, regardless of the language of instruction. The Bilingual Time and Treatment Guidelines in the regular education setting is crucial for all ELL’s, but especially so for students who are exhibiting characteristics of Dyslexia in their native language. A hasty transition into the English reading curriculum may compound the reading difficulties. A student who has been evaluated in Spanish and identified with characteristics of Dyslexia should attend a Spanish Dyslexia Instructional Program. In order to gain benefit from the Spanish therapy, the student should also be receiving Spanish reading instruction in the regular education bilingual classroom. The campus LPAC should be cautious when considering changes to the bilingual category of a student who has been identified with Dyslexia and is attending the Spanish Dyslexia Instructional Program. Since the student must exhibit average to high average English listening comprehension skills, this measure ensures that the English Dyslexia Instructional Program does not become an ESL program.

For ELL’s who were **not** considered for Dyslexia evaluation when they were receiving Spanish reading instruction, it is critical that when they transition into English reading that we do not confuse English language learners with students who are dyslexic. They may have some of the same characteristics of dyslexia and require some of the same types of instruction. However, the root of the characteristics is quite different.

EDGEWOOD INDEPENDENT SCHOOL DISTRICT
PARENTAL REQUEST FOR EXIT FROM
DYSLEXIA LAB SUPPLEMENTAL SUPPORT SERVICES

D-9

Student: _____ ID#: _____ DOB: _____ Grade: ____ Campus: _____

My child is currently receiving dyslexia therapy services through the EISD dyslexia program.

At this time, I am requesting that my child be *removed and no longer receive* dyslexia therapy services.

Explanation: _____

Please initial the following ***declining*** further services in the dyslexia therapy program. _____ (Parent Initials ***Declining*** continued dyslexia therapy services)

My signature below indicates that I have been provided with information concerning placement options and the provision of services to meet my child’s continued dyslexia-related needs. My child will be removed from dyslexia therapy services. If in the future my child needs additional services, I understand that my child will be re-evaluated to determine appropriate services and placement.

Signature of Parent

Date