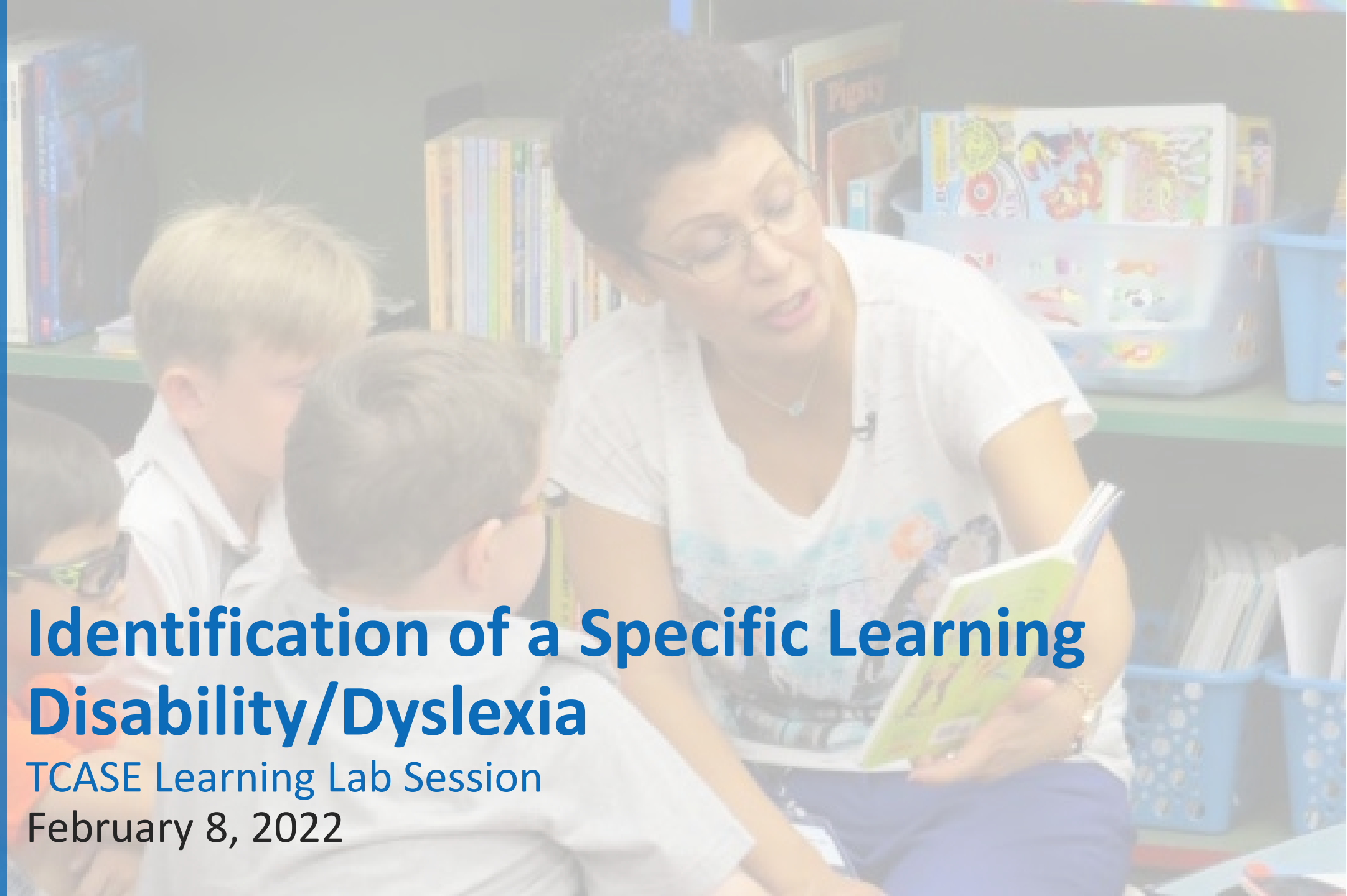

Identification of a Specific Learning Disability/Dyslexia

TCASE Learning Lab Session

February 8, 2022

Presenters

Division of Special Education Programs/Texas Education Agency

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Child Find and Evaluation Coordinator

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State Dyslexia Coordinator

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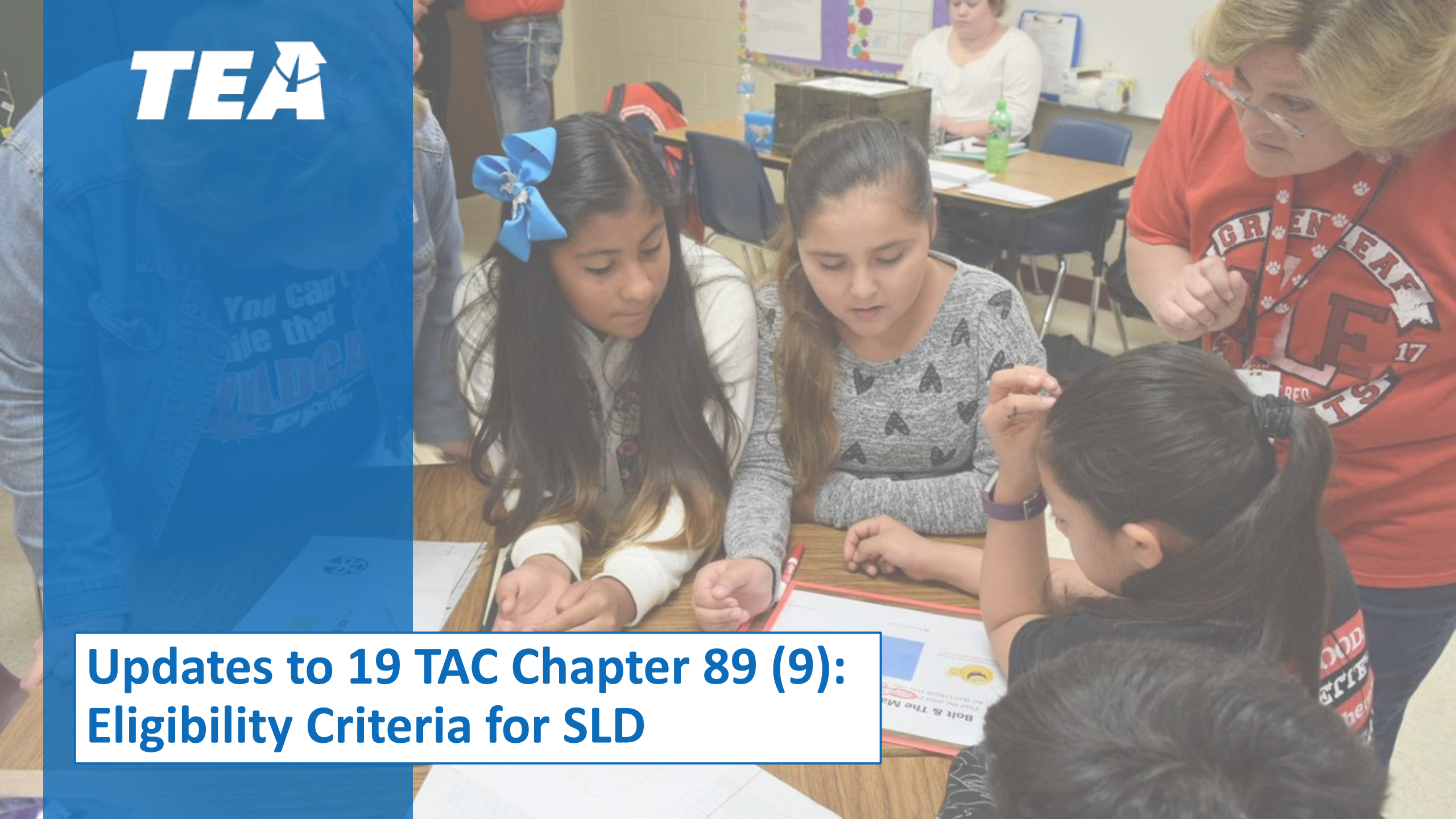
Agenda

- Updates to 19 TAC 89(9): Eligibility Criteria for SLD
- The Dyslexia Handbook Updated 2021
- Resources Provided by the Child Find, Evaluation, & ARD Supports Network
- Final Thoughts



Updates to 19 TAC Chapter 89 (9): Eligibility Criteria for SLD

Icons throughout

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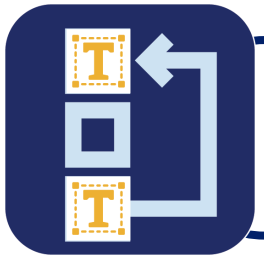

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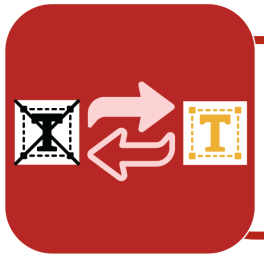


There was a change in language

New language was added

19 TAC §89.1040(9)- Eligibility Criteria: Specific Learning Disability

Before Change

(9) Learning disability.

(A) Prior to and as part of the evaluation described in subparagraph (B) of this paragraph and 34 CFR, §§300.307-300.311, and in order to ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics, the following must be considered:

IDEA definition of specific learning disability added

After Change

(9) **Specific learning disability**.

(A) 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. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

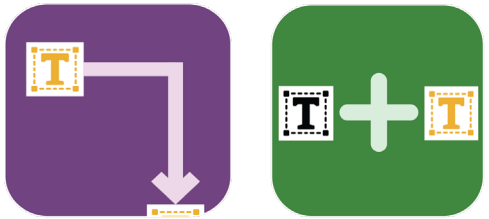
19 TAC §89.1040(9)(B)(I) Eligibility Criteria: Specific Learning Disability

Before Change

(9)(B) **Specific Learning Disability**

(I) The child does not make sufficient progress when provided a process based on the student's response to evidence-based intervention (as defined in 20 USC, §7801(21)), as indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessments of achievement at reasonable intervals, reflecting student progress during classroom instruction; or

RtI language better matches IDEA



After Change

(9)(B) **Specific Learning Disability**

(I)The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (B)(ii) of this section when using a process based on the child's response to scientific, research-based intervention; or

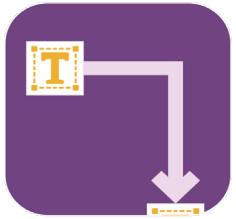
19 TAC §89.1040(9)(B)(II)- Eligibility Criteria: Specific Learning Disability

Before Change

(9)(B) **Specific Learning Disability**

(II) exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, grade-level standards, or intellectual ability, as indicated by significant variance among specific areas of cognitive function, such as working memory and verbal comprehension, or between specific areas of cognitive function and academic achievement.

Pattern of strengths and weakness better matches IDEA



After Change

(9)(B) **Specific Learning Disability**

(II) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 CFR, §§300.304 and 300.305;

19 TAC §89.1040(9)(B)(II)- Eligibility Criteria: Specific Learning Disability

You **do** need a pattern of strengths and weaknesses in performance, achievement, or both.

That pattern is relative to age, grade-level standards, or intellectual development.

You **do not** need significant variance among specific areas of cognitive functioning or between specific areas of cognitive function and academic achievement.

Impact and Implications

- There is no substantive change to practice for the RtI process.
- The change **broadens** the ways a pattern of strengths and weaknesses can be identified to better align with IDEA.
- The change helps clarify that **multiple sources of data** are considered when making determinations.
- One score or calculation cannot supersede the preponderance of data gathered as part of the comprehensive evaluation.
- Please inform staff of the changes and look for additional training and guidance on comprehensive evaluation of SLD from the Child Find, Evaluation, and ARD Supports Network.

childfindtx.tea.texas.gov

19 TAC §89.1040(9C)- Eligibility Criteria: Specific Learning Disability

Before Change

(9) **Specific Learning disability**.

(C) **(A)] Prior to and** As part of the evaluation described in subparagraph (B) of this paragraph and 34 CFR, §§300.307-300.311, and in order to ensure that underachievement by (in) a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics, the following must be considered:

(ii) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction.

Data-based documentation of repeated assessments may include, but is not limited to, response to intervention progress monitoring results, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

Prior to removed

Which must be provided to the student's parents added from IDEA

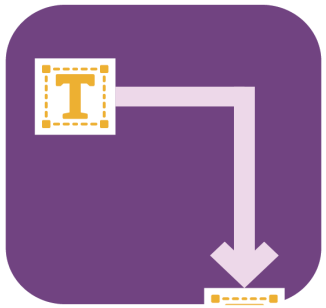
After Change

(C) As part of the evaluation described in subparagraph (B) of this paragraph and 34 CFR, §§300.307-300.311, and in order to ensure that underachievement by (in) a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics, the following must be considered:

(ii) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, **which must be provided to the student's parents**. Data-based documentation of repeated assessments may include, but is not limited to, response to intervention progress monitoring results, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

Impact and Implications

- Ensure that local policies and procedures do not require movement through a tiered intervention process prior to referral for evaluation when a disability and need for special education is suspected.
- Ensure that local policies and procedures require the provision of achievement and evaluation of students' progress to their parents.



19 TAC §89.1040(9D)- Eligibility Criteria: Specific Learning Disability

Before Change

(9) Specific Learning disability.

(D) DID NOT EXIST

Added IDEA requirement for observation

After Change

(D) The school district must ensure that the student is observed in the student's learning environment (including the regular classroom setting) to document the student's academic performance and behavior in the areas of difficulty. In determining whether a student has a specific learning disability, the admission, review and dismissal (ARD) committee must decide to either use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation or have at least one of the members described in subsection (b) conduct an observation of the student's academic performance in the regular classroom after the student has been referred for an evaluation and the school district has obtained parental consent consistent with 34 CFR, §300.300(a). In the case of a student of less than school age or out of school, a member described in subsection (b) must observe the student in an environment appropriate for a student of that age.

Impact and Implications

- An observation in the learning environment was already required as part of the evaluation for a specific learning disability.
- This change integrates federal IDEA language into the state rules.
- No impact on current evaluation practices is anticipated.

19 TAC §89.1040(9)- Eligibility Criteria Specific Learning Disability

Before Change

(9) **Specific Learning disability**.

(E) DID NOT EXIST

Added requirements for evaluation team members from IDEA

After Change

(E) The determination of whether a student suspected of having a specific learning disability is a student with a disability as defined in 34 CFR, §300.8 must be made by the student's parents and a team of qualified professionals, which must include:

(i) The student's regular teacher; or

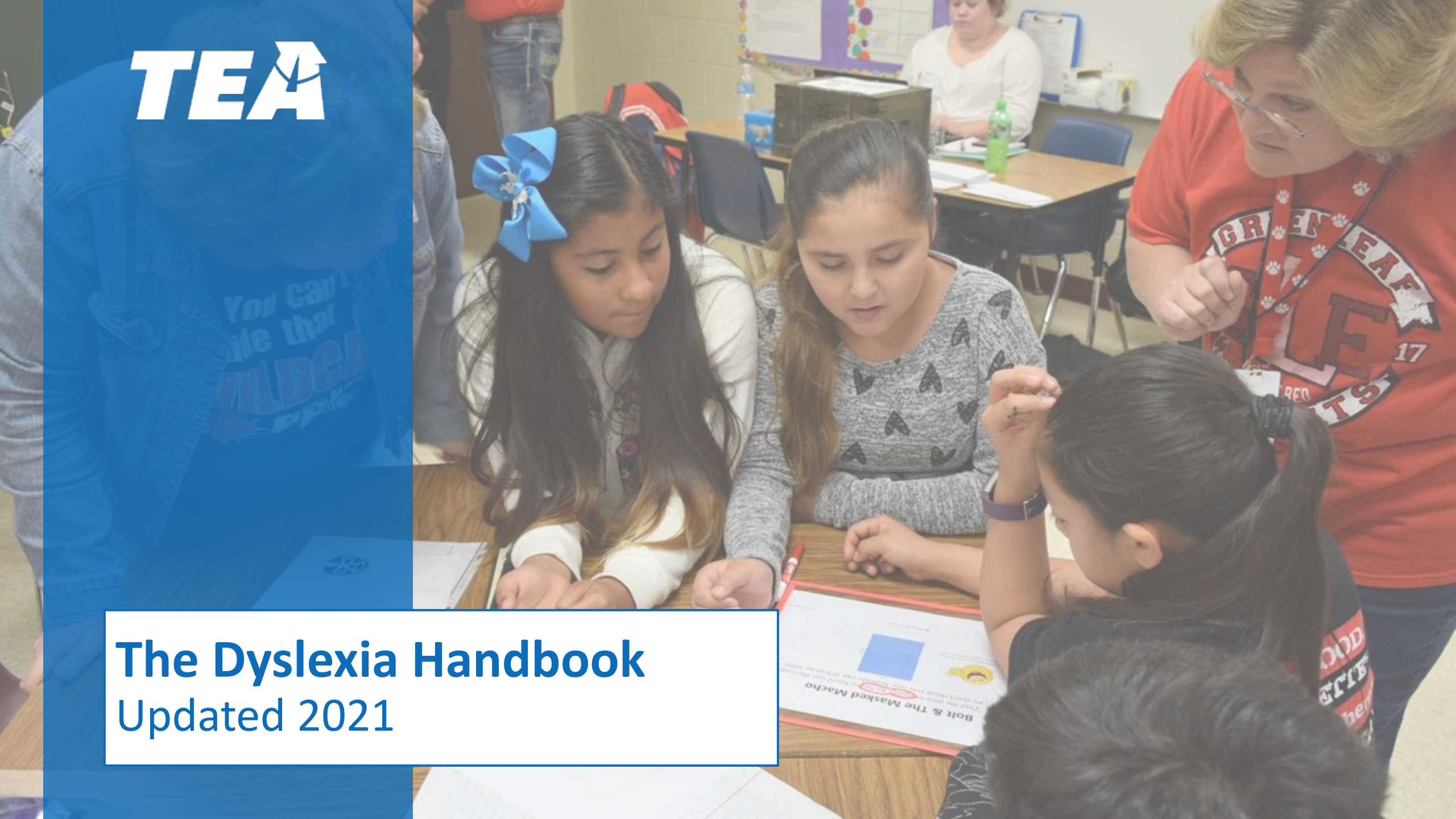
(ii) If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age; or

(iii) For a student of less than school age, an individual qualified by the Texas Education Agency to teach a student of his or her age; and

(iv) At least one person qualified to conduct individual diagnostic examinations of children, such as a licensed specialist in school psychology, educational diagnostician, speech-language pathologist, or remedial reading teacher.

Impact and Implications

- The change aligns the state rules with existing federal requirements.
- The language from IDEA is customized to reflect Texas context (e.g., licensed specialist in school psychology, educational diagnostician).
- No impact to current evaluation practices is anticipated.



The Dyslexia Handbook

Updated 2021

The Dyslexia Handbook Update 2021 Timeline

Sept. 3, 2021

The SBOE gives final approval for updates to the Dyslexia Handbook.

Jan. 21, 2022

The Dyslexia Handbook 2021 Update was filed with the Texas Register.

Feb. 10, 2022

The Dyslexia Handbook 2021 Update is in effect and replaces all previous versions of the handbook.

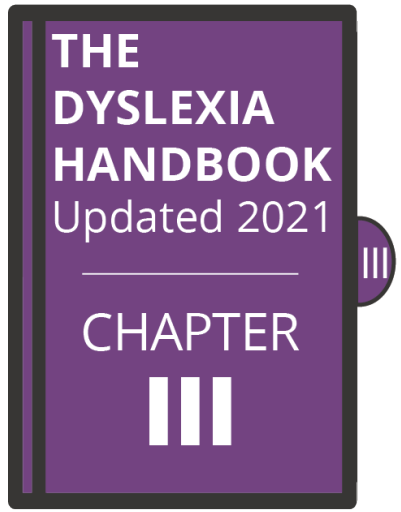
Texas Education Agency

THE DYSLEXIA HANDBOOK
Updated 2021

CHAPTER III

Chapter 3: Procedures for Evaluation and Identification of Students with Dyslexia

Chapter 3: Single Pathway for Dyslexia and Related Disorders Identification



2018

The 2018 Dyslexia Handbook **outlined two pathways** for the identification of children suspected of having dyslexia:

Section 504 dyslexia evaluation or an IDEA evaluation.

2021

The 2021 Dyslexia Handbook **streamlines the process** and clarifies that anytime the LEA suspects that the student has dyslexia or a related disorder, and needs services, the LEA must seek parental consent for a Full Individual Initial Evaluation (FIIE) under the IDEA.

Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia

THE DYSLEXIA HANDBOOK
Updated 2021

CHAPTER III

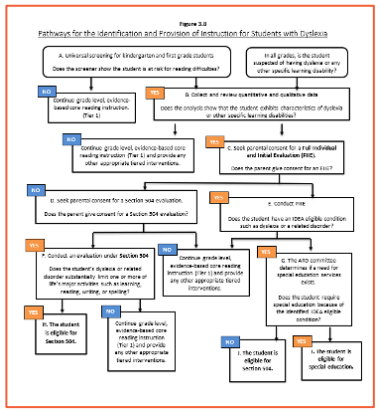


Figure 3.8

Pathways for the Identification and Provision of Instruction for Students with Dyslexia

A. Universal screening for kindergarten and first grade students

Does the screener show the student is at risk for reading difficulties?

In all grades, is the student suspected of having dyslexia or any other specific learning disability?

NO — Continue grade level, evidence-based core reading instruction. (Tier 1)

YES — B. Collect and review quantitative and qualitative data

Does the analysis show that the student exhibits characteristics of dyslexia or other specific learning disabilities?

NO — Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

YES — C. Seek parental consent for a **Full Individual and Initial Evaluation (FIIE).**

Does the parent give consent for an FIIE?

NO — D. Seek parental consent for a **Section 504** evaluation.

Does the parent give consent for a Section 504 evaluation?

YES — E. Conduct **FIIE**

Does the student have an IDEA eligible condition such as dyslexia or a related disorder?

YES — F. Conduct an evaluation under **Section 504**

Does the student's dyslexia or related disorder substantially limit one or more of life's major activities such as learning, reading, writing, or spelling?

NO — Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

YES — G. The ARD committee determines if a need for special education services exists.

Does the student require special education because of the identified IDEA eligible condition?

YES — **H. The student is eligible for Section 504.**

NO — Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

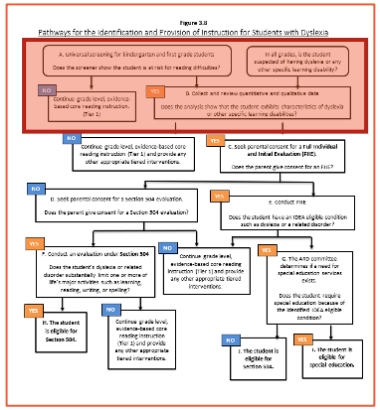
NO — **J. The student is eligible for Section 504.**

YES — **I. The student is eligible for special education.**

Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia

THE DYSLEXIA HANDBOOK
Updated 2021

CHAPTER III



A. Universal screening for kindergarten and first grade students Does the screener show the student is at risk for reading difficulties?

In all grades, is the student suspected of having dyslexia or any other specific learning disability?

No

Continue grade level, evidence-based core reading instruction. (Tier 1)

Ends

YES

B. Collect and review quantitative and qualitative data

Does the analysis show that the student exhibits characteristics of dyslexia or other specific learning disabilities?

No

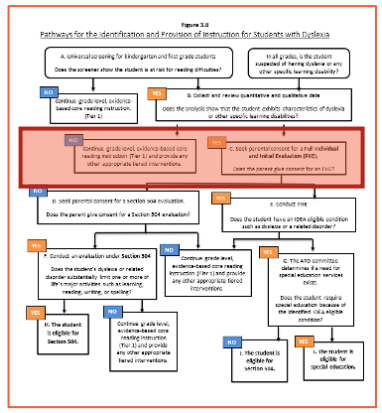
Next Slide

Yes

Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia

THE DYSLEXIA HANDBOOK
Updated 2021

CHAPTER III



B. Collect and review quantitative and qualitative data

Does the analysis show that the student exhibits characteristics of dyslexia or other specific learning disabilities?

No

Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

Ends

Yes

C. Seek parental consent and conduct **Full Individual and Initial Evaluation (FIIE).**

Does the parent give consent for an FIIE?

No

Next Slide

Yes

Implementation Guidance

C. Seek parental consent and conduct **Full Individual and Initial Evaluation (FIIE).**

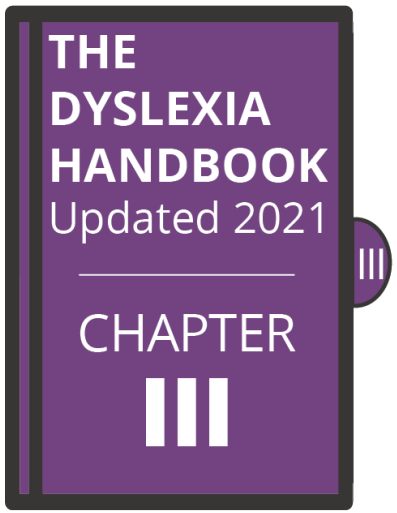
When a school district seeks parental consent:

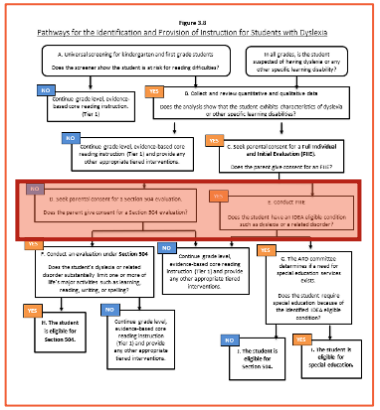
- Ensure consent is informed
- Include proper prior written notice
- Provide the notice of procedural safeguards

Key Takeaway:

It is critical that parents and guardians are informed of the procedural protections and rights afforded to them and their child under the IDEA.

Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia





C. Seek parental consent and conduct Full and Individual Initial Evaluation (FIIE).

Does the parent give consent for an FIIE?

No

D. Seek parental consent for a Section 504 evaluation.

Does the parent give consent for Section 504 evaluation?

Yes

Yes

E. Conduct FIIE

Does the student have an IDEA eligible condition such as dyslexia or a related disorder?

No

Yes

Next Slide

Implementation Guidance

Does the parent give consent for an evaluation under IDEA?

Schools **may not** in any way persuade or encourage parents and guardians to refuse giving consent to conduct an evaluation under IDEA.

- Schools should work to explain to parents that consenting to an evaluation under IDEA is not the same as consenting to special education services. **Explain that special education services can never be provided without their consent, even if they consent to conducting the evaluation.**
- Schools should make sure **parents** and guardians understand that after the FIIE is complete they **will be part of the team** that makes the determination about eligibility and services.
- Schools should help parents and guardians understand that the evaluation is an **opportunity to gather all the information** and data about their child so that they can participate with the rest of the ARD committee in making informed decisions.

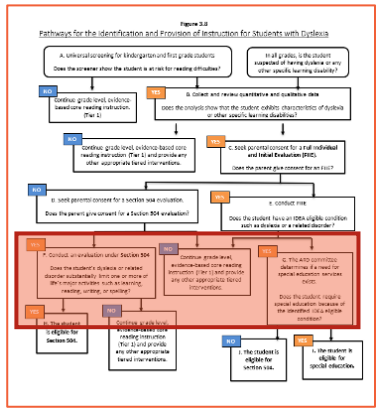
No

Dyslexia may be identified through Section 504 in situations where parents or guardians refuse consent to an evaluation under IDEA (Box D on flowchart)

Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia

THE DYSLEXIA HANDBOOK
Updated 2021

CHAPTER III



D. Seek parental consent for a Section 504 evaluation.

Does the parent give consent for Section 504 evaluation?

Yes

F. Conduct an evaluation under Section 504.

Does the student's dyslexia or related disorder substantially limit one or more of life's major activities such as learning, reading, writing, or spelling?

No

Next Slide

Yes

No

Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

Ends

E. Conduct FIIE

Does the student have an IDEA eligible condition such as dyslexia or a related disorder?

Yes

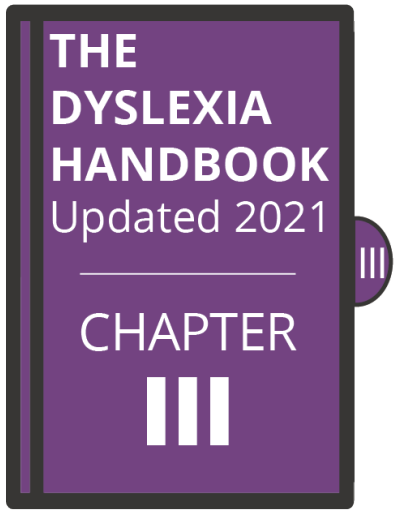
G. The ARD committee determines if a need for special education services exists.
Does the student require special education because of the identified IDEA eligible condition?

No

Next Slide

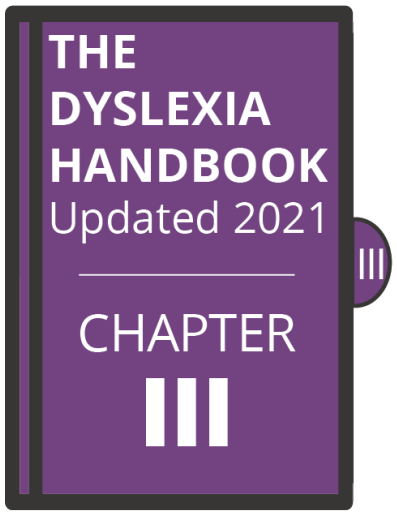
Yes

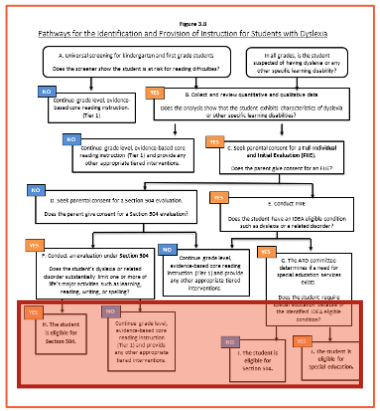
Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia



"If, through the evaluation process, it is established that the student has the condition of dyslexia, as described in Chapter 1, then the student meets the first prong of eligibility under the IDEA (identification of condition). In other words, the identification of dyslexia, using the process outlined in this chapter, meets the criterion for the condition of a specific learning disability in basic reading and/or reading fluency. However, the presence of a disability condition alone, is not sufficient to determine if the student is a student with a disability under the IDEA. Eligibility under the IDEA consists of both identification of the condition and a corresponding need for specially designed instruction as a result of the disability."

Figure 3.8 Pathway to the Identification and Provision of Instruction to Students with Dyslexia





F. Conduct an evaluation under Section 504.

Does the student's dyslexia or related disorder substantially limit one or more of life's major activities such as learning, reading, writing, or spelling?

Yes

H. The student is eligible for Section 504.

No

Continue grade level, evidence-based core reading instruction (Tier 1) and provide any other appropriate tiered interventions.

G. The ARD committee determines if a need for special education services exists. Does the student require special education because of the identified IDEA eligible condition?

No

J. The student is eligible for Section 504.

Yes

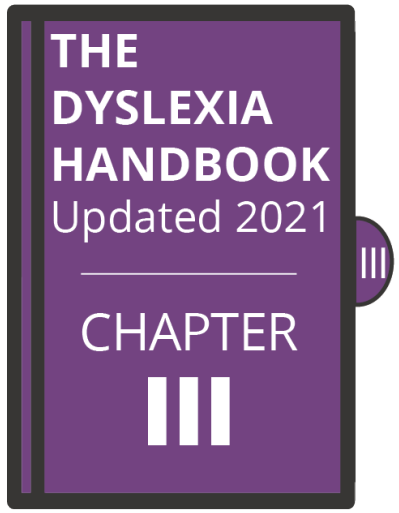
I. The student is eligible for special education.

Can standard protocol dyslexia instruction be considered specially designed instruction for an individual student?

Implementation Guidance

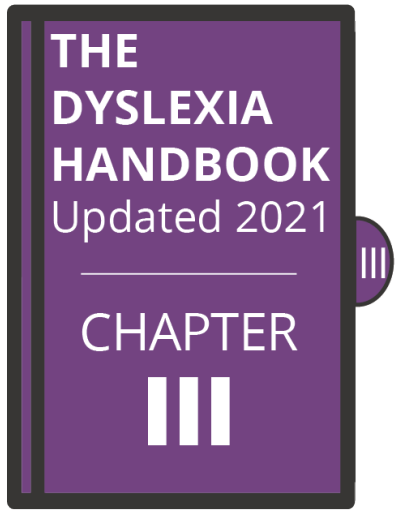
Yes. For any individual student, the ARD committee may determine that participation in standard protocol dyslexia instruction alone, or in combination with other supports and services, constitutes the specially designed instruction that a student needs to access and progress in the general curriculum. The fact that standard protocol dyslexia instruction is available to students who need it as part of the continuum of general education interventions does not preclude an ARD committee from determining that it is a required component of the IEP for an individual student. Please see guidance from OSEP to TEA on this topic.

Parents/guardians right to request an evaluation



"Under the IDEA, if the school refuses the request to evaluate, it must give parents prior written notice of its refusal to evaluate, including an explanation of why the school refuses to conduct an FIIE, the information that was used as the basis for the decision, and a copy of the Notice of Procedural Safeguards. Should the parent disagree with the school's refusal to conduct an evaluation, the parent has the right to initiate dispute resolution options including; mediation, state complaints, and due process hearings. Additionally, the parent may request an Independent Educational Evaluation (IEE) at public expense. Should the parent believe that their child is eligible for Section 504 aids, accommodations, and services the parent may request an evaluation under Section 504."

Formal Evaluation

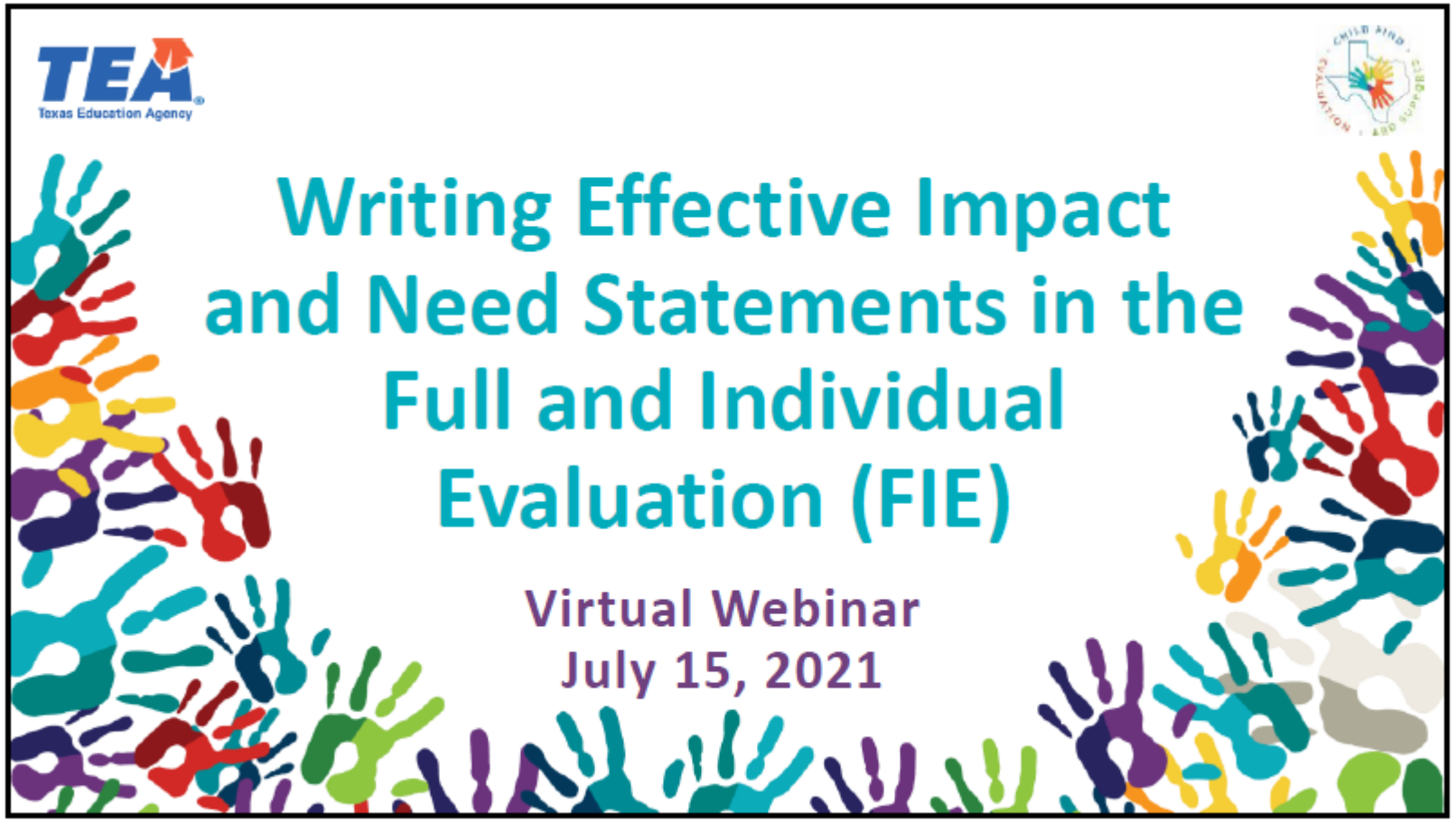


"As part of the evaluation when dyslexia is suspected, in addition to the parent and team of qualified professionals required under IDEA, it is recommended that the multi-disciplinary evaluation team include members who have specific knowledge regarding-

- the reading process,
- dyslexia and related disorders, and
- dyslexia instruction."

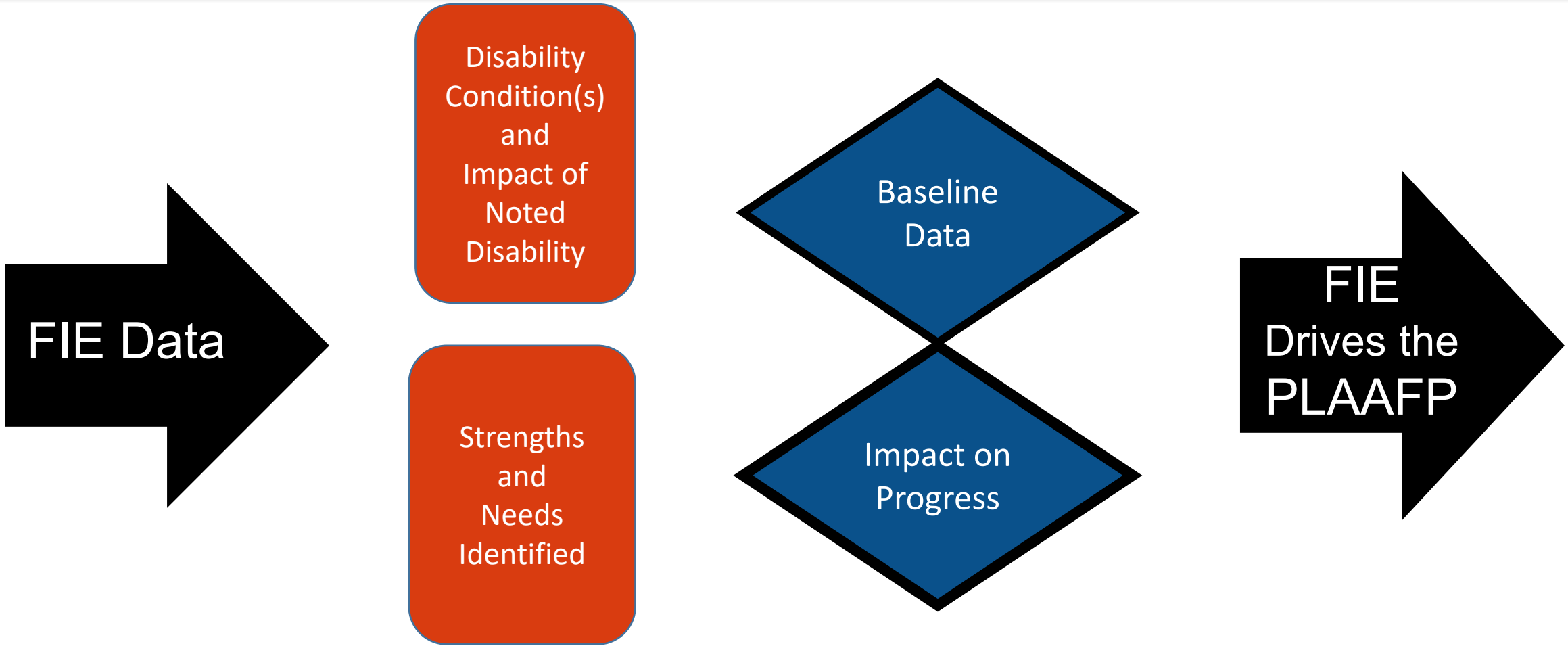
Resources provided by the Child Find, Evaluation, and ARD Supports Network

Recorded Webinar



Writing Effective Impact and Need Statements in the FIE

Strengths & Needs



Standards-Based IEP Process

Implications for Evaluation Personnel

Implications for the FIE

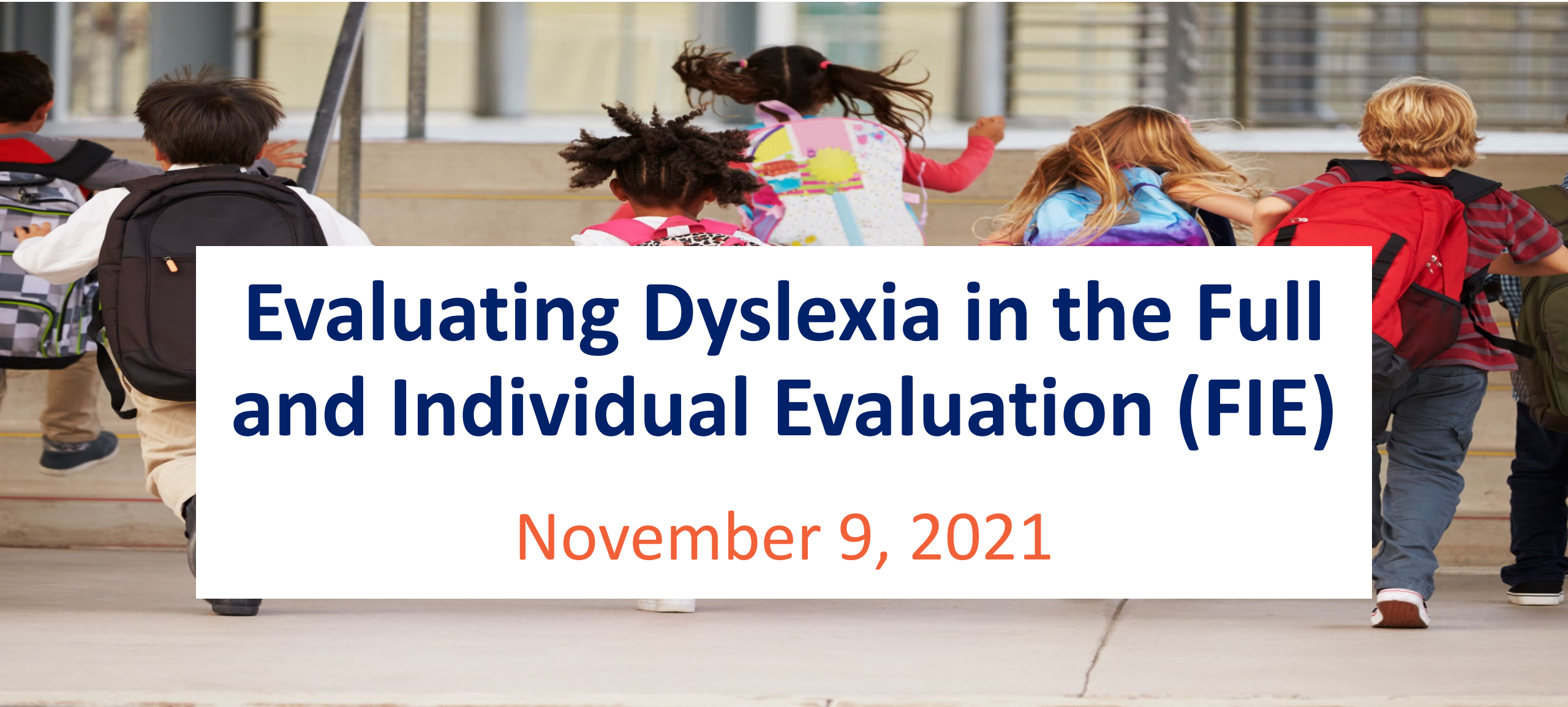
Baseline data should be as **specific** as possible and include **measurable** data:

- *On curriculum-based measurement fluency probes, the student currently reads an average of 47 words correct per minute with 72% accuracy.*

- *Within the general classroom setting, the student engaged in off-task behaviors during 65% of the reading class observation. She required 4-5 verbal prompts to initiate work 4 out of 5 times when provided with a task or direction.*

Example of Impact Statement- Specific Learning Disability

The student's specific learning disability in math calculation impedes his ability to correctly solve single-digit addition and subtraction problems. On first-grade level benchmark assessments he demonstrated less than 25% mastery of calculation tasks. When provided with an untimed, single-digit addition and subtraction assessment, he independently solved an average of 25% of problems correctly. His peers are solving 90-100% of problems correctly in about half the amount of time. When provided with counting cubes, his accuracy improves to an average of 37%, but it takes him longer to complete. The student's lack of accuracy and automaticity is hindering his ability to keep pace with the progression of the lesson as part of the curriculum to learn more advanced calculation skills.

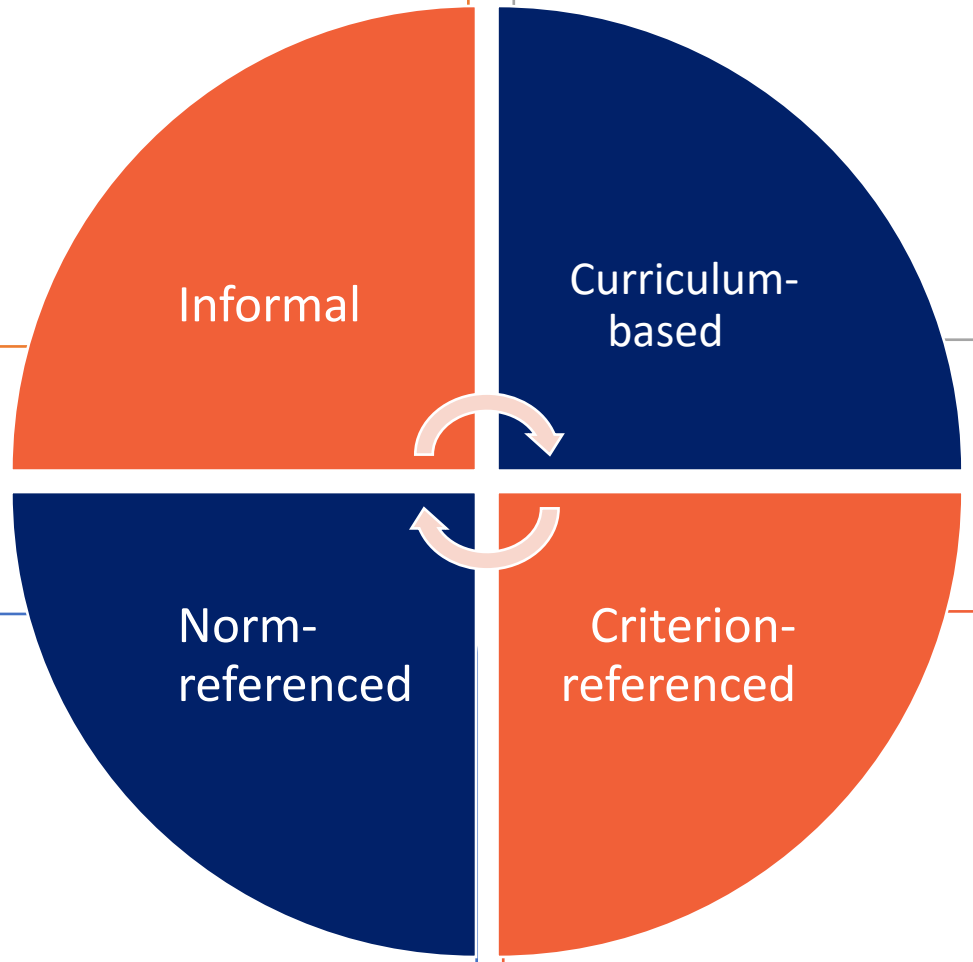


Evaluating Dyslexia in the Full and Individual Evaluation (FIE)

November 9, 2021

Multiple Sources of Data

- Referral Data
- Record Review
- Vision/Hearing Screening
- Work Samples
- Parent/Guardian Information/Interview
- Teacher Information/Interview
- Observations – school/home



- Teacher-made/Textbook quiz
- District Benchmarks
- Curriculum Based Measurement (CBM)
- Running Records
- Progress Monitoring
- Universal Screeners

- Standardized Measures:
  - Achievement tests
  - Cognitive Tests
- Developmental Measures
- Specialized Measures

- State assessment (STAAR® and STAAR ALT 2
- Universal Screeners
- Iowa Test of Basic Skills (ITBS)
- Brigance
- Texas English Language Proficiency Assessment System (TELPAS) and TELPAS Alternate
- Advanced Placement Tests
- Scholastic Aptitude Test (SAT)
- American College Testing (ACT)

Sources of Data

- Vision screening
- Hearing screening
- Teacher information
- Classroom reading assessments
- Accommodations or interventions provided
- Academic progress reports (report cards)
- Gifted/talented assessments
- Parent conference notes
- Results of Kindergarten-Grade 1 universal screening
- K–2 reading instrument results

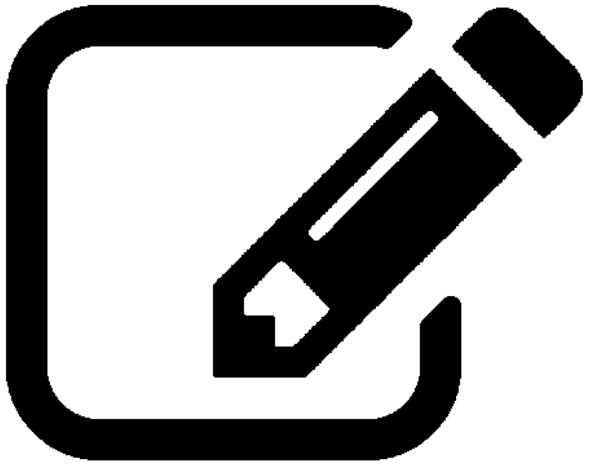
- State student assessment results
- Observations of instruction
- Previous evaluations
- Outside evaluations
- Speech and language assessment
- School attendance
- Curriculum-based assessments
- Instructional strategies provided and student's response
- Parent information
- Screening data

Dyslexia Handbook, 2021 Update, Figure 3.2

Required Areas for Assessment

Academic Areas

- Letter Knowledge
- Reading words in isolation
- Decoding unfamiliar words accurately
- Fluency (rate, accuracy and prosody)
- Reading Comprehension
- Spelling



Dyslexia Handbook, 2021 Update, figure 3.4

Deeper Dive: Assessment Areas

Area to Assess:

Reading Single Words in Isolation

(Real Words)

Where to Look:

- Word Reading Fluency CBMs
- Word Recognition CBMs
- Grade-level high frequency word lists
- Teacher-created assessments
- Norm-referenced assessments

Child Find, Evaluation, and ARD Supports Network

- Please go to www.childfindtx.tea.texas.gov to view the recorded webinars.
- Please check when the Education Service Center (ESC) in your region will offer “Standards-Based IEP Process for Evaluators.”
- In spring 2022 a resource document, “Guidance on the Comprehensive Evaluation of a Specific Learning Disability,” will be available on the Child Find network's website.

Implication Guidelines

Parent Refuses an Evaluation under IDEA

- All dyslexia evaluations flow through a single referral entry point that begins with seeking parental consent to evaluate under IDEA.
- LEAs must seek informed parental consent and provide proper notice and a copy of the procedural safeguards when the LEA refers a student for an FIIE because dyslexia and a need for dyslexia instruction is suspected.
- However, the State of Board of Education chose to maintain an option for identification of dyslexia through Section 504 **only** in cases where, despite being fully informed of their rights and the process for evaluation under IDEA, the parent refuses to consent.
- This provides another potential avenue for the identification of dyslexia but should occur only in rare cases.
- LEAs may not encourage or persuade a parent to decline an evaluation under IDEA in order to seek evaluation under Section 504.

Schedule of Services

Students with an IEP who are receiving standard protocol dyslexia instruction should have this service clearly indicated on the schedule of services. This communicates to families and others what types of supports and services the student receives to meet his or her needs.

Instructional Arrangement Calculations

- Special education is not a place, but rather a set of services that can be delivered in different ways (e.g., direct, consultative) in a range of settings (e.g., general education, resource room, self-contained classroom).
- Instructional arrangement calculations and coding refers to the physical location or setting where services are delivered.
- Standard protocol dyslexia instructional services are available to students with or without an IEP and are considered general education minutes when calculating instructional arrangement.
- The standard protocol dyslexia instruction program adopted or purchased and implemented on the campus can be thought of as an extension of the general education classroom for the purposes of calculating instructional arrangement.

SLD + Another Disability Condition

- It is not uncommon for a student to be identified with an SLD and a speech impairment. Within the State and Federal definition for SLD, there is a caveat that the academic difficulties are not "primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage."

- This caveat does not mean that SLD can never co-exist with other disability conditions, but rather that evaluation teams and ARD committees must rule out other factors as being the **primary** cause of the academic difficulties before determining that a child also has an SLD.

SLD + Another IDEA Disability Condition

- It is possible that another eligibility condition may be contributing in some way to the academic difficulties but does not fully explain or present as the primary cause of the academic deficits.

- It is a misconception that the presence of a sensory motor, or emotional disability can never co-occur with an SLD. Similarly, a student can have environmental, cultural or economic disadvantage and an SLD. The key is whether those other factors are the primary cause of the academic difficulties.

Final Thoughts

Final Thoughts

- Multiple sources of data are used to establish a pattern of strengths and weaknesses. No single piece of data is more important than others.
- Even if an LEA does not use an RtI approach for SLD identification, multidisciplinary evaluation teams should incorporate all available progress monitoring data from research-based interventions into each student's comprehensive evaluation as one of the multiple sources of data.
- One score or calculation cannot supersede the preponderance of data gathered as part of the comprehensive evaluation.

Final Thoughts

- Changes in SLD identification essentially broaden the ways of looking at ALL the students' data in analyzing patterns of strengths and weaknesses.
- Evaluation teams and ARD committees have more space to view the various data sources in their totality and, as equally important, without an overemphasis on cognitive scores.
- If a student is identified with dyslexia, the student has a specific learning disability. Under IDEA there must also be a need for special education.

Resources

Tiered Interventions Using Evidence-Based Research Network

Dyslexia and Related Disorders

Child Find, Evaluation, and ARD Supports Network

Commissioner's Rules about Special Education

Thank you!

For more information contact the Division of Special Education

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(512) 463-9414