

TCASE Dyslexia Panel

July 25, 2018

(Summary of Q and A provided during TEA portion of panel discussion)

Question: Can you give us a brief explanation and timeline of the events that have occurred since the OSEP visit last year resulting in the Special Education Strategic Plan and Corrective Action Response sent to OSEP? Additionally, can you speak to the issues raised in the OSEP findings letter in which Corrective Action 2c addresses through additional data collection?

Answer: OSEP visited 12 Texas districts during the week of February 27, 2017 due in part to concerns raised during the fall of 2016 regarding the number of students receiving special education services. A letter of findings was received from OSEP on January 11, 2018 citing 3 specific areas of noncompliance and requiring 4 corrective actions or next steps the State is required to produce documentation or evidence of completion to OSEP. TEA produced and provided a draft Special Education Strategic Plan to Governor Abbott on January 17, then subsequent versions based on extensive stakeholder input were developed with the current and final version published on April 23, 2018. The Corrective Action Response document was also finalized and provided to OSEP on April 23 and contains 15 essential corrective actions the State identifies it must make to comprehensively address the 3 citations and 4 corrective actions or next steps identified in the letter of findings the State received. As Justin Porter addressed in the State of the State presentation yesterday morning, there are 4 of the 15 essential corrective actions that requires specific district action during the 2018-19 school year.

Corrective action 2.c. addresses OSEP's associated Corrective Action/Next Steps that requires a plan and timeline by which TEA will ensure that each ISD will (i) identify, locate, and evaluate children enrolled in the ISD who should have been referred for an initial evaluation under the IDEA, and (ii) require IEP Teams to consider, on an individual basis, whether additional services are needed for children previously suspected of having a disability who should have been referred for an initial evaluation and were later found eligible for special education and related services under the IDEA, taking into consideration supports and services previously provided to the child.

This will require additional aggregate data to be reported in the SPP 11 collection. TEA along with the 20 regional centers will be providing additional information and support throughout this fall and spring to help districts understand collection requirements for the 2018-19 school year data that will be reported through the SPP application when it opens in June of 2019.

Question: Can you update us on the activities relating to possible revisions and expected timelines for any changes to the Dyslexia Handbook?

Answer: The Dyslexia Handbook (Handbook) committee is currently meeting and spending particular time on reviewing any revisions to screening and to the identification sections of the Handbook. Other language concerns or issues found in the current Handbook version are being addressed as well. The goal is to have any revisions proposed to the Board during the September meeting. The next meeting of the Board will be in November, so the committee hopes to have all changes and updates passed through the Board no later than November.

Question: Must a school district refer every student suspected of having dyslexia for a full individual and initial evaluation under the IDEA?

Answer: No. Schools should consider data and information for each individual student and determine the most appropriate next step. This data-based discussion should include a team of knowledgeable persons, including parents, that could result in a referral under IDEA, Section 504, or continuation of tiered intervention. The decision to refer a student for a full individual and initial evaluation under the IDEA for any suspected disability should be made individually for each student.

Team members might include:

- Parent(s)
- Teacher(s)
- Person knowledgeable of dyslexia and its evaluation
- Person knowledgeable of special education evaluation
- Others with knowledge of a service option to be considered

Question: How will school teams know whether a student should be referred for a dyslexia evaluation through Section 504 or IDEA?

Answer: Teams must make data informed decisions for every student, on an individual basis, every time. They must consider all available resources and services. A student suspected of having a disability that is adversely affecting educational performance and likely needs an individualized education program that is specifically tailored to his or her unique needs should be referred for a full and individual initial evaluation under the IDEA. If the team suspects that student will respond well to dyslexia services provided to other students through general education, then that student may be referred for a Section 504 evaluation.

Examples of data to discuss that can help a team make decisions include:

- Comparison with grade level peers and expectations
- Universal screening and benchmarking data
- Progress monitoring intervention data
- Review reading data in comparison with learning and achievement in other academic areas
- Parent and teacher information and observation

Question: Is instruction as described in The Dyslexia Handbook automatically considered “specially designed instruction” or “special education” as it is defined in the IDEA?

Answer: No, not automatically. Required dyslexia instruction as described in the dyslexia handbook is not in and of itself considered “special education” or “specially designed instruction” in the context of IDEA.

In the current Dyslexia Handbook Chapter III: Instruction for Students with Dyslexia describes the reading instruction that must be in place to serve students identified with dyslexia and the requirement for highly structured and systematic delivery provided by trained staff who implement dyslexia services with fidelity.

A student who qualifies for special education has an individualized education program (IEP) developed by an ARD committee that is specially designed to meet his or her unique needs rather than aligned with groups of students with similar learning challenges. However, for a student with dyslexia who qualifies

for special education and whose ARD committee has determined participation in dyslexia services as part of the IEP must include, as appropriate, the reading instruction that matches the critical evidence-based components of dyslexia instruction currently found in Chapter III of the Dyslexia Handbook. Therefore, instruction provided as described in the current Dyslexia Handbook and included in the IEP may be considered “specially designed instruction” or “special education” in this circumstance as determined by the ARD committee.

Question: Do all students who are served under section 504 in dyslexia intervention programs need to be referred for a Full individual and initial evaluation under IDEA?

Answer: No. LEAs need to review the progress and individual data for students with dyslexia receiving services under Section 504. All students receiving interventions should be subject to ongoing progress monitoring and data-based decision making. If an individual student is making adequate progress with current services, it is unlikely that they would require special education services and an evaluation under the requirements of IDEA would not apply. If, however, a student is not responding to the dyslexia services as expected a referral for special education may be necessary.

Furthermore, in address to the “all” or “every” student part of this question we point to the key findings and subsequent language from OSEP found in the January 11 letter we received.

On page 4 of the OSEP letter, you will find the 3 specific findings and statement that OSEP identified situations where ISDs engaged in practices that violated the IDEA's child find requirements, particularly in situations in which ISDs provided supports to struggling learners in the general education environment through mechanisms including RTI, Section 504, and the State dyslexia program, even though the students were suspected of having disabilities AND needing special education and related services under the IDEA.

To be clear, OSEP nor TEA has communicated in any way that all struggling learners in the general education environment or those learners who are receiving supports through RTI, Section 504, or State Dyslexia services should automatically receive an FIIE and be considered for special education services. Nor has OSEP assumed that all ISDs are engaged in practices that violate IDEA child find requirements due to delays from inclusion in general education supports. OSEP, in their letter of findings and attached enclosure, repeatedly and clearly state the IDEA’s child find requirements to identify, locate, and evaluate all children with disabilities residing in the State who are suspected of having disabilities AND needing special education and related services under the IDEA.

Question: Are dyslexia services for students receiving special education considered general education setting or a special education setting?

Answer: It depends. Instructional arrangement or setting refers to the location of special education services. The instructional arrangement or setting code is determined by the location and for some codes, the amount of time in that location. Typically, if a student receives dyslexia services in a setting designed for providing special education only to other students who are also receiving special education services under the IDEA then the location is special education. If a student receives dyslexia services, in accordance with his or her IEP, in a setting designed to provide educational services to both students who are not receiving special education services and students who are identified through special education for services, then the setting is considered general education. In either setting, qualified special education personnel must be involved in the implementation of the student's IEP through the

provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s).

Question: What credentials and trainings are required for the dyslexia specialists/teachers who may be serving both special education and 504 students, and the special education teacher who may be serving special education students identified with dyslexia?

Answer: A person may not be employed as a teacher by a school district unless the person holds an appropriate certificate or permit outlined in law. Texas Education Code (TEC) Section 21.044, as amended through legislative action in the 82nd legislature in 2011, provides that the State Board for Educator Certification propose rules establishing the training requirements and minimum academic qualifications a person must possess to obtain a certificate. The act establishes that the minimum academic qualifications require a person to possess a bachelor's degree and that the person receive, as part of the training to obtain that certificate, instruction in detection and education of students with dyslexia. Additionally, TEC Section 21.054(b) and Texas Administrative Code (TAC) Section 232.11 mandates continuing education requirements for educators who teach students with dyslexia.

Furthermore, TAC Section 74.28(c) requires teachers who screen and treat students with dyslexia to be trained in instructional strategies which utilize individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the Dyslexia Handbook. Each school must provide an identified student access at his/her campus to an instructional program that meets the requirements in TAC Section 74.28(c) and to the services of a teacher trained in dyslexia and related disorders.

For a student with a disability, qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) for any educational service or program implemented for that student in accordance with his or her IEP.

Please refer to the State Dyslexia Handbook for additional questions and answers.

[https://www.region10.org/r10website/assets/File/Dyslexia%202014%20Englishwtabs%208%2014%202014\(1\).pdf](https://www.region10.org/r10website/assets/File/Dyslexia%202014%20Englishwtabs%208%2014%202014(1).pdf)