

THE DYSLEXIA HANDBOOK

Procedures Concerning
Dyslexia and Related Disorders

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Foreword

The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders contains the State Board of Education (SBOE) approved procedures concerning dyslexia and related disorders. The handbook provides guidelines for school districts to follow as they identify and provide services for students with dyslexia. Additionally, the handbook provides school districts and parents with information regarding the state's dyslexia statutes and their relation to the federal laws the Rehabilitation Act of 1973, §504, and the Individuals with Disabilities Act (IDEA).

The State Board of Education approved in 1992 and revised in 1998 a set of guidelines concerning dyslexia and related disorders in a document referred to as the *Revised Procedures Concerning Dyslexia and Related Disorders*. The present handbook, *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, was reviewed by the SBOE in 2001, and replaces all previous handbooks and guidelines. The handbook does not introduce legal changes or changes in procedures. Rather, it clarifies language related to assessment and identification of students with dyslexia and reorganizes the procedures. Wherever possible, the procedures are bulleted and arranged in a sequence for districts and charter schools to follow as they develop their written procedures.

In addition to *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, each education service center has designated a contact person to assist districts and campuses with implementing the state law and SBOE rules and procedures regarding dyslexia. The handbook contains the phone numbers of each education service center where the dyslexia contact can be reached.



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Preface

Students who continue to struggle to read, despite conventional or intensified instruction, are provided organized systems of reading support in the state of Texas. Some students struggle during early reading acquisition. Others do not struggle until the later grades when they face more complex language demands (e.g., reading textbooks; grammar). Some may be non-English speakers who struggle to read in their native language and/or English language learners (ELL) who struggle to read despite having appropriately developed oral English language. Many of the struggling readers struggle because of dyslexia. This includes students in all grades, non-English speakers, and ELL.

The purpose of this handbook of procedures related to dyslexia is to provide guidelines for school districts, charter schools, campuses, teachers, and parents in the identification and instruction of students with dyslexia. This handbook will be helpful to districts and charter schools as they develop their written procedures regarding students with dyslexia. While state and federal laws provide a legal framework, districts and charter schools should also address the individual needs of the students that they serve.

In Texas the identification and instruction of students with dyslexia and related disorders is mandated and structured by two statutes and one rule. Texas Education Code (TEC) §38.003 defines dyslexia and related disorders, mandates testing students for dyslexia and providing instruction for students with dyslexia, and gives the State Board of Education authority to adopt rules and standards to administer testing and instruction. Chapter 19 of the Texas Administrative Code (TAC) §74.28 outlines the responsibilities of districts and charter schools in the delivery of services to students with dyslexia. Finally, §504 of the Rehabilitation Act of 1973 establishes assessment and evaluation standards and procedures for students. Section 504 procedures are implemented when it is determined that dyslexia substantially limits learning.

In addition to the statutes and rule related to dyslexia, the State Board of Education approved (1992) and revised (1998) a set of guidelines referred to as the *Revised Procedures Concerning Dyslexia and Related Disorders*. The present handbook, *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, replaces all previous handbooks and guidelines. The handbook does not introduce legal changes or changes in procedures. Rather, it clarifies language related to assessment and identification of students with dyslexia and reorganizes the procedures. Wherever possible, the procedures are bulleted and arranged in a sequence for districts and charter schools to follow as they develop their written procedures.

The chapters in this handbook include:

- I. Definitions and Characteristics of Dyslexia
- II. Issues Related to Kindergarten, Grade 1, and Grade 2 Reading Instruments
- III. Procedures and Measures for Assessing Students for Dyslexia
- IV. Identification of Students with Dyslexia
- V. Instruction for Students with Dyslexia
- VI. Professional Development of the Teacher of Students with Dyslexia
- VII. Referral to Special Education

The dyslexia handbook has ten appendices: a flow chart of procedures; testing accommodations for the Texas Assessment of Academic Skills (TAAS); a glossary of terms; questions and answers; contacts for further information and organizations; publications related to dyslexia; the Rehabilitation Act of 1973, §504; TEC §38.003; TEC §28.006; and 19 TAC §74.28.

I. DEFINITIONS AND CHARACTERISTICS OF DYSLEXIA

The student who struggles with reading, writing, and/or spelling often puzzles teachers and parents. The student displays adequate intelligence and receives the same classroom instruction that benefits most children. Still the student struggles with some or all of the many facets of reading, writing and/or spelling. This student may be identified as a student with dyslexia. As defined in TEC §38.003:

(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 imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

The working definition of the International Dyslexia Association states:

Dyslexia is one of several distinct learning disabilities. It is a specific language-based disorder of constitutional origin characterized by difficulties in single-word decoding, usually reflecting insufficient phonological processing. These difficulties in single-word decoding are often unexpected in relation to age and other cognitive and academic abilities; they are not the result of generalized developmental disability or sensory impairment. Dyslexia is manifested by variable difficulty with different forms of language, often including, in addition to problems with reading, a conspicuous problem with acquiring proficiency in writing and spelling (International Dyslexia Association Research Committee in collaboration with the National Center for Learning Disabilities and the National Institutes of Child Health and Human Development, April 1994).

The difficulties of a student identified as having dyslexia occur in phonemic awareness and manipulation, single-word decoding, reading fluency, reading comprehension, spelling, and/or written composition. These difficulties are unexpected for the student’s age, educational level, or cognitive abilities. Additionally, there is often a **family history** of similar difficulties.

The following are the reading/writing/spelling characteristics of dyslexia:

- ◆ Difficulty reading single words in isolation;
- ◆ Difficulty accurately decoding nonsense or unfamiliar words;
- ◆ Slow, inaccurate, or labored oral reading (lack of reading fluency); and/or
- ◆ Difficulty with learning to spell.

The reading/writing/spelling characteristics are the result of:

- ◆ Difficulty with the development of phonological awareness, including segmenting, blending, and manipulating sounds in words;
- ◆ Difficulty learning the names of letters and their associated sounds;
- ◆ Difficulty with phonological memory (holding information about sounds and words in memory); and/or
- ◆ Difficulty with rapid naming of familiar objects, colors, or letters of the alphabet.

The reading/writing/spelling characteristics of dyslexia lead to:

- ◆ Variable degrees of difficulty with word recognition in isolation or in context;
- ◆ Variable difficulty with aspects of reading comprehension;
- ◆ Variable difficulty with aspects of written composition; and/or
- ◆ A limited amount of time spent in reading activities.

II. ISSUES RELATED TO KINDERGARTEN, GRADE 1, AND GRADE 2 READING INSTRUMENTS

Some students demonstrate difficulties during early reading instruction. Two forms of assistance are available for these students. The first is through TEC §28.006. The second is through a recommendation for assessment for dyslexia. The two sources of instructional help are not sequential and must be determined solely by the student's reading needs.

The most common source of instructional help for early struggling readers is through TEC §28.006. Districts and charter schools must administer early reading instruments to all students in kindergarten and grades 1 and 2 to diagnose their reading development and comprehension. (For students in special education, see TEC §28.006(g).) If, on the basis of the reading instrument results, students are determined to be at risk for dyslexia or other reading difficulties, the district or charter school must notify the students' parents/guardians. The district or charter school must also implement an accelerated (intensive) reading program that appropriately addresses students' reading difficulties (TEC §28.006(g)) and enables them to "catch up" with their typically performing peers.

During kindergarten and grades 1 and 2 some students will demonstrate the characteristics of dyslexia or may struggle with reading, writing, and spelling during the intensive reading instruction provided through TEC §28.006. Districts and charter schools must initiate procedures to recommend these students for assessment for dyslexia. The information from the early reading instruments will be one source of information in deciding whether or not to recommend a student for assessment for dyslexia. The early reading instruments may or may not be part of the measures used to assess a student for dyslexia and must not be the only measures used to assess a student for dyslexia.

III. PROCEDURES AND MEASURES FOR ASSESSING STUDENTS FOR DYSLEXIA

Districts and charter schools must establish written procedures for recommending and assessing students for dyslexia within general education. While districts and charter schools must follow federal and state guidelines, they must also develop procedures that address the needs of their students. The procedures begin for students when they continue to struggle with one or more components of reading.

At any time that a student continues to struggle with one or more components of reading, districts and charter schools must collect additional information about the student. Districts and charter schools will use this information to evaluate the student's academic progress and determine what actions are needed to ensure the student's improved academic performance. Some of the information that the district or charter school collects is in the student's cumulative folder; other information is available from teachers and parents. Information to be considered includes the results from some or all of the following:

- ◆ Vision screening (school may conduct screening);
- ◆ Hearing screening (school may conduct screening);
- ◆ Teacher reports of classroom concerns;
- ◆ Basal reading series assessment;
- ◆ Accommodations and modifications provided by classroom teachers;
- ◆ Academic progress reports (report cards);
- ◆ Samples of school work;
- ◆ Parent conferences;
- ◆ Testing for limited English proficiency;
- ◆ Speech and language screening through a referral process;
- ◆ The K-2 reading instrument as described in TEC §28.006; and/or
- ◆ State student assessment program as described in TEC §39.022.

Among the actions that the district or charter school has available for the student is a recommendation that the student be assessed for dyslexia. The district or school recommends assessment for dyslexia if the student demonstrates the following:

- ◆ Poor performance in one or more areas of reading and/or the related areas of writing and spelling that is unexpected for the student's age/grade, and;
- ◆ Some or all of the characteristics of dyslexia.

When the district or charter school recommends that a student be assessed for dyslexia, the district proceeds using the following procedures.

Procedures

Students enrolling in public schools in Texas shall be assessed for dyslexia and related disorders at appropriate times (TEC §38.003 (a)). The appropriate time depends upon multiple factors including the student's reading performance, reading difficulties, poor response to additional reading instruction (if placed in additional reading instruction), teachers' input, and parents' input. Additionally, the appropriate time for assessing is early in a student's school career (19 TAC §74.28), the earlier the better. While earlier is better, students should be recommended for assessment for dyslexia even if the reading difficulties appear later in a student's school career.

III. PROCEDURES AND MEASURES FOR ASSESSING STUDENTS FOR DYSLEXIA (continued)

The procedures to follow include:

- ◆ Notify parents or guardians of proposal to assess student for dyslexia (§504);
- ◆ Inform parents or guardians of their rights under §504;
- ◆ Obtain parent permission to assess the student for dyslexia; and
- ◆ Administer measures only by individuals/professionals who are trained in assessments to evaluate students for dyslexia and related disorders (19 TAC §74.28).

Tests, assessments, and other evaluation materials must:

- ◆ Be validated for the specific purpose for which they are used (§504);
- ◆ Include material tailored to assess specific areas of educational need and not merely materials that are designed to provide a single general intelligence quotient (§504);
- ◆ Be selected and administered so as to ensure that, when a test is given to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (§504);
- ◆ Include multiple measures of a student's reading abilities such as informal assessment information (e.g., anecdotal records, lists of books the student has read, audio recordings of the student's oral reading) (§504); and
- ◆ Be administered by trained personnel and in conformance with the instructions provided by the producer of the evaluation materials (§504).

Domains to Assess

The district or charter school administers measures that are related to the student's educational needs. Depending upon the student's age and stage of reading development, the following are the areas related to reading that should be assessed.

- ◆ Reading single words in isolation;
- ◆ Word decoding (real and nonwords);
- ◆ Phonological awareness;
- ◆ Letter knowledge (name and associated sound);
- ◆ Rapid naming;
- ◆ Fluency/rate and accuracy;
- ◆ Reading comprehension; and/or
- ◆ Spelling.

Based on the student's academic difficulties and characteristics, additional areas that can be assessed include vocabulary, written expression, handwriting, and mathematics. For non-English speakers who struggle to read in their native language, similar measures in the student's native language would be used as appropriate. This may require that dyslexia personnel work with the bilingual staff to administer the measures and determine if student performance is lower than what would be expected for the student's age/grade.

IV. IDENTIFICATION OF STUDENTS WITH DYSLEXIA

A team or committee of knowledgeable persons determines if the student has dyslexia. The team must be knowledgeable about:

- ◆ The student being assessed;
- ◆ The reading process;
- ◆ Dyslexia and related disorders;
- ◆ Dyslexia instruction;
- ◆ District or charter school, state, and federal guidelines for assessment;
- ◆ The assessments used; and
- ◆ The meaning of the collected data.

A committee of knowledgeable persons determines the identification of dyslexia after reviewing all accumulated data including the following areas:

- ◆ The observations of the teacher, district or charter school staff, and/or parent;
- ◆ Data gathered from the classroom (including student work and the results of classroom measures) and information found in the student's cumulative folder (including the developmental and academic history of the student);
- ◆ The results of administered assessments; and
- ◆ All other accumulated data regarding the development of the student's learning and his/her educational needs.

The student's reading difficulties and characteristics of dyslexia will be reflected or supported by low performance for the student's age and educational level in some or all of the following areas:

- ◆ Reading single words in isolation;
- ◆ Word decoding (real and nonwords);
- ◆ Phonological awareness;
- ◆ Letter knowledge (name and associated sound);
- ◆ Rapid naming;
- ◆ Fluency/rate and accuracy;
- ◆ Reading comprehension; and
- ◆ Spelling.

A committee of knowledgeable persons must also incorporate the following guidelines from TEC §38.003 and 19 TAC §74.28:

- ◆ The student's unexpected lack of appropriate academic progress;
- ◆ The student's exhibiting characteristics associated with dyslexia;
- ◆ The student's having adequate intelligence, the ability to learn;
- ◆ The student's receiving conventional instruction; and
- ◆ The student's lack of progress not being due to sociocultural factors such as language differences, irregular attendance, and lack of experiential background.

Based on the above information and guidelines the committee of knowledgeable persons determines whether the student has dyslexia. If the student has dyslexia, the committee of knowledgeable persons also determines whether the student has a disability under the Rehabilitation Act of 1973, §504. (Not all students with dyslexia are necessarily eligible for §504.) A student is considered to have a disability under §504 if the condition substantially limits the student's learning. Students with additional factors that complicate their dyslexia may require additional support or referral to special education.

V. INSTRUCTION FOR STUDENTS WITH DYSLEXIA

Once it has been determined that a student has dyslexia, the school district or charter school shall provide an appropriate instructional program for the student. As stated in TEC §38.003:

“In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.”

The following procedures must be followed:

- ◆ Instructional decisions for a student with dyslexia are made by a team that is knowledgeable about the student, the meaning of the evaluation information, and instructional components and approaches for students with dyslexia.
- ◆ School districts and charter schools may purchase a reading program or develop their own reading program for students with dyslexia and related disorders as long as the program is characterized by the descriptors found in this handbook. The descriptors include the components phonemic awareness, graphophonemic knowledge, language structure, linguistic patterns, and processes (19 TAC §74.28). Instructional approaches include explicit, individualized, and multi-sensory instruction (19 TAC §74.28). The components of instruction and instructional approaches are described in the next section of this handbook.
- ◆ Each school must provide each identified student access at his or her campus 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 (19 TAC §74.28).
- ◆ 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.
- ◆ Teachers who provide the appropriate instruction for students with dyslexia must be trained in instructional strategies that utilize individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components specified in the next section of this handbook (19 TAC §74.28).
- ◆ Teachers who provide the appropriate instruction for students with dyslexia must be trained in the professional development activities specified by each district, charter school, and/or campus planning and decision making committee (19 TAC §74.28).

Districts and charter schools may provide a parent education program for the parents/guardians of students with dyslexia and related disorders. The program should include:

- ◆ Characteristics of dyslexia and related disorders;
- ◆ Information on assessment and diagnosis of dyslexia;
- ◆ Information on effective strategies for teaching dyslexia; and
- ◆ Awareness of information on classroom modifications and especially of modifications allowed on standardized testing (19 TAC §74.28).

V. INSTRUCTION FOR STUDENTS WITH DYSLEXIA (continued)

Components of Instruction

The instructional program should be offered in a small class setting and include reading, writing, and spelling as appropriate. The major instructional strategies should utilize individualized, intensive, and multisensory methods as appropriate.

Components of instruction, as appropriate for the reading needs of the student, include:

- ◆ Phonemic awareness instruction that enables students to detect, segment, blend, and manipulate sounds in spoken language;
- ◆ Graphophonemic knowledge (phonics) instruction that takes advantage of the letter-sound plan in which words that carry meaning are made of sounds and sounds are written with letters in the right order. Students with this understanding can blend sounds associated with letters into words and can separate words into component sounds for spelling and writing;
- ◆ Language structure instruction that encompasses morphology (the study of meaningful units of language such as prefixes, suffixes, and roots), semantics (ways that language conveys meaning), syntax (sentence structure), and pragmatics (how to use language in a particular context);
- ◆ Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are the carriers of meaning; and
- ◆ Process-oriented instruction in the processes or strategies students use for decoding, encoding, word recognition, fluency, and comprehension that students need to become independent readers.

Instructional approaches, as appropriate to meet the instructional needs of the student, include:

- ◆ Explicit, direct instruction that is systematic (structured), sequential, and cumulative. Instruction is organized and presented in a way that follows a logical sequential plan, fits the nature of language (alphabetic principle) with no assumption of prior skills or language knowledge, and maximizes student engagement. This instruction proceeds at a rate commensurate with students' needs, ability levels, and demonstration of progress;
- ◆ Individualized instruction that meets the specific learning needs of each individual student in a small group setting; a reading curriculum that matches each student's individual ability level and contains all of the *Components of Instruction* mandated in 19 TAC §74.28;
- ◆ Intensive, highly concentrated instruction that maximizes student engagement, uses specialized methods and materials, produces results, and contains all the *Components of Instruction* mandated in 19 TAC §74.28;
- ◆ Meaning-based instruction that is directed toward purposeful reading and writing, with an emphasis on comprehension and composition; and
- ◆ Multisensory instruction that incorporates the simultaneous use of two or more sensory pathways (auditory, visual, kinesthetic, tactile) during teacher presentations and student practice.

Teachers of students with dyslexia shall be prepared to utilize these techniques and strategies. They may also serve as trainers and consultants in the area of dyslexia and related disorders to regular, remedial, and special education teachers.

VI. PROFESSIONAL DEVELOPMENT OF THE TEACHER OF STUDENTS WITH DYSLEXIA

As stated in 19 TAC, §74.28, the teachers who provide appropriate instruction for students with dyslexia must be trained and be prepared to implement instructional strategies that utilize individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components. These teachers must also be trained in the professional development activities specified by each district, charter school, and/or campus planning and decision making committee.

Teachers trained in the appropriate instruction for dyslexia may serve as consultants in the area of dyslexia and related disorders to regular, remedial, and special education teachers.

VII. REFERRAL TO SPECIAL EDUCATION

At any time during the assessment for dyslexia, identification process, or instruction related to dyslexia, students may be referred for evaluation for special education. At times, students will display additional factors/areas complicating their dyslexia and requiring more support than what is available through dyslexia instruction. At other times, there will be students with severe dyslexia or related disorders who will be unable to make adequate academic progress within any of the programs described in the procedures related to dyslexia. In such cases, a referral to special education for evaluation and possible identification as disabled within the meaning of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. section 1400 et seq.) should be made as needed.

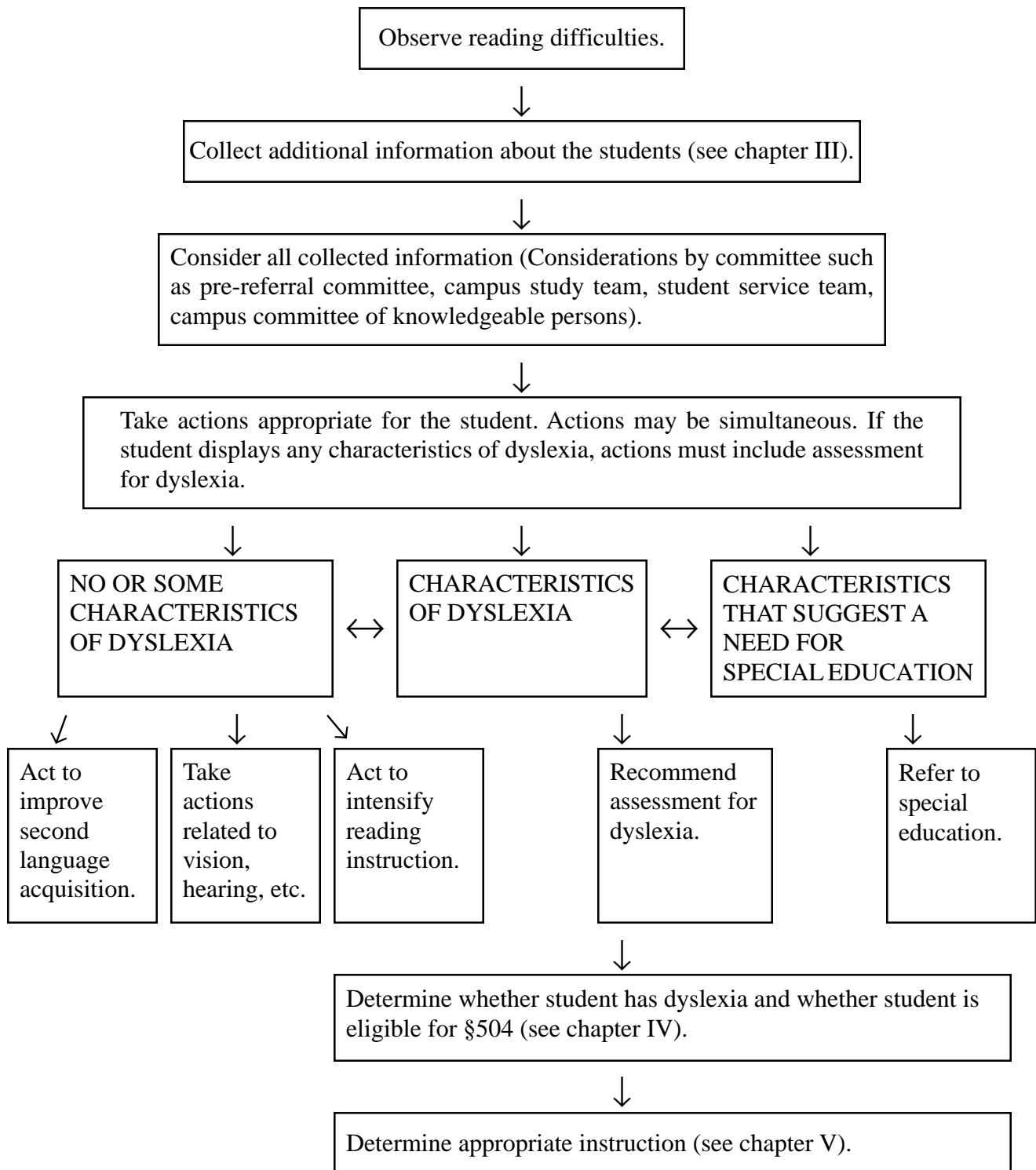
If the student with dyslexia is found eligible for special education, the admission, review, and dismissal (ARD) committee must include appropriate reading instruction on the student's individualized education program (IEP). Appropriate reading instruction includes the descriptors listed in the chapter on Instruction for Students with Dyslexia.

If a student with dyslexia is referred for special education, districts and charter schools follow IDEA, 1997. In IDEA, 1997, §1401 (26), dyslexia is considered one of a variety of etiological foundations for "specific learning disability." In general, the term "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. The disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. A disorder includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

A disorder does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

34 CFR 300.7(c)(10) states that 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 an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disability, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not apply to children who have 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.

Appendix A: Flow Chart for Assessment, Identification, and Instruction for Students with Dyslexia



Appendix B: Testing Accommodations for the Texas Assessment of Academic Skills

NOTE:

Teachers should refer to the current issue of the Texas Assessment of Academic Skills (TAAS) Coordinator's Manual for each year's list of accommodations. The accommodations may change from time to time. For further information contact the website: www.tea.state.tx.us/student.assessment/resources/techdig/chap3.pdf.

Test Accommodations

Certain test administration procedures that do not cause test results to be invalid may be used. Information about testing accommodations should be communicated to administrators and other interested individuals. A list of test accommodations has also been included in the test administrator manuals.

The decision to use a particular accommodation with a student should be made on an individual basis and should take into consideration (a) the needs of the student, and (b) whether the student routinely receives the accommodation in classroom instruction.

Allowable Accommodations

- ◆ Instructions given orally before or after the test may be signed to an examinee with a hearing impairment or translated into the native language of an examinee with limited English proficiency.
- ◆ The writing prompt may be signed to an examinee with a hearing impairment, but no additional information or explanation may be provided to the student.
- ◆ An examinee may place a colored transparency over the test or may use a place marker with the test and the answer document.
- ◆ An examinee may receive an individual administration. In this setting, the examinee may read aloud while working or may read the subject area tests into a tape recorder during testing and play the tests back while working. A test administrator must be present in the test room at all times. All tape recordings should be returned in the scorable shipment with any voided materials.
- ◆ An examinee may use a Braille or large-print version of the test.
- ◆ If an examinee has a disabling condition that interferes with his or her ability to record machine-readable responses, the examinee may respond orally to test items, mark responses in the test booklet, or type responses. The test administrator must record these responses verbatim on a standard answer document. Administrators should write "Transcribed by (NAME) because (REASON)" at the top of the answer document. Test responses cannot be scored unless they appear on the answer document.
- ◆ If an examinee has a disabling condition that interferes with his or her ability to write the composition, an examinee may a) dictate a composition directly to a test administrator, spelling out all words and indicating all capital letters and punctuation marks as the essay is composed, or b) tape-record the essay while composing it, then play it back for the test administrator, spelling, capitalizing, and punctuating it. Afterward, the examinee must be allowed to read over the composition and indicate where he or she would like to make corrections. The test administrator must record these responses verbatim on a standard answer document. Administrators should write, "Transcribed by (NAME) because (REASON)" at the top of the written composition page. Test responses cannot be scored unless they appear on the answer document. All tape recordings should be returned in the scorable shipment with any voided materials.
- ◆ The examinee may type the TAAS written composition* on a typewriter or on a computer but may not use the computer's "spell check" feature or save the document. The composition **must** be transcribed onto a regular answer document for scoring. Administrators should write "Transcribed by (NAME) because (REASON)" at the top of the written composition.

Nonallowable Accommodations

- ◆ The examinee may not receive any reading assistance on the writing or reading tests. Examinees who are identified as having dyslexia or a related disorder may qualify for an oral administration of the mathematics, Grade 8 social studies, and/or Grade 8 science tests.
- ◆ The examinee may not use a calculator.**
- ◆ The examinee may not use a slide rule.
- ◆ The examinee may not use English-language or foreign-language reference materials.***
- ◆ Test items must not be translated.
- ◆ Other accommodations that would make the test invalid are prohibited.

*This is also true for the written composition and open-ended items on the English II end-of-course test.

**An examinee who is administered the Algebra I end-of-course test, however, must have access to a graphing calculator to use throughout the test.

***An examinee who is administered the English II end-of-course test, however, must have access to an English-language dictionary for use throughout the test.

Oral Administration

Eligibility

A test administrator may read aloud the test questions and answer choices for the mathematics, Grade 8 social studies, and/or Grade 8 science tests to:

- ◆ eligible TAAS examinees identified as having dyslexia or a related disorder (e.g., dysgraphia, developmental auditory imperception, dysphasia) who regularly receive this accommodation in the classroom; and
- ◆ hearing-impaired students whose individual educational plans require the signing of daily instruction.

The oral administration is available only for the mathematics, social studies, and science sections of the TAAS test. It is not available for the reading or writing tests or for the Texas Educational Assessment of Minimum Skills (TEAMS) test.

Decision to Provide

The decision to provide an oral administration to students receiving special education services should be made by the student's admission, review, and dismissal (ARD) committee. For students not in special education, this determination rests with the committee that is required by Section 504 of the Rehabilitation Act of 1973 for making the student's placement decisions. Directions for the oral administration are in the *TAAS Test Administrator Manual*.

If you have questions about accommodations that are not listed in this handbook, please call the Student Assessment Division at (512) 463-9536.

Appendix C: Glossary of Terms

Accelerated reading instruction: intensified, research-based, reading instruction that addresses the student’s reading needs that were determined by the K-2 Reading Instruments (TEC §28.006). This intensive research-based instruction is provided for students determined to be at risk for dyslexia or other reading difficulties. The district or charter school determines the form, content, and timing of the intensive instruction that is designed to meet students’ needs (e.g., instruction in phonemic awareness, alphabetic principle, word analysis strategies, fluency, and/or reading comprehension). It is not required that students attend accelerated intensive reading instruction prior to a recommendation for an assessment for dyslexia and/or referral to special education; it is important that students who demonstrate reading needs receive intensified instruction designed to meet their reading needs as early as they are identified.

Adaptive behavior: the effectiveness in which the student meets the standards of personal independence and social responsibility expected of his or her age and cultural group.

Alphabetic principle: the understanding that the sequence of letters in written words represents the sequence of sounds (or phonemes) in spoken words.

Assessment for dyslexia: measures (e.g., tests, systematic observations, interviews, etc.) that are given to determine if a student is eligible for dyslexia services. Individualized measures in reading, as appropriate for the student’s reading level, include:

- ◆ Reading single words in isolation;
- ◆ Word decoding (real and nonwords);
- ◆ Phonological awareness;
- ◆ Letter knowledge (name and associated sound);
- ◆ Rapid naming;
- ◆ Fluency/rate and accuracy;
- ◆ Reading comprehension; and
- ◆ Spelling.

“At Risk” for dyslexia: students whose K-2 Reading Instrument(s) (TEC §28.006) results indicate needs in the areas of reading and/or reading development are considered “at risk” for dyslexia. The students considered “at risk” are at the pre-identification level and are not identified as students with dyslexia at this time. These students will be provided accelerated reading instruction (intense, research-based instruction that addresses the reading needs of the student). Students who continue to struggle with reading despite intensive reading instruction will probably be recommended for an assessment for dyslexia and/or a referral for special education.

Developmental dysgraphia: an inability to write legibly. This may or may not occur in addition to other difficulties in written language. Visual-motor coordination skills are frequently within the average range and are not the primary cause of dysgraphia.

Developmental spelling disorder: significant difficulty learning to spell. This occurs in the absence of reading or other written language difficulties.

Dyslexia: a specific language-based disorder of constitutional origin characterized by difficulties in single-word decoding, usually reflecting insufficient phonological processing. These difficulties in single-word decoding are often unexpected in relation to age and other cognitive and academic abilities; they are not the result of generalized developmental disability or sensory impairment. Dyslexia is manifested by variable difficulty with different forms of language, often including a conspicuous problem with acquiring proficiency in writing and spelling in addition to problems with reading (International Dyslexia Association, 1994).

Evaluation: the use of multiple methods in evaluating a variety of data to guide establishment of appropriate interventions. For the identification of a student with dyslexia, the data for evaluation should include the teacher's observations, the developmental and academic history of the student, the results of a variety of reading assessments, and all other information relevant to the identification of dyslexia.

Explicit, direct instruction: instruction that is systematic (structured), sequential, and cumulative. Instruction is organized and presented in a way that follows a logical sequential plan, fits the nature of language (alphabetic principle) with no assumption of prior skills or language knowledge, and maximizes student engagement.

Graphophonemic knowledge (phonics) instruction: instruction that takes advantage of the letter-sound plan in which words that carry meaning are made of sounds, and sounds are written with letters in the right order. Students with this understanding can blend sounds associated with letters into words and can separate words into component sounds for spelling and writing.

Identification for dyslexia: the educational identification of dyslexia is made by a committee of knowledgeable persons. The team must be knowledgeable about

- ◆ The reading process;
- ◆ Dyslexia and related disorders;
- ◆ Dyslexia instruction;
- ◆ District or charter school, state, and federal guidelines for assessment;
- ◆ The student being evaluated;
- ◆ The assessments that were used; and
- ◆ The meaning of the collected data.

A committee of knowledgeable persons considers all accumulated information for the evaluation including the observations of the teacher and parents, the developmental and educational history of the student, the data collected by the teacher and other district or charter school staff, the results of the assessments administered, and all other pertinent information relating to the educational development of the student.

Individualized instruction: instruction that meets the specific learning needs of an individual student. Materials and methods are matched to each student's individual ability level.

Language structure instruction: instruction that encompasses morphology, semantics, syntax, and pragmatics.

Linguistic instruction: instruction that is directed toward proficiency and fluency with patterns of language so that words and sentences are the carriers of meaning.

Meaning-based instruction: instruction that is directed toward purposeful reading and writing, with an emphasis on comprehension and composition.

Morphemes: a meaningful linguistic unit that cannot be divided into smaller meaningful elements, as the word *book*. A morpheme is also a component of a word, as *s* in *books*.

Morphology: the study of the structure and form of words in language or a language, including inflection, derivation, and the formation of compounds.

Multisensory instruction: instruction that incorporates the simultaneous use of two or more sensory pathways (auditory, visual, kinesthetic, tactile) during teacher presentation and student practice.

Phonemic awareness: the insight that spoken words can be conceived as a sequence of sounds; the ability to manipulate the sounds within words (e.g., segmenting or blending).

Phonics: instructional practices that emphasize how spelling is related to speech sounds in systemic ways; explicit instruction in letter-sound correspondences.

Phonology: the sound structure of speech and in particular the perception, representation, and production of speech sounds.

Process-oriented instruction: thoughtfully ordered step-by-step instruction in the processes or strategies that students need to become independent readers, including processes or strategies for decoding, encoding, word recognition, fluency, and comprehension.

Recommendation for assessment for dyslexia: recommendation by the teacher, district or charter school staff, and/or parent that a student be assessed for dyslexia. Following the recommendation, the district or charter school must adhere to its written procedures and the procedures within the handbook.

Screening: an initial assessment to identify students who may demonstrate particular problems (e.g., reading problems). All students in a school or classroom are given the cursory examination to ascertain whether any of them require more intensive diagnosis.

Appendix D: Questions and Answers

The following questions and answers relate to various topics important to dyslexia and related disorders.

Relationship of Dyslexia To the Rehabilitation Act of 1973, §504

1 How does §504 affect the way school districts and charter schools implement the state dyslexia law and the State Board of Education rules and procedures?

- ◆ If a student is suspected of having a disability within the scope of the Individuals with Disabilities Education Act (IDEA), all special education procedures must be followed. IDEA procedures meet the requirements of §504.
- ◆ If a student is not suspected of having a disability within the scope of IDEA, he/she may still have a disability within the scope of §504. Such a student must be assessed, evaluated, and provided an education that meets the individual needs of the student as adequately as the students without disabilities are served in the district or charter school. At times, such nondiscrimination requires the provision of special services or modifications of programs to enable the student to benefit from the education that is offered to him or her. (The most familiar example is the provision of a ramp for students using wheelchairs.) Following the dyslexia guidelines in this handbook assures attention to the special needs of a student with dyslexia that is considered disabled under §504. Particular attention must be paid to the procedural and appeal provisions of §504.
- ◆ When students are singled out for individualized assessment, the procedures for assessing students for dyslexia must be carried out within the requirements of §504 including notification of parents; opportunity for parents to examine relevant records; use of valid measures; and evaluation and placement by a team of persons knowledgeable about the student, meaning of the evaluation data, and placement options. The steps taken to comply with §504 should be documented in writing.

2 Is every student suspected of having dyslexia “disabled” within the meaning of §504?

No, not in all cases. To be a person with a disability within the meaning of §504, the student must have a disability, have a record of a disability, or be regarded as having a disability. The disability must substantially limit at least one or more major life activities such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working [34 CFR 104.3(j)]. Thus a student with dyslexia whose reading difficulties substantially limit learning may be regarded as having a disability within the scope of §504.

3 What written documentation is recommended to ensure compliance with §504?

It is recommended that districts and charter schools document the following in writing in the event that an Office for Civil Rights investigation is initiated by a formal complaint:

- ◆ Documentation that the notice of evaluation has been given to parents;
- ◆ Documentation of the evaluation data;
- ◆ Documentation of the decisions made by the committee of knowledgeable persons concerning the disability (whether or not a disability exists); and
- ◆ Documentation of the placement options and placement decisions.

The important issue is that the above documentation ensures that a district or charter school meets the needs of students and protects the rights of students and parents.

4 What procedural protections are provided to parents who may not agree with the decisions made by a district or charter school?

- ◆ If the student is suspected of having a disability within the scope of IDEA, the procedural protections provided for in that law and the rules for implementation apply.
- ◆ If the student is not suspected of having a disability within the scope of IDEA, then the procedural protections of §504 may apply. Under §504, parents may file a request for a hearing with the school district or charter school. The school district or charter school must appoint as an impartial hearing officer a person who is not an employee and has no other conflict of interest. At the hearing, there must be opportunity for participation by the parents and, if desired, by counsel for the parents. Decisions of the hearing officer may be appealed to state or federal court.

Texas Education Code, Texas Administrative Code, and State Board of Education Rules and Procedures

5 What is the difference between the State Board of Education's rule and procedures?

The State Board of Education rule requires school districts and charter schools to follow the "Procedures Concerning Dyslexia and Related Disorders." The procedures, as stated in this dyslexia handbook, are guidelines developed to assist districts and charter schools in complying with state and federal laws.

6 What are the school districts' or charter schools' responsibilities in implementing the state dyslexia law?

School districts and charter schools must collect pertinent data for any student suspected of having dyslexia or a related disorder. (See chapter III, Procedures and Measures for Assessing Students for Dyslexia.) A committee of persons knowledgeable about the student, assessment data, and appropriate instruction considers the data to determine whether the student has dyslexia and provides appropriate services for the student in an appropriate instructional program on his/her campus. If a parent received assessment information about his/her child from a private individual, the district or charter school must consider the information provided by the parent. However, the district or charter school determines whether the student is eligible for services for dyslexia and related disorders.

7 What is a reasonable time span between the recommendation for assessment and final determination of whether a student has dyslexia?

Districts and charter schools establish the reasonable timeline within their written procedures for identifying and serving students with dyslexia. In determining a reasonable timeline, districts and charter schools are encouraged to remember that time is critical. The sooner students receive appropriate instruction, the sooner that student moves toward successful independent reading.

8 What monies may be used to support the dyslexia program?

State foundation funds, compensatory funds, or local funds are to be used. Compensatory funds are used to supplement the regular classroom instruction. For students whose disability warrants special education services, special education funds may be used.

Recommendation for Assessment for Dyslexia

9 When is a student who is having problems in reading to be considered for placement in an instruction program for dyslexia and related disorders?

If the student is not progressing in the general, remedial, and/or compensatory reading programs in school and other causes have been eliminated, the student should be recommended for assessment to determine if he or she has dyslexia or a related disorder.

10 How long must students receive general, remedial, and/or compensatory reading instruction before being recommended for assessment for dyslexia?

Students demonstrating difficulties with reading or related areas should be carefully monitored by staff during classroom remedial, and/or compensatory reading instruction and should experience ongoing progress monitoring. If the student does not make progress, then a recommendation for assessment for dyslexia should be made.

11 At what grade level should a student be recommended for assessment for dyslexia?

It is recommended that priority be given to Grades 1, 2, and 3 to focus on early intervention. However, when a student fails to make expected academic progress at any grade level, the needs of the student should be analyzed and evaluated.

12 If students do not make expected academic progress in Grade 1, should they be recommended for an assessment for dyslexia?

They may, but not in all cases. It could be that the student has not had the breadth of enhanced language and literacy experiences required to progress at the same rate as his or her classmates. The student may require tutoring, accelerated (intensive) instruction, placement in smaller instructional groups, or counseling. If the student is not a native English speaker, the student's oral English may not be developed sufficiently and the child may require reading instruction in his/her native language, English as a second language, or bilingual classes. Teachers should consider the results of the early reading instruments that are required by TEC §28.006.

Following accelerated (intensive) reading instruction or other steps to facilitate reading acquisition, students who do not make expected academic progress may require remedial, compensatory, or dyslexia services.

13 Should all students be routinely reviewed for dyslexia?

The reading progress of all students should be monitored and reviewed. A recommendation for assessment for dyslexia is made only for students who respond poorly to some or all of classroom reading instruction and exhibit some or all of the characteristics of dyslexia. Additionally, the student's poor reading performance is unexpected for the student's age/grade.

14 May a parent recommend a student for assessment for dyslexia?

Yes, a parent may request to have his/her child assessed for dyslexia or a related disorder. A parent may choose to have his/her child assessed by a private diagnostician or other source. To be valid, this assessment must comply with the requirements set forth in §504 and the guidelines in this handbook (see the section on tests, assessments, and other evaluations). The district or charter school must consider information provided by the parent when interpreting evaluation data and making placement decisions. However, the district or charter school determines whether the student is eligible for services for dyslexia and/or related disorders.

15 Must a student fail a class or subject before being recommended for assessment for dyslexia?

No. When the student is not progressing and the teacher has exhausted alternative strategies for instruction in the regular classroom, the student should be considered for an alternative program (e.g., Title 1, compensatory education) or be recommended for assessment for dyslexia.

16 What data about students can school districts or charter schools collect to help decide whether a student should be recommended for assessment for dyslexia?

The data collected are the information that schools normally gather. They may include the results of some or all of the following:

- ◆ Vision screening (school may conduct screening);
- ◆ Hearing screening (school may conduct screening);
- ◆ Teacher reports of classroom concerns;
- ◆ Basal reading series assessment;
- ◆ Accommodations and modifications provided by classroom teachers;
- ◆ Academic progress reports (report cards);
- ◆ Parent conferences;
- ◆ Testing for limited English proficiency;
- ◆ Speech and language screening through a referral process;
- ◆ The K-2 reading instrument as described in the results TEC§28.006; and/or
- ◆ State student assessment program as described in the TEC§39.022.

17 To whom should the student be referred if there is a problem with speech or language development?

The normal special education referral procedures should be followed. For students identified as disabled under IDEA, a speech pathologist usually provides services for students with identified language/speech problems in accordance with the decisions of the admission, review, and dismissal (ARD) committee.

18 When may a student be referred for special education evaluation?

A student may be referred for special education evaluation at any time a disability and need for special education are suspected. The dyslexia instructional program is not meant to take the place of special education services. Some students of limited English proficiency are also dyslexic and may need both programs (bilingual education programs/ESL programs and special education or dyslexia instruction).

Assessments for Dyslexia

19 Should parents be notified if a district or charter school plans to evaluate a student for dyslexia or a related disorder?

Yes, notice of the recommendation to assess the student for dyslexia must be given to the parents prior to any individualized assessment. Parental consent for individualized assessment is necessary before assessment begins. In addition, notice of §504 due process rights must be provided to parents at this time.

20 Is there one test that can be used to determine that a student has dyslexia or a related disorder?

There is no one test. Districts and charter schools should use multiple data sources including formal and informal measures that are appropriate for determining dyslexia and related disorders. Reading assessments, as appropriate for the reading development of the student, should include:

- ◆ Reading single words in isolation;
- ◆ Word decoding (real and nonwords);
- ◆ Phonological awareness;
- ◆ Letter knowledge (name and associated sound);
- ◆ Rapid naming;
- ◆ Fluency/rate and accuracy;
- ◆ Reading comprehension; and/or
- ◆ Spelling.

21 Is it necessary to record assessment results and data collected on special forms?

No, this sort of information is usually recorded in students' cumulative folders. Districts and charter schools do not have to change their normal methods of recording students' data. Nor does the state require special forms to record assessment results. It is important that school districts and charter schools keep this information in writing to ensure that they meet the needs of their students, to protect the rights of students and their parents, and to document findings should the Office for Civil Rights investigate a formal complaint.

Identification of a Student with Dyslexia

22 Who ultimately identifies the student as dyslexic and makes the placement decision?

The identification must be made by a school district's, charter school's, or campus' committee of knowledgeable persons. This team should include two or more of the following individuals: the superintendent, a principal, a counselor, a consultant, a reading specialist, a dyslexia specialist, a speech and language pathologist, an educational diagnostician, a special education teacher, and a teacher or other professional educator. The team must be knowledgeable about the student being assessed; reading; dyslexia and related disorders; dyslexia instruction; district or charter school, state, and federal guidelines for assessment; the assessments that were used; and the meaning of the collected data. In addition, it is suggested that the student's parent(s) be a part of this process.

This answer does not necessarily apply to students covered by IDEA. If a student is covered by IDEA, the placement decision would be made by the student's ARD committee which might include members of the dyslexia committee.

23 What are the responsibilities of the committee of knowledgeable persons that identifies a student as having dyslexia?

- ◆ The committee is responsible for evaluating the data to identify students with dyslexia and related disorders. This may be a committee (or committees) at the district, charter school, or campus level.
- ◆ The committee must ensure that appropriate instruction is available for each student identified as having dyslexia or related disorders on his or her campus.
- ◆ The committee must ensure that the State Board of Education's guidelines in this dyslexia handbook are followed.
- ◆ The committee coordinates identification and placement with the Language Proficiency Assessment Committees (LPACs) as needed.

24 What information should be reviewed?

The team should review information in the student's school records or cumulative folder, data from teachers and parents, assessment of reading areas, and any additional information as needed. (See chapter III, Procedures and Measures for Assessing Students for Dyslexia.)

25 What factors must be considered by the committee before placing a student into a dyslexia program?

Identification must be determined based on the following:

- ◆ The student has not made academic progress commensurate with potential.
- ◆ The student has adequate intelligence.
- ◆ The student has the characteristics of dyslexia or a related disorder.

The student's reading difficulties and characteristics of dyslexia will be reflected or supported by low performance for the student's age and educational level in some or all of these areas:

- ◆ Reading single words in isolation;
- ◆ Word decoding (real and nonwords);
- ◆ Phonological awareness;
- ◆ Letter knowledge (name and associated sound);
- ◆ Rapid naming;
- ◆ Fluency/rate and accuracy;
- ◆ Reading comprehension; and
- ◆ Spelling.

The following factors must NOT be used independently to identify a student for a dyslexia program:

- ◆ The student's primary language is not English.
- ◆ The student has irregular attendance.
- ◆ The student lacks experiential background.
- ◆ The student has had a brain injury, disease, or surgery.

26 Is it necessary to use an individually administered intelligence test to identify a student with dyslexia and related disorders?

No. If a committee of knowledgeable persons determines that the student has adequate intelligence based on the information collected, it is not necessary to administer an intelligence test. The district must document their determination of adequate intelligence.

27 What kind of test can be used to determine adequate intelligence, and is there a cutoff score to determine adequate intelligence?

Any reasonable, proven assessment of intelligence, such as a test of listening comprehension, may be considered. Any individually administered standardized intelligence test may be used but is not required.

There is no cutoff score to determine adequate intelligence. Adequate intelligence will be determined by the policies of the district or charter school.

Instruction

28 Should each campus have a dyslexia program?

Yes. This is in accordance with 19 TAC §74.28.

29 Must each district or charter school provide appropriate dyslexia instruction for students identified as having dyslexia at each grade level through Grade 12?

Yes. All students identified with dyslexia must receive reading instruction that is appropriate for their reading strengths and needs. The reading instruction must match the descriptions in this handbook and, as appropriate for the student, contain reading, writing, and spelling components.

30 What is the difference between instruction for students with dyslexia who are in general education and students with dyslexia who are in special education?

There may or may not be a difference. In this handbook, chapter V, Instruction for Students with Dyslexia, describes the reading instruction that must be in place to serve students identified with dyslexia. Students who qualify for special education have an individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee. For students with dyslexia who qualify for special education, the IEP must include, as appropriate, the reading instruction that matches the descriptors found in chapter V of this handbook.

School districts and charter schools must ensure that students who participate in special education services are not denied access to programs on the basis of their disability. To the extent appropriate, the student must be educated in the least restrictive setting with non-disabled peers and have instruction that enables the student to participate and progress in the general curriculum. This means that students who are eligible for special education who also meet the Texas identification criteria for dyslexia and related disorders:

- ◆ Must have an individual education plan (IEP) that provides access to instructional programs in reading and written language that comply with the State Board of Education rules and Procedures Concerning Dyslexia and Related disorders;
- ◆ May not be denied access to the district's or charter school's programs for students with dyslexia, unless the admission, review, and dismissal (ARD) committee determines such a program would deny the student a free appropriate public education (FAPE) and educational benefit; and
- ◆ Must have the admission, review, and dismissal (ARD) committee consider the range of services available for students with dyslexia in determining the least restrictive educational placement for the student.

31 How long should a student remain in a remedial program or in an instructional program designed for students with dyslexia and related disorders?

The local district or charter school should, as with any alternative program, establish criteria for exit. Even after exit, the student, in order to be successful, may require some continuing supports in the general program. Under §504, the district or charter school must provide those supports or related aids and services. Additionally, the campus may want to routinely monitor the progress of the student to be sure that the student maintains successful reading performance.

Teachers

32 What certification should teachers of students with dyslexia and related disorders have?

They need valid elementary teaching certificates if they are assigned to teach elementary students and valid secondary certificates if they are to teach secondary students. Teachers with coursework in the areas of reading and reading disabilities should be considered first for assignment to teach students with dyslexia and related disorders. These teachers should be trained to deliver instruction that is described in chapter V of this handbook.

Appendix E: Contacts for Further Information

Education Service Center Dyslexia Contacts

For more information about dyslexia services, contact your regional Education Service Center. When you phone, ask for the dyslexia contact for your region.

Region I	1900 W. Schunior Edinburg, TX 78539 (956) 984-6000 Fax (956) 984-6159	Region XI	3001 North Freeway Fort Worth, TX 76106-6596 (817) 740-3600 Fax (817) 740-7600
Region II	209 N. Water Street Corpus Christi, TX 78401-2599 (361) 561-8400 Fax (361) 883-3442	Region XII	P.O. Box 23409 Waco, TX 76702-3409 (254) 666-0707 Fax (254) 666-0823
Region III	1905 Leary Lane Victoria, TX 77901-2899 (361) 573-0731 Fax (361) 576-4804	Region XIII	5701 Springdale Road Austin, TX 78723-3675 (512) 919-5313 Fax (512) 919-5374
Region IV	7145 W. Tidwell Houston, TX 77092-2096 (713) 462-7708 Fax (713) 744-6514	Region XIV	1850 State Hwy. 351 Abilene, TX 79601-4750 (915) 675-8600 Fax (915) 675-8659
Region V	2295 Delaware Street Beaumont, TX 77703-4299 (409) 838-5555 Fax (409) 833-9755	Region XV	P.O. Box 5199 San Angelo, TX 76902-5199 (915) 658-6571 Fax (915) 658-6571
Region VI	3332 Montgomery Road Huntsville, TX 77340-6499 (936) 295-9161 (936) 295-1447	Region XVI	P.O. Box 30600 Amarillo, TX 79120-0600 (806) 376-5521 Fax (806) 373-3432
Region VII	P.O. Box 1622 Kilgore, TX 75663-1622 (903) 984-3071 Fax (903) 984-9518	Region XVII	1111 W. Loop 289 Lubbock, TX 79416-5029 (806) 792-4000 Fax (806) 792-1523
Region VIII	P.O. Box 1894 Mt. Pleasant, TX 75456-1894 (903) 572-8551 Fax (903) 575-2611	Region XVIII	P.O. Box 60580 Midland, TX 79711-0580 (915) 563-2380 Fax (915) 567-3290
Region IX	301 Loop 11 Wichita Falls, TX 76309-3799 (940) 322-6928 (940) 767-3836	Region XIX	P.O. Box 971127 El Paso, TX 79997-1127 (915) 780-1919 Fax (915) 780-6537
Region X	P.O. Box 831300 Richardson, TX 75083-1300 (972) 348-1700 Fax (972) 231-3642	Region XX	1314 Hines Avenue San Antonio, TX 78208-1899 (210) 370-5200 Fax (210) 370-5750

State and Federal Contacts

For more information about state dyslexia regulations, contact:

State Dyslexia Consultants
Region 10 Education Service Center
400 E. Spring Valley Road
Richardson, TX 75083-1300
1-800-232-3030
www.ednet10.net/dyslexia.pdf

Director or Assistant Director of Reading
Texas Education Agency
Division of Curriculum and Professional Development
1701 N. Congress Avenue
Austin, TX 78701-1494
(512) 463-9581
www.tea.state.tx.us

For more information regarding the Rehabilitation Act of 1973, §504, contact:

The Office for Civil Rights
Dallas Regional Office
1999 Bryan, Suite 2600
Dallas, TX 75201
(214) 880-2459
ocr@ed.gov

Organizations

Note: This is **NOT** a TEA approved list but is intended to provide additional sources for information about dyslexia and related disorders.

<p>ALTA Academic Language Therapy Association 4020 McEwen, Suite 105 Dallas, TX 75244-5041 (972) 233-9107 ext. 204 Fax (972) 490-4219 HOPELINE (972) 907-3924 www.ALTAread.org</p>	<p>LDA Learning Disabilities Association 4156 Library Road Pittsburgh, PA 15234 (412) 341-1515 www.LDAAmerica.org</p>
<p>Department of Pediatrics/ University of Texas at Houston Center for Academic and Reading Skills 7000 Fannin, UCT2443 Houston, TX 77030 (713) 500-3686 http://cars.uth.tmc.edu</p>	<p>LDAT Learning Disabilities Association of Texas 1011 West 31st Street Austin, TX 78705 (512) 458-8234 (800) 604-7500 (Texas residents only) http://ourworld.compuserve.com/homepages/LDAT</p>
<p>EDMAR Educational Associates P.O. Box 2 Forney, TX 75126 (972) 564-5005 Fax (972) 564-6606 e-mail: mtaysmith@msn.com</p>	<p>LEAD Literacy Education & Academic Development, Inc. P.O. Box 262 Argyle, TX 76226 (940) 464-3752 Fax (940) 464-7293</p>
<p>IDA International Dyslexia Association 8600 LaSalle Road, Suite 382 Chester Building Baltimore, MD 21286-2044 (800) ABCD-123 http://interdys.org</p>	<p>NCLD National Center for Learning Disabilities 381 Park Avenue South, Suite 1401 New York, NY 10016 (212) 545-7510 or (888) 575-7373 Fax (212) 545-9665 www.NCLD.org</p>
<p>International Reading Association P.O. Box 8139 Newark, DE 19714-8139 (800) 336-READ Fax (302) 731-1057 www.reading.org</p>	<p>Neuhaus Education Center 4433 Bissonnet Bellaire, TX 77401 (713) 664-7676 http://www.neuhaus.org</p>
<p>James P. Williams Memorial Foundation 515 W. Harris Avenue, Suite 104 San Angelo, TX 76903 (915) 655-2331</p>	<p>RFB&D Recording for the Blind and Dyslexic 20 Roszel Road Princeton, NJ 08540 (609) 452-0606 www.rfbd.org</p>

<p>RFB&D Recording for the Blind & Dyslexic/Texas 1314 West 45th Street Austin, Texas 78756 (512) 323-9390 www.rfbdtexas.org</p>	<p>Southwest Multisensory Training Center 600 S. Jupiter Road Allen, TX 75002 (972) 359-6646 Fax (972) 359-8291</p>
<p>Scottish Rite Learning Center of West Texas P.O. Box 10135 Lubbock, TX 79408 (806) 765-9150 Fax (806) 765-9564</p>	<p>Texas Scottish Rite Hospital for Children 2222 Welborn Street Dallas, TX 75219-9813 (214) 559-7800 www.tsrhc.org</p>
<p>Southern Methodist University Learning Therapy P.O. Box 750384 Dallas, TX 75219-9813 (214) 768-7323 Fax (214) 768-4313 Learning.Therapy@mail.smu.edu</p>	<p>Texas State Reading Association P.O. Box 4396 Austin, Texas 78765-4396 (800) 326-5274 www.texasira.org</p>

Appendix F: Publications Related to Dyslexia

- Aaron, P. G. & Joshi, R. M. (1992). *Reading problems*. New York: Guilford Press.
- Adams, M. (1990). *Beginning to read: Thinking and learning about print*. Cambridge: MIT Press.
- Adams, M., Foorman, B., Lundberg, I., & Beeler, T. (1998). The elusive phoneme. *American Educator*, 22 (1 & 2), 18-29.
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Appendix G: Rehabilitation Act of 1973, §504 (Federal Law)

TITLE 34-EDUCATION

SUBTITLE B - REGULATIONS OF THE OFFICES OF THE DEPARTMENT OF EDUCATION

CHAPTER I—OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION

PART 104—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

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APPENDIX A TO PART 104—ANALYSIS OF FINAL REGULATION

APPENDIX B TO PART 104—GUIDELINES FOR
ELIMINATING DISCRIMINATION AND DENIAL
OF SERVICES ON THE BASIS OF RACE, COLOR,
NATIONAL ORIGIN, SEX, AND HANDICAP IN
VOCATIONAL EDUCATION PROGRAMS [NOTE]

AUTHORITY: 20 U.S.C. 1405; 29 U.S.C. 794.

SOURCE: 45 FR 30936, May 9, 1980, unless otherwise noted.

Subpart A—General Provisions

§104.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§104.2 Application.

This part applies to each recipient of Federal financial assistance from the Department of Education and to the program or activity that receives such assistance.

§104.3 Definitions.

As used in this part, the term:

(a) *The Act* means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) *Section 504* means section 504 of the Act.

(c) *Education of the Handicapped Act* means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94-142, 20 U.S.C. 1401 et seq.

(d) *Department* means the Department of Education.

(e) *Assistant Secretary* means the Assistant Secretary for Civil Rights of the Department of Education.

(f) *Recipient* means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) *Applicant for assistance* means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(h) *Federal financial assistance* means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of Federal personnel; or
- (3) Real and personal property or any interest in or use of such property, including:
 - (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and
 - (ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) *Handicapped person*—(1) *Handicapped persons* means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (j)(1) of this section, the phrase:

(i) *Physical or mental impairment* means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) *Is regarded as having an impairment* means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.

(k) *Program or activity* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 29 U.S.C. 794(b))

(1) *Qualified handicapped person* means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool elementary, secondary, or adult educational services, a handicapped person (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) to whom a state is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(m) *Handicap* means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

§104.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives 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 handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person 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 handicapped person 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 handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program or activity;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person 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 handicapped and nonhandicapped persons, but must afford handicapped persons 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 aid, benefits, or services provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such aid, benefits, or services 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 handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons, 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 handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives 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 handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving 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.

(c) *Aid, benefits or services limited by Federal law.* The exclusion of nonhandicapped persons from aid, benefits, or services limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from aid, benefits, or services limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

§104.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance to which this part applies shall submit an assurance, on a form specified by the Assistant Secretary, that the program or activity will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants*. (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Assistant Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§104.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action*. (1) If the Assistant Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Assistant Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Assistant Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program or activity but who were participants in the program or activity when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program or activity had the discrimination not occurred.

(b) *Voluntary action*. A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation*. (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Assistant Secretary upon request:

(i) A list of the interested persons consulted,

(ii) A description of areas examined and any problems identified, and

(iii) A description of any modifications made and of any remedial steps taken.

§104.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee*. A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§104.8 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to § 104.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§104.9 Administrative requirements for small recipients.

The Assistant Secretary may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 104.7 and 104.8, in whole or in part, when the Assistant Secretary finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§104.10 Effect of state or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart C—Accessibility

§104.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§104.22 Existing facilities.

(a) *Accessibility.* A recipient shall operate its program or activity so that when each part is viewed in its entirety, it is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 104.23, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that serve handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare, or other social service providers.* If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full accessibility in order to comply with paragraph (a) of this section and, if the time period of the transition plan is longer than one year, identify the steps of that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§104.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101-19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

[45 FR 30936, May 9, 1980; 45 FR 37426, June 3, 1980, as amended at 55 FR 52138, 52141, Dec. 19, 1990]

Subpart D—Preschool, Elementary, and Secondary Education

§104.31 Application of this subpart.

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

§104.32 Location and notification.

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

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§104.33 Free appropriate public education.

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

(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 handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36.

(2) Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person or refer such a person for aid, benefits, or services other than those that it operates or provides 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 handicapped person 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 handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the aid, benefits, or services. 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 handicapped person.

(2) *Transportation.* If a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the aid, benefits, or services operated by the recipient.

(3) *Residential placement.* If a public or private residential placement is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the placement, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) *Placement of handicapped persons by parents.* If a recipient has made available, in conformance with the requirements of this section and §104.34, a free appropriate public education to a handicapped person 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 a free appropriate public education available or otherwise regarding the question of financial responsibility are subject to the due process procedures of §104.36.

(d) *Compliance.* A recipient may not exclude any qualified handicapped person 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.

§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 handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person 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 § 104.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person 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 handicapped persons, 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.

§104.35 Evaluation and placement.

(a) *Preplacement evaluation.* A recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, 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 regular or special education 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 handicap, 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 §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 Education for the Handicapped Act is one means of meeting this requirement.

§104.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, 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 Education of the Handicapped Act is one means of meeting this requirement.

§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 handicapped students 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 handicapped persons, 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 handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation.

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

§104.38 Preschool and adult education.

A recipient to which this subpart applies that provides preschool education or day care or adult education may not, on the basis of handicap, exclude qualified handicapped persons and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided.

§104.39 Private education.

(a) A recipient that provides private elementary or secondary education may not, on the basis of handicap, exclude a qualified handicapped person if the person can, with minor adjustments, be provided an appropriate education, as defined in §104.33(b)(1), within that recipient's program or activity.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

(c) A recipient to which this section applies that provides special education shall do so in accordance with the provisions of §§ 104.35 and 104.36. Each recipient to which this section applies is subject to the provisions of §§ 104.34, 104.37, and 104.38.

Subpart G—Procedures

§104.61 Procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 100.6-100.10 and part 101 of this title.

23. *Free appropriate public education.* Under 104.33(a), a recipient is responsible for providing a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction. The word "in" encompasses the concepts of both domicile and actual residence. If a recipient places a child in a program other than its own, it remains financially responsible for the child, whether or not the other program is operated by another recipient or educational agency. Moreover, a recipient may not place a child in a program that is inappropriate or that otherwise violates the requirements of Subpart D. And

in no case may a recipient refuse to provide services to a handicapped child in its jurisdiction because of another person's or entity's failure to assume financial responsibility.

Section 104.33(b) concerns the provision of appropriate educational services to handicapped children. To be appropriate, such services must be designed to meet handicapped children's individual educational needs to the same extent that those of nonhandicapped children are met. An appropriate education could consist of education in regular classes, education in regular classes with the use of supplementary services, or special education and related services. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions and may be accompanied by such related services as developmental, corrective, and other supportive services (including psychological, counseling, and medical diagnostic services). The placement of the child must however, be consistent with the requirements of 104.34 and be suited to his or her educational needs.

The quality of the educational services provided to handicapped students must equal that of the services provided to nonhandicapped students; thus, handicapped student's teachers must be trained in the instruction of persons with the handicap in question and appropriate materials and equipment must be available. The Department is aware that the supply of adequately trained teachers may, at least at the outset of the imposition of this requirement, be insufficient to meet the demand of all recipients. This factor will be considered in determining the appropriateness of the remedy for noncompliance with this section. A new 104.33(b)(2) has been added, which allows this requirement to be met through the full implementation of an individualized education program developed in accordance with the standards of the EHA.

Paragraph (c) of 104.33 sets forth the specific financial obligations of a recipient. If a recipient does not itself provide handicapped persons with the requisite services, it must assume the cost of any alternate placement. If, however, a recipient offers adequate services and if alternate placement is chosen by a student's parent or guardian, the recipient need not assume the cost of the outside services. (If the parent or guardian believes that his or her child cannot be suitably educated in the recipient's program, he or she may make use of the procedures established in 104.36.) Under this paragraph, a recipient's obligation extends beyond the provision of tuition payments in the case of placement outside the regular program. Adequate transportation must also be provided. Recipients must also pay for psychological services and those medical services necessary for diagnostic and evaluative purposes.

If the recipient places a student, because of his or her handicap, in a program that necessitates his or her being away from home, the payments must also cover room and board and nonmedical care (including custodial and supervisory care). When residential care is necessitated not by the student's handicap but by factors such as the student's home conditions, the recipient is not required to pay the cost of room and board.

Two new sentences have been added to paragraph (c)(1) to make clear that a recipient's financial obligations need not be met solely through its own funds. Recipients may rely on funds from any public or private source including insurers and similar third parties.

The EHA requires a free appropriate education to be provided to handicapped children "no later than September 1, 1978," but Section 504 contains no authority for delaying enforcement. To resolve this problem, a new paragraph (d) has been added to 104.33. Section 104.33(d) requires recipients to achieve full compliance with the free appropriate public education requirements of 104.33 as expeditiously as possible, but in no event later than September 1, 1978. The provision also makes clear that, as of the effective date of this regulation, no recipient may exclude a qualified handicapped child from its educational program. This provision against exclusion is consistent with the order of providing services set forth in Section 612(3) of the EHA, which places the highest priority on providing services to handicapped children who are not receiving an education.

24. *Educational setting.* Section 104.34 prescribes standards for educating handicapped persons with nonhandicapped persons to the maximum extent appropriate to the needs of the handicapped person in question. A handicapped student may be removed from the regular educational setting only where the recipient can show that the needs of the student would, on balance, be served by placement in another setting.

Although under 104.34, the needs of the handicapped person are determinative as to proper placement, it should be stressed that, where a handicapped student is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore, regular placement would not be appropriate to his or her needs and would not be required by 104.34.

Among the factors to be considered in placing a child is the need to place the child as close to home as possible. A new sentence has been added to paragraph (a) requiring recipients to take this factor into account. As pointed out in several comments, the parents' right under 104.36 to challenge the placement of their child extends not only to placement in special classes or separate schools but also to placement in a distant school and, in particular, to residential placement. An equally appropriate educational program may exist closer to home; this issue may be raised by the parent or guardian under 104.34 and 104.36.

New paragraph (b) specified that handicapped children must also be provided nonacademic services in as integrated a setting as possible. This requirement is especially important for children whose educational needs necessitate their being solely with other handicapped children during most of each day. To the maximum extent appropriate, children in residential settings are also to be provided opportunities for participation with other children.

Section 104.34(c) requires that any facilities that are identifiable as being for handicapped students be comparable in quality to other facilities of the recipient. A number of comments objected to this section on the basis that it encourages the creation and maintenance of such facilities. This is not the intent of the provision. A separate facility violates Section 504 unless it is indeed necessary to the provision of an appropriate education to certain handicapped students. In those instances in which such facilities are necessary (as might be the case, for example, for severely retarded persons), this provision requires that the educational services provided be comparable to those provided in the facilities of the recipient that are not identifiable as being for handicapped persons.

25. *Evaluation and placement.* Because the failure to provide handicapped persons with an appropriate education is so frequently the result of misclassification or misplacement, 104.33(b)(1) makes compliance with its provisions contingent upon adherence to certain procedures designed to ensure appropriate classification and placement. These procedures, delineated in 104.35 and 104.36, are concerned with testing and other evaluation methods and with procedural due process rights.

Section 104.35(a) requires that an individual evaluation be conducted before any action is taken with respect either to the initial placement of a handicapped child in a regular or special education program or to any subsequent significant change in that placement. Thus, a full reevaluation is not required every time an adjustment in placement is made. "Any action" includes denials of placement.

Paragraphs (b) and (c) of 104.35 establishes procedures designed to ensure that children are not misclassified, unnecessarily labeled as being handicapped, or incorrectly placed because of inappropriate selection, administration, or interpretation of evaluation materials. This problem has been extensively documented in "Issues in the Classification of Children," a report by the Project on Classification of Exceptional Children, in which the HEW Interagency Task Force participated. The provisions of these paragraphs are aimed primarily at abuses in the placement process that result from misuse of, or undue or misplaced reliance on, standardized scholastic aptitude tests.

Paragraph (b) has been shortened but not substantively changed. The requirement in former subparagraph (1) that recipients provide and administer evaluation materials in the native language of the student has been deleted as unnecessary, since the same requirement already exists under Title VI and is more appropriately covered under that statute. Paragraphs (1) and (2) are, in general, intended to prevent misinterpretation and similar misuse of test scores and, in particular, to avoid undue reliance on general intelligence tests. Subparagraph (3) requires a recipient to administer tests to a student with impaired sensory, manual, or speaking skills in whatever manner is necessary to avoid distortion of the test results by the impairment. Former subparagraph (4) has been deleted as unnecessarily repetitive of the other provisions of this paragraph.

Paragraph (c) requires a recipient to draw upon a variety of sources in the evaluation process so that the possibility of error in classification is minimized. In particular, it requires that all significant factors relating to the learning process, including adaptive behavior, be considered. (Adaptive behavior is the effectiveness with which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group.) Information from all sources must be documented and considered by a group of persons, and the procedure must ensure that the child is placed in the most integrated setting appropriate.

The proposed regulation would have required a complete individual reevaluation of the student each year. The Department has concluded that it is inappropriate in the Section 504 regulation to require full reevaluations on such a rigid schedule. Accordingly, 104.35(c) requires periodic reevaluations and specifies that reevaluations in accordance with the EHA will constitute compliance. The proposed regulation implementing the EHA allows reevaluation at three-year intervals except under certain specified circumstances.

Under 104.36, a recipient must establish a system of due process procedures to be afforded to parents or guardians before the recipient takes any action regarding the identification, evaluation, or educational placement of a person who, because of handicap, needs or is believed to need special education or related services. This section has been revised. Because the due process procedures of the EHA, incorporated by reference in the proposed Section 504 regulation, are inappropriate for some recipients not subject to that Act, the section now specifies minimum necessary procedures: notice, a right to inspect records, an impartial hearing with a right to representation by counsel, and a review procedure. The EHA procedures remain one means of meeting the regulation's due process requirements, however, and are recommended to recipients as a model.

26. *Nonacademic services.* Section 104.37 requires a recipient to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation. Because these services and activities are part of a recipient's education program, they must, in accordance with the provisions of 104.34, be provided in the most integrated setting appropriate.

Revised paragraph (c)(2) does permit separation or differentiation with respect to the provision of physical education and athletics activities, but only if qualified handicapped students are also allowed the opportunity to compete for regular teams or participate in regular activities. Most handicapped students are able to participate in one or more regular physical education and athletics activities.

Finally, the one-year transition period provided in a proposed section was deleted in response to the almost unanimous objection of commenters to that provision.

27. *Preschool and adult education.* Section 104.38 prohibits discrimination on the basis of handicap in preschool and adult education programs. Former paragraph (b), which emphasized that compensatory programs for disadvantaged children are subject to Section 504, has been deleted as unnecessary, since it is comprehended by paragraph (a).

28. *Private education.* Section 104.39 sets forth the requirements applicable to recipients that operate private education programs and activities. The obligations of these recipients have been changed in two significant respects: first, private schools are subject to the evaluation and due process provisions of the subpart only if they operate special education programs; second, under 104.39(b), they may change more for providing services to handicapped students than to nonhandicapped students to the extent that additional charges can be justified by increased costs.

Paragraph (a) of 104.39 is intended to make clear that recipients that operate private education programs and activities are not required to provide an appropriate education to handicapped students with special educational needs if the recipient does not offer programs designed to meet those needs. Thus, a private school that has no program for mentally retarded persons is neither required to admit such a person into its program nor to arrange or pay for the provision of the person's education in another program. A private recipient without a special program for blind students, however, would not be permitted to exclude, on the basis of blindness, a blind applicant who is able to participate in the regular program with minor adjustments in the manner in which the program is normally offered.

Appendix H: Texas Education Code §38.003 (State Law)

§38.003. 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.
- (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 imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

Added by Acts 1995, 74th Leg., ch. 260, § 1, eff. May 30, 1995.

Appendix I: Texas Education Code §28.006 (State Law)

§ 28.006. 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) Each district shall provide the accelerated reading instruction under Subsection (g) to students in:

- (1) kindergarten during the 1999-2000 school year;
- (2) kindergarten and first grade during the 2000-2001 school year; and
- (3) kindergarten and first and second grades beginning with the 2001-2002 school year.

Text of subsection (m) effective until January 1, 2002

(m) Subsection (l) and this subsection expire January 1, 2002.

Added by Acts 1997, 75th Leg., ch. 397, § 2, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, § 2.11, eff. Sept. 1, 1999.

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

§74.28. 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 "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 only be done by individuals/professionals who are trained to assess students for dyslexia and related disorders.
- (c) A school district may purchase a reading program or develop its own reading program for students with dyslexia and related disorders, as long as the program is characterized by the descriptors found in "Procedures Concerning Dyslexia and Related Disorders." Teachers who screen and treat these students must be trained in instructional strategies which utilize individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the "Procedures Concerning Dyslexia and Related Disorders" and in the professional development activities specified by each district and/or campus planning and decision making committee.
- (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 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 program for early identification, intervention, and support for students with dyslexia and related disorders must be available in each district as outlined in the "Procedures Concerning Dyslexia and Related Disorders."
- (h) Each school district may 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.

Compliance Statement

TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

- (1) acceptance policies on student transfers from other school districts;
- (2) operation of school bus routes or runs on a nonsegregated basis;
- (3) nondiscrimination in extracurricular activities and the use of school facilities;
- (4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;
- (5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;
- (6) nondiscriminatory practices relating to the use of a student's first language; and
- (7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, U.S. Department of Education.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

TITLE VII, CIVIL RIGHTS ACT OF 1964 AS AMENDED BY THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972; EXECUTIVE ORDERS 11246 AND 11375; EQUAL PAY ACT OF 1964; TITLE IX, EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED; IMMIGRATION REFORM AND CONTROL ACT OF 1986; AMERICANS WITH DISABILITIES ACT OF 1990; AND THE CIVIL RIGHTS ACT OF 1991.

The Texas Education Agency shall comply fully with the nondiscrimination provisions of all federal and state laws, rules, and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any educational programs or activities which it operates on the grounds of race, religion, color, national origin, sex, disability, age, or veteran status (except where age, sex, or disability constitutes a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency is an Equal Employment Opportunity/Affirmative Action employer.

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