

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 70. INDUSTRIALIZED HOUSING AND BUILDINGS

16 TAC §70.100

The Texas Commission of Licensing and Regulation (Commission) adopts an amendment to existing rules at 16 Texas Administrative Code (TAC), Chapter 70, §70.100, regarding the Industrialized Housing and Buildings program, without changes to the proposed text as published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2162). The rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The adopted rule under 16 TAC, Chapter 70, implements Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings.

The adopted rule amendment at §70.100(a) would revise the date on which the industry would be required to comply with the mandatory building codes and amendments identified in §70.100 and §70.101. The proposed rule amends the date for industry implementation to July 1, 2024.

SECTION-BY-SECTION SUMMARY

The adopted rule amends §70.100(a) to revise the effective date of the mandatory building codes to July 1, 2024.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2162). The public comment period closed on May 6, 2024. The Department received comments from five interested parties during the comment period. Of those five parties, three submitted the same comment twice. The public comments are summarized below.

Comment: A commenter requested the deletion of arc fault circuit interrupter (AFCI) protection for dedicated circuits serving refrigeration equipment. The commenter asked if AFCI protection is necessary for refrigeration equipment since it will likely be unplugged only for repair or replacement.

Department Response: As the comment was not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on this comment. The comment will be reviewed for possible future rulemaking.

Comment: A commenter requested a specific amendment to restore exemptions for lead-acid batteries.

Department Response: As the comment was not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on this comment. The comment will be reviewed for possible future rulemaking.

Comment: Three commenters requested that the Code Council and Department accept the International Code Council's guidance and adopt, by amendment, all exceptions in the 2024 International Fire Code (IFC), Section 1207, to the 2021 code cycle. In the alternative, the commenters proposed amending the code by adding 2024 IFC Section 1207 to a 2021 IFC adoption. The commenters stated that there is a potential for schedule delays due to code requirements that will delay substantial completion of major projects where the electrical packages are on a critical schedule path.

Department Response: As these comments were not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on these comments. The comments will be reviewed for possible future rulemaking.

Comment: One commenter stated that necessary exceptions for lead-acid batteries are missing from the referenced 2021 version of the International Fire Code (IFC) as found in the 2024 version. According to the commenter, the absence of these exceptions will require manufacturers to produce larger shipping sections and incur increased manufacturing materials costs, both of which will lead to an increase in construction costs and building size footprint. The commenter attached a supplement to the comment to show the impact of complying with the 2021 IFC. The commenter identified specific sections of the 2024 IFC to be included in any amendment of the International codes adopted in §70.100.

Department Response: As the comment was not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on this comment. The comment will be reviewed for possible future rulemaking.

CODE COUNCIL RECOMMENDATIONS AND COMMISSION ACTION

The Industrialized Housing and Buildings Code Council did not meet to discuss the proposed rule or the public comments received, as the amendment was needed immediately so as not to further delay implementation of the mandatory building codes and their amendments.

At its meeting on May 21, 2024, the Commission adopted the proposed rule as published in the *Texas Register* as recommended by the Department.

STATUTORY AUTHORITY

The adopted rule is adopted under Texas Occupations Code, Chapters 51 and 1202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 1202. No other statutes, articles, or codes are affected by the adopted rules.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 84. DRIVER EDUCATION AND SAFETY

SUBCHAPTER B. DRIVER TRAINING AND TRAFFIC SAFETY ADVISORY COMMITTEE

16 TAC §84.30

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter B, §84.30, regarding the Driver Education and Safety program, without changes to the proposed text as published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1807). These rules will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC Chapter 84 implement Texas Education Code, Chapter 1001, Driver and Traffic Safety Education; the driver education laws under Texas Education Code §29.902 and §51.308; and Texas Transportation Code, Chapter 521, Driver's Licenses and Certificates. The rules also implement Texas Occupations Code, Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Texas Department of Licensing and Regulation (Department).

The adopted rules implement House Bill (HB) 3743, Section 4, 88th Legislature, Regular Session (2023), which exempts the Commission and the Department's advisory boards from Texas Government Code, Chapter 2110, State Agency Advisory Committees. HB 3743, Section 4 added new subsection (d) under Texas Occupations Code §51.209, Advisory Boards; Removal of Advisory Board Member. This provision states: "(d) Notwithstanding any other law, Chapter 2110, Government Code, does

not apply to an advisory board established to advise the commission or department."

Texas Government Code, Chapter 2110 specifies certain requirements for a state agency advisory committee or board (advisory board), including the composition, duration, purpose, and tasks of the advisory board; the selection of the presiding officer; and the submission of specified reports. The requirements for the Commission and the Department's advisory boards, however, are specified and detailed in Texas Occupations Code, Chapter 51; in the applicable program statute and rules; and/or as authorized by the applicable program statute and established in rule.

The adopted rules under Chapter 84, Driver Education and Safety, remove a now redundant provision that states that Texas Government Code, Chapter 2110 does not apply to the advisory committee established for that program. The adopted rules are necessary to remove language that is redundant with Texas Occupations Code, Chapter 51, as amended by HB 3743, Section 4, and to make the Driver Education and Safety program rules consistent with other program rules.

SECTION-BY-SECTION SUMMARY

Subchapter B. Driver Training and Traffic Safety Advisory Committee.

The adopted rules amend §84.30, Membership. The adopted rules repeal subsection (b), which states that Texas Government Code, Chapter 2110, does not apply to the advisory committee. This provision does not conflict with Texas Occupations Code, Chapter 51, as amended by HB 3743, Section 4, but it is redundant and is being removed for consistency with other program rules. The subsection (a) lettering is removed with the repeal of subsection (b).

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1807). The public comment period closed on April 22, 2024. The Department did not receive any comments from interested parties on the proposed rules.

COMMISSION ACTION

At its meeting on May 21, 2024, the Commission adopted the proposed rules as published in the *Texas Register*.

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department. The adopted rules are also adopted under Texas Education Code, Chapter 1001, Driver Education and Safety.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51; Texas Education Code, Chapters 29, 53, and 1001; and Texas Transportation Code, Chapter 521. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are adopted is House Bill 3743, Section 4, 88th Legislature, Regular Session (2023).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 119. SANITARIANS

16 TAC §119.10

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 119, §119.10, regarding the Sanitarians program, without changes to the proposed text as published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1809). These rules will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC Chapter 119 implement Texas Occupations Code, Chapter 1953, Sanitarians, and Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Texas Department of Licensing and Regulation (Department).

The adopted rules implement House Bill (HB) 3743, Section 4, 88th Legislature, Regular Session (2023), which exempts the Commission and the Department's advisory boards from Texas Government Code, Chapter 2110, State Agency Advisory Committees. HB 3743, Section 4 added new subsection (d) under Texas Occupations Code §51.209, Advisory Boards; Removal of Advisory Board Member. This provision states: "(d) Notwithstanding any other law, Chapter 2110, Government Code, does not apply to an advisory board established to advise the commission or department."

Texas Government Code, Chapter 2110 specifies certain requirements for a state agency advisory committee or board (advisory board), including the composition, duration, purpose, and tasks of the advisory board; the selection of the presiding officer; and the submission of specified reports. The requirements for the Commission and the Department's advisory boards, however, are specified and detailed in Texas Occupations Code, Chapter 51; in the applicable program statute and rules; and/or as authorized by the applicable program statute and established in rule.

The adopted rules remove language from Chapter 119, Sanitarians, that states that Texas Government Code, Chapter 2110 applies to the advisory committee established for that program. The adopted rules are necessary to remove conflicting language and to align the Sanitarians program rules with Texas Occupations Code, Chapter 51, as amended by HB 3743, Section 4.

SECTION-BY-SECTION SUMMARY

The adopted rules amend §119.10, Advisory Committee. The adopted rules repeal subsection (b), which states that the Registered Sanitarian Advisory Committee is subject to Government

Code, Chapter 2110. The adopted rules re-letter the subsequent subsection.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1809). The public comment period closed on April 22, 2024. The Department did not receive any comments from interested parties on the proposed rules.

COMMISSION ACTION

At its meeting on May 21, 2024, the Commission adopted the proposed rules as published in the *Texas Register*.

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department. The adopted rules are also adopted under Texas Occupations Code, Chapter 1953, Sanitarians.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 1953. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are adopted is House Bill 3743, Section 4, 88th Legislature, Regular Session (2023).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER C. OTHER PROVISIONS

19 TAC §74.28

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §74.28(c) is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 21, 2024, issue of the Texas Register.)

The State Board of Education (SBOE) adopts an amendment to §74.28, concerning students with dyslexia and related disorders. The amendment is adopted with changes to the proposed text as published in the March 1, 2024 issue of the *Texas Register* (49 TexReg 1181) and will be republished. The adopted amendment updates the rule to align with House Bill (HB) 3928, 88th Texas Legislature, Regular Session, 2023; clarifies terminology used in the Texas Education Code; and updates the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* (*Dyslexia Handbook*) adopted as Figure: 19 TAC §74.28(c) to clarify requirements related to dyslexia evaluation, identification, and instruction.

REASONED JUSTIFICATION: Section 74.28 provides the requirements to school districts and open-enrollment charter schools for identifying students with dyslexia or related disorders and providing appropriate services to those students.

The 85th Texas Legislature, Regular Session, 2017, passed HB 1886, amending Texas Education Code (TEC), §38.003, to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The legislation required that the program include screening at the end of the school year for all students in Kindergarten and Grade 1. An amendment to §74.28 to align the rule with HB 1886 was approved for second reading and final adoption at the June 2018 SBOE meeting with an effective date of August 27, 2018.

Section 74.28 was amended effective March 13, 2019, to adopt the *Dyslexia Handbook* in rule as Figure: 19 TAC §74.28(c).

The section was amended again effective December 25, 2019, to require school districts and open-enrollment charter schools to report to the Texas Education Agency (TEA) through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of screening for dyslexia and related disorders required at the end of the school year for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).

The section was amended again effective February 10, 2022, to clarify that evaluations for dyslexia and related disorders must go through the process required by the Individuals with Disabilities Education Act.

The adopted amendment updates the section and the *Dyslexia Handbook* to align with the passage of HB 3928.

The following changes were made since approved for first reading and filing authorization.

Dyslexia Handbook

At adoption, the appendices have been removed, as these will be maintained by TEA staff instead of adopted in SBOE rule.

Clarifications have been made in relation to the reading diagnostic assessments under TEC, §28.006, and the dyslexia screeners in TEC, §38.003. Additionally, the Grade 1 dyslexia screener timeline has been adjusted to reference the screener being done as close to the middle of the school year as possible, but no later than January 31.

Clarifications regarding who might be on a team interpreting screener data, as well as a data review team, have been made.

In relation to the individual with specific knowledge of dyslexia and related disorders, dyslexia instruction, and the reading

process, the following changes have been made at adoption. The term "course" has been changed to "training center" when referring to training and credentialing of certain staff; a statement has been added that an individual who is actively involved in the credentialing process could serve as the required member if so designated by their local education agency (LEA); and school year has been changed to calendar year in reference to how long an individual has to get trained.

Changes have been made to clarify the multidisciplinary team and admission, review, and dismissal (ARD) committee processes and responsibilities.

The flowchart on page 44 has been modified to reflect a more cohesive process.

Additional sentences have been added regarding TEC, §21.4554, and its relation to literacy achievement academies and continuing education requirements.

Updates have been made to the dysgraphia chapter to align with the same changes made in the dyslexia chapters.

Non-substantive edits have also been made for clarity and consistency.

§74.28(d)

Subsection (d) was modified at adoption to remove the word "trained" in front of the provider of dyslexia instruction so as not to imply some additional training requirement than what is otherwise required by statute.

The SBOE approved the amendment for first reading and filing authorization at its February 2, 2024 meeting and for second reading and final adoption at its April 12, 2024 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will allow districts of innovation and open-enrollment charter schools that begin school prior to the statutorily required start date to implement the proposed rulemaking when they begin their school year. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began March 1, 2024, and ended at 5:00 p.m. on April 1, 2024. The SBOE also provided an opportunity for registered oral and written comments at its April 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Dyslexia Handbook

Comment: Ten individuals commented that certified academic language therapists (CALTs) and other providers of dyslexia instruction (PDIs) should prioritize offering dyslexia instruction and not have to attend ARD committee meetings.

Response: The SBOE agrees that PDIs should prioritize instruction. However, LEAs must comply with statute regarding required ARD committee membership, and the PDI is a statutorily required ARD committee member.

Comment: An assistant special education director commented that more clarification needs to be added regarding who can serve as "sped staff in ARDs and who can serve dual roles."

Response: The SBOE provides the following clarification. It is unclear what is meant by "sped staff in ARDs," but the SBOE notes that these members are defined and described by state and federal law and rule. It is also unclear what the commenter means by "dual role." To the extent the commenter is referring to whether someone who meets the criteria for the state-required multidisciplinary team (MDT)/ARD committee member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction could also serve a dual purpose as a required ARD committee member, the SBOE points out that current commissioner rules in 19 TAC §89.1040 and §89.1050 outline requirements for those evaluating for specific learning disability (SLD) and for ARD committee membership, respectively.

Comment: A CALT commented that if they are required to become special education certified then they will have to "go back to the classroom." The commenter further stated that they are highly qualified reading teachers and should be treated as such.

Response: The SBOE provides the following clarification. Assuming "go back to the classroom" means returning to teach something other than dyslexia instruction, the law states that a PDI, including a CALT, does not have to be a certified special education teacher unless the individual is employed in a special education position that requires that certification. Each LEA has authority to determine whether the position requires the certification.

Comment: A special programs coordinator commented that dyslexia specialists should be required to obtain special education teacher certification.

Response: The SBOE disagrees that dyslexia specialists should be required to obtain special education teacher certification. This decision would be left to each LEA, as each LEA must determine who is best equipped to serve students and under what certifications, licensures, or other credentials. PDIs must be trained in the LEA's adopted instructional materials for students with dyslexia.

Comment: A dyslexia teacher commented that the trainings on page 34 are costly and take years of training. The commenter added that if someone has already taken the courses, they should not have to retake them.

Response: The SBOE disagrees. The courses and training required by the SBOE are offered without charge. Courses are required to be retaken if changes are made to the curriculum.

Comment: Two dyslexia coordinators asked if an individual going through credentialing would be considered to have met the criteria for the required MDT/ARD committee member with the most advanced dyslexia-related certification without meeting the requirements for the member who would be required when this person is "not available." An individual also asked about the timeline for training for the MDT/ARD committee member.

Response: The SBOE agrees that further clarification about enrollment in a credentialing program is warranted, assuming the commenter is referring to the credentialing of a licensed dyslexia therapist (LDT) or becoming credentialed to meet the most advanced dyslexia-related certification requirements. A change has been made at adoption to add a statement that an individual who is currently enrolled and participating in a credentialing program can serve as the required MDT/ARD committee member. Regarding the timeline for training the MDT/ARD committee member, the handbook states that the individual has a year from

the date they are designated to serve as the required MDT/ARD committee member.

Comment: A director noted a typo on page 47 and grammatical and punctuation errors on page 50 when referring to student progress reports.

Response: The SBOE agrees and has corrected the typos and errors.

Comment: A diagnostician commented that there are inconsistencies in the requirements for trained individuals in the handbook. The commenter stated that the handbook needs to clarify whether the goal is to have similar backgrounds to an LDT or CALT or if it is to have knowledge in evaluation.

Response: The SBOE disagrees that there are inconsistencies. Statute identifies who must serve on an MDT and ARD committee to determine identification and eligibility for dyslexia. A PDI must be trained in the district's dyslexia instructional materials and could be different from this member.

Comment: A diagnostician commented that the term "ARD" and "MDT" are used incorrectly and that MDT determines criteria for a disability and an ARD committee determines eligibility.

Response: The SBOE agrees that there could be some misunderstanding with the mentions of MDT and ARD committee. At adoption, changes have been made in Chapters 3 and 5 to demonstrate that an MDT identifies if a student meets the criteria for a disability, and an ARD committee is required by law to determine eligibility, which means both the identification of an eligible disability and the need for special education and related services.

Comment: A director of special education and a diagnostician commented that expecting every district to employ a CALT is unrealistic and not fiscally sound. These individuals further commented that a determination is needed on whether standard protocol providers need to be certified in special education.

Response: The SBOE provides the following clarification. The law does not require the employment of a CALT. As there is no longer mention of standard protocol in the revised handbook, the comment related to standard protocol providers is outside the scope of the proposed rulemaking.

Comment: Three individuals asked that speech therapists be more explicitly spelled out as MDT and ARD committee members.

Response: The SBOE disagrees that a more explicit reference needs to be made, as speech therapists could always be part of an MDT or an ARD committee for any suspected disability.

Comment: Four individuals commented that more guidance needs to be provided for the required MDT and ARD committee member.

Response: The SBOE disagrees that more guidance is necessary; however, TEC, §29.0032, references the requirements for the member, and the SBOE's decision points are located in the handbook.

Comment: A diagnostician commented that diagnosticians should not be required to be CALTs or be trained in reading programs.

Response: The SBOE provides the following clarification. The law does not require diagnosticians to become CALTs or be trained in reading programs.

Comment: A director of special education asked whether the requirement for the MDT member applies to independent educational evaluations (IEEs).

Response: The SBOE provides the following clarification. Federal law in 34 Code of Federal Regulations (CFR), §300.502, describes the requirements for IEEs at public and private expense.

Comment: Forty-three individuals and the Texas Educational Diagnosticians Association (TEDA) commented that diagnosticians and school psychologists are sufficient to identify dyslexia, as they have already received training.

Response: The SBOE agrees that diagnosticians and school psychologists are well equipped and trained to evaluate for the presence of disabilities, and the SBOE expects those individuals to be involved in the evaluation processes based on a student's suspected disability(ies). However, if dyslexia is suspected, someone with specific knowledge about dyslexia and related disorders, dyslexia instruction, and the reading process must be a part of the MDT and ARD committee meeting at which eligibility is discussed. For a diagnostician or school psychologist to meet this requirement, the individual must either (1) be an LDT, (2) hold the most advanced dyslexia-related certification as described in the handbook, or (3) meet the criteria related to completion of the Texas Dyslexia Academies (TDAs), training on comprehensive evaluations for specific learning disabilities, and have documentation showing training in the current research and evidence-based assessments that are used to identify the most common characteristics for dyslexia. So as to not be interpreted as discounting the role of the remaining team members, changes have been made in Chapter 3 at adoption to reference the remaining team of qualified professionals when referring to the MDT.

Comment: A teacher asked for a comparison of who is part of each committee in terms of MDT and ARD.

Response: The SBOE disagrees that a comparison is necessary but points out that TEA has existing technical assistance regarding the evaluation and eligibility process, including required members.

Comment: An education specialist suggested revisions to the language around the required MDT and ARD committee member to remove the word "register," to correct grammatical errors, and to clarify the "or" between LDT and CALT.

Response: The SBOE agrees to correct the grammatical errors but has determined that removing the word "register" and adding the word "or" are unnecessary.

Comment: An individual commented with a question of why specific persons are required to attend ARD meetings for dyslexia but not for other categories.

Response: The SBOE provides the following clarification. State law requires the SBOE to create procedures related to the screening and testing of and treatment for dyslexia and related disorders.

Comment: An individual and Texas Academic Language Therapy Association (ALTA) commented that the required MDT member should also have experience with and training on the district's dyslexia program.

Response: The SBOE disagrees that the required MDT member would have to have specific experience with, and training on, an LEA's local dyslexia program. However, the MDT member must have specific knowledge of the reading process, dyslexia instruc-

tion, and dyslexia and related disorders. Specific knowledge of dyslexia instruction does not require that the individual be trained in the district's specific evidence-based dyslexia program.

Comment: A special education director commented that graduate degrees related to literacy should be acceptable for an MDT/ARD committee member.

Response: The SBOE disagrees, as this is not stated as acceptable in the statute.

Comment: An education service center staff member recommended retaining a highly trained dyslexia interventionist on the MDT. The commenter stated that collaboration between these interventionists and evaluators is vital.

Response: The SBOE agrees that the committee should include all professionals that can help evaluate a student for the suspected disability and that it is a team evaluation.

Comment: The Texas Council of Administrators of Special Education (TCASE) recommended examining standards to determine if diagnosticians and school psychologists can serve as the MDT/ARD committee member.

Response: The SBOE disagrees that examination is necessary. Diagnosticians and school psychologists can serve as the required MDT/ARD committee member if they meet the criteria described in the handbook.

Comment: A teacher commented that the requirements for the dyslexia member are too high and would require a teacher to have a master's degree.

Response: The SBOE disagrees that the requirements are too high and has determined that the requirements are appropriate as proposed. In addition, the SBOE provides clarification that the handbook does not mandate that a teacher must have a master's degree.

Comment: ALTA commented regarding a typo on pages 37-38 with the numbered list.

Response: The SBOE agrees and has revised the numbered list accordingly at adoption.

Comment: A director of intervention and dyslexia coordinator commented that certified academic language practitioners (CALPs) should be permitted to serve as the required MDT member.

Response: The SBOE agrees that, as long as an individual meets the criteria listed in the handbook to serve as the required MDT or ARD committee member, the individual will be able to do so.

Comment: ALTA commented that an additional chart should be created to identify those with the most advanced dyslexia-related certification.

Response: The SBOE disagrees that an additional chart is needed, as authorized providers are listed in the handbook.

Comment: A teacher commented that programs approved by the International Dyslexia Association (IDA) should be added to page 35.

Response: The SBOE provides the following clarification. The IDA is already listed.

Comment: A school psychologist stated that the most advanced dyslexia-related certification list needs to be clarified.

Response: The SBOE disagrees and has determined that the list is sufficient as proposed.

Comment: A special education director and TCASE commented that the Center for Effective Reading Instruction (CERI) should be added to the list of those who provide the most advanced dyslexia-related certifications.

Response: The SBOE disagrees that a change is necessary and notes that the IDA certifications are accredited by the CERI, and IDA is already listed in the handbook.

Comment: TCASE and three individuals commented that the SBOE should clarify which credential is most advanced for purposes of the MDT/ARD committee member, as the "instructor" level is arguably the most advanced.

Response: The SBOE disagrees, as the criteria for determining this is already in the handbook.

Comment: ALTA commented that the term "course," where it refers to the most advanced dyslexia-related certification, should be changed to "training center."

Response: The SBOE agrees and has made the suggested change at adoption.

Comment: ALTA commented requesting that the SBOE delete "teacher" level training from the most advanced dyslexia-related certification language and keep only the "therapy" level.

Response: The SBOE disagrees that a change is necessary. Teacher-level trainings would give the individual the specific knowledge that is required.

Comment: A special education director commented that the required MDT/ARD committee member should not have to show proof of knowledge of research and evidence-based assessments for dyslexia identification.

Response: The SBOE disagrees, as this would be essential for demonstrating the required knowledge. However, it is up to each LEA to determine how to document that requirement.

Comment: A teacher asked how the required MDT/ARD committee member would document their training in current assessments to identify dyslexia and whether that training would need to be completed annually.

Response: The SBOE provides the following clarification. Each LEA would be responsible for determining what the documentation would look like and how often they would require that training.

Comment: An individual requested that "not available" be defined when referring to the required MDT and ARD committee member.

Response: The SBOE disagrees that "not available" needs to be defined. Each LEA will determine this based on its own staffing and scheduling patterns.

Comment: A director of special education asked for more clarification regarding whether someone can serve as the required MDT or ARD committee member as long as they complete the requirements within a year.

Response: The SBOE provides the following clarification. Based on another comment, the handbook has been updated at adoption to allow an MDT or ARD committee member who is not an LDT or does not have the most advanced dyslexia-related certification and is instead obtaining the required training

listed in the handbook to have a calendar year to complete the training.

Comment: A dyslexia teacher stated that more training will require more money and more time.

Response: The SBOE provides the following clarification. The training required for the MDT or ARD committee member who is not an LDT or does not have the most advanced dyslexia-related certification is available free of charge.

Comment: A CALT commented that viewing dyslexia academy modules is not enough for a qualified MDT or ARD committee member and that CALTs should be the ones to evaluate for dyslexia.

Response: The SBOE disagrees that CALTs must always evaluate for dyslexia, as not every district employs these professionals. Even when CALTs are employed, they are participating in a team evaluation. Additionally, the law allows for other individuals if they meet the required criteria.

Comment: A dyslexia coordinator commented that training needs to be free and that training on the comprehensive SLD guide is unnecessary because it is already covered in the Texas Dyslexia Academies.

Response: The SBOE agrees that trainings should be available as much as possible with no cost. The SBOE disagrees that all provisions of the SLD guide training are covered in the TDAs; therefore, the SBOE has determined that it is necessary to require SLD guide training.

Comment: A director of special education commented that training should be required at no cost.

Response: The SBOE agrees that training should be provided at no cost in all possible instances. In the case of the MDT and ARD committee member, the training is available at no cost.

Comment: A CALT commented that TDAs are not all available in a calendar year.

Response: The SBOE provides the following clarification. TEA is working to have all TDAs accessible virtually.

Comment: TCASE and a school district employee recommended that the required MDT/ARD committee member, if not an LDT or someone with the most advanced dyslexia-related certification, be fully trained in the LEA's adopted instructional materials for students with dyslexia, have received training through an accredited course, have received dyslexia-related certification, and be enrolled in a program to earn the most advanced dyslexia-related certification or complete the TDAs within a calendar year as well as complete the guidance for the comprehensive evaluation of an SLD course. TCASE suggested deleting the requirement to document training in current research- and evidence-based assessments that are used to identify the most common characteristics of dyslexia.

Response: The SBOE agrees that requiring training to be completed by the end of the school year may not always work for those who are designated mid-year or late in a school year. At adoption, the SBOE has changed this requirement to reflect a calendar year. The SBOE disagrees that the MDT/ARD committee should only have to meet one of the items on the list provided in order to demonstrate the required knowledge and has determined that the requirement is appropriate as proposed. Additionally, the SBOE disagrees with deleting the requirement to document training in the current research- and evidence-based

assessments but points out that each LEA can determine how to document this.

Comment: ALTA requested that the areas outlined in figure 3.4 on page 37 be modified to clarify the requirement about knowledge regarding assessments that are used to identify most common characteristics of dyslexia.

Response: The SBOE disagrees because not all students will need to be evaluated in all of the areas in figure 3.4.

Comment: The Texas Classroom Teachers Association (TCTA) commented that page 50 of the handbook should include a sentence regarding a teacher's completion of a literacy achievement academy satisfying the requirements for documented dyslexia training.

Response: The SBOE disagrees that an additional sentence is necessary, as it may be implied that it is the only way to receive dyslexia training.

Comment: TCTA commented that page 51 of the handbook should clarify that completion of a literacy achievement academy does not satisfy requirements for a provider of dyslexia instruction to be fully trained in the LEA's adopted instructional materials for students with dyslexia. The Texas State Teachers Association (TSTA) further commented that a sentence should be added stating that completion of a literacy achievement academy will satisfy continuing education requirements regarding new research and practices in educating students with dyslexia.

Response: The SBOE agrees that clarification may be beneficial and modified the handbook at adoption to address both comments.

Comment: TCTA commented that page 53 of the handbook should include the entire text of TEC, §21.4552(b-1), which refers to completion of a literacy achievement academy and how an academy satisfies certain training requirements. TSTA commented that the first part of TEC, §21.4552(b-1), which provides that the completion of an academy satisfies the continuing education requirements of TEC, §21.054(b), should be included.

Response: The SBOE agrees in part and has modified the handbook at adoption to specify that a literacy achievement academy satisfies continuing education requirements. The SBOE disagrees that adding the remainder of TEC, §21.4552, is necessary in this section, as the section addresses professional development for all teachers.

Comment: TCTA and TSTA recommended a revision to question 32 in the appendix.

Response: The SBOE disagrees, as the appendix has been removed at adoption.

Comment: A dyslexia specialist asked if districts can hire providers of dyslexia instruction if they are in training.

Response: The SBOE provides the following clarification. Under state law, to be able to provide dyslexia instruction, a provider must be fully trained in the district's adopted instructional materials for students with dyslexia.

Comment: Two individuals commented that there is no timeline included for PDIs to be trained.

Response: The SBOE disagrees that the handbook must address a timeline for the training of PDIs, as training timelines through different training centers varies significantly.

Comment: Two individuals commented that it is unclear if PDIs have to be teachers.

Response: The SBOE provides the following clarification. The requirement under state law for PDIs is that they are fully trained in the LEA's adopted instructional materials for students with dyslexia. A teaching certificate is not required under state law; however, an LEA could require a certification for this position.

Comment: An individual commented that a PDI must provide actual teaching rather than just provide a program.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A CALT asked how PDIs will test, attend ARD committee meetings regarding eligibility, and teach all day with fidelity without extra funding.

Response: The SBOE provides the following clarification. The requirements for Child Find apply regardless of changes to state law.

Comment: A CALT inquired about how districts will afford to staff programs to support students after the students complete a program but still require teaching supports.

Response: The SBOE provides the following clarification. The requirements of Child Find apply regardless of changes to state law.

Comment: A diagnostician commented that the handbook gives ambiguous guidance on dyslexia evaluations and puts the identification of dyslexia in the hands of one person.

Response: The SBOE disagrees that the handbook is ambiguous and that identification of dyslexia is put in the hands of one person. As is always the case for any full individual and initial evaluation (FIIE), an MDT is responsible for determining what data is needed. The MDT will conduct the evaluation and complete a report for the ARD committee to consider when the committee determines the presence of a qualifying disability and the need for special education and related services.

Comment: A diagnostician commented that LEA procedures don't take into consideration a student's adequate ability to learn and don't use that to determine if the preponderance of information shows that it is unexpected that the child is not reading.

Response: The SBOE cannot agree or disagree without knowing an individual LEA's procedures as noted by the commenter. However, the MDT is responsible for complying with all requirements associated with an FIIE.

Comment: A diagnostician commented that dyslexia exists on a continuum and that diagnosticians are told that a student cannot qualify with dyslexia and co-existing math disabilities.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Six individuals commented with varying opinions on whether formal cognitive batteries (i.e., IQ tests) are required for SLD evaluations and requested that the SBOE clarify the issue. One commenter specifically stated that only a Response to Intervention (RtI) model does not require them. TEDA stated that a pattern of strengths and weaknesses model must use the presence of linked cognitive and achievement weaknesses to determine whether someone qualifies as a student with an SLD.

Response: The SBOE provides the following clarification. While the SBOE is charged under state law to develop procedures for the testing and treatment of students with dyslexia specifically, the SBOE points out that federal regulations do not require the administration of formal cognitive batteries in the evaluation of SLD, including dyslexia, regardless of the identification model used. It is important to note that the term "cognitive processes," as listed in the handbook in relation to the areas of dyslexia evaluation, does not automatically equate to a cognitive battery of assessments. Neither does the term "cognitive skills." A pattern of strengths and weaknesses is not required by law to be determined by formal cognitive batteries. While many MDTs administer these types of batteries, as they can be helpful in the scope of a full evaluation, they are not required, nor can they be used exclusively to determine a disability. Each MDT must consider what data is required for each individual student, and each ARD committee will consider all data to determine if the student has a disability that requires the provision of special education and related services.

Comment: An assistant director commented that the word "unexpected" needs to be clarified. The commenter further questioned what a team is comparing "unexpectedness" to if a cognitive assessment isn't given.

Response: The SBOE disagrees that clarification is needed. In accordance with state rules, only when an intellectual disability is suspected would a formal cognitive assessment be required. Otherwise, the Individuals with Disabilities Education Act (IDEA) requires districts to use a variety of assessment tools, which might or might not include a standardized cognitive battery.

Comment: A CALT commented that the changes in the handbook allow any tested student with a low score in basic reading skills or reading fluency will qualify as a student with dyslexia. The commenter further stated that some who are identified with dyslexia are so challenged cognitively that they cannot complete any dyslexia curriculum.

Response: The SBOE disagrees that the information in the handbook changes requirements so that everyone with low scores in basic reading skills or reading fluency qualifies as a student with dyslexia. Further, students do not have to be of average intelligence to be identified with dyslexia. An MDT and ARD committee will follow the requirements to ultimately determine identification and eligibility. When data supports adaptations to a dyslexia program, an ARD committee would determine what specially designed instruction would be necessary for that student.

Comment: A parent commented that there are three guiding questions that help identify dyslexia but that guiding questions need to also be added to the dysgraphia section.

Response: The SBOE disagrees that guiding questions are not present in the dysgraphia section. Figure 5.3 contains those questions.

Comment: An evaluator and coordinator for dyslexia services commented that more clarity is needed on twice exceptional learners who have been identified with dyslexia.

Response: The SBOE disagrees that changes should be made at this time. However, the SBOE has instructed TEA to develop committees to discuss potential future changes to the handbook, which could include more information related to twice exceptional learners.

Comment: A coordinator for dyslexia services commented that more clarity is needed on the two prongs for qualifying for special education and related services.

Response: The SBOE disagrees that more clarification is needed. However, based on other comments, the SBOE has made changes to the handbook at adoption to clarify the process between the MDT and ARD committee when determining eligibility.

Comment: A coordinator for dyslexia services stated the need for more clarification on what "preponderance of data" means.

Response: The SBOE disagrees that more clarification is needed, as the handbook is clear that one single instrument or assessment cannot be used to determine dyslexia and that multiple sources of data are required. The MDT will review the data to determine if the preponderance of data indicates that the student meets criteria for dyslexia.

Comment: A coordinator for dyslexia services commented that the handbook should contain more procedures on identifying dysgraphia.

Response: The SBOE disagrees that more procedures are necessary at this time and has determined that the procedures in the handbook are appropriate as proposed.

Comment: A coordinator for dyslexia services commented that there is disagreement in the field about how a diagnostician and LDT would identify dyslexia.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A diagnostician commented that they support the removal of the term "unexpectedness" because it is used to sometimes disqualify students with co-occurring SLDs.

Response: The SBOE disagrees that the term unexpectedness needs to be removed from the handbook at this time, as this is part of the data analysis process to determine if a student has characteristics of dyslexia.

Comment: An individual requested that "unexpectedness" remain in the handbook because it prevents overidentification of students who may have more global struggles or other nonacademic factors affecting their reading.

Response: The SBOE agrees and notes that consideration of exclusionary factors is still a requirement for an ARD committee when determining eligibility for special education services.

Comment: An individual commented that further clarification of exclusionary factors is needed and described how the lack of consistent Tier 1 instruction factors into an evaluation.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A teacher asked if dyslexia would ever be removed if a student was reevaluated. The teacher further asked if what is really meant by the handbook is to say that dyslexia will be lifelong but that a student may no longer require services for it.

Response: The SBOE provides the following clarification. The handbook and guidance refer to a student's need for specially designed instruction or accommodations under Section 504, not whether the student no longer has dyslexia.

Comment: An administrator questioned whether an SLD in basic reading or reading fluency without the existence of dyslexia

is a common identification and asked how that determination is made. The commenter further stated that a continued lack of guidance has led districts to continually rely on dyslexia profiles and missing identifications.

Response: The SBOE provides the following clarification. An evaluation for dyslexia, which is an SLD, must consider the criteria in the handbook and abide by state and federal requirements for SLD evaluation.

Comment: Two administrators asked if math specialists must sign off on math evaluations.

Response: This comment is outside the scope of proposed rule-making.

Comment: An administrator asked what the state is doing about Tier 1 instruction and progress monitoring of interventions and whether diagnosticians are supposed to continue to deal with appropriately identifying between lack of instruction or a disability without having appropriate documentation.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A director of special education commented that the handbook stating that a weakness in phonological awareness processing is typically present but not required opens the flood-gates to students being inappropriately identified.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An evaluator asked if all SLDs in basic reading and reading fluency equate to an identification of dyslexia.

Response: The SBOE provides the following clarification. Determination of a student's eligibility for special education services, including the disabling condition under IDEA's requirements, is a duty of the MDT and ARD committee.

Comment: A diagnostician commented that the handbook makes it more ethically difficult to define a child with dyslexia and stated that increased funding is needed.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A diagnostician commented that these guidelines mean that every student will qualify as a student with dyslexia/SLD.

Response: The SBOE disagrees and points out that the handbook adheres to the IDEA and state requirements for evaluations for SLDs.

Comment: Four administrators commented that more guidance is necessary when a dyslexia therapist/specialist/PDI does not agree with a diagnostician on the presence of dyslexia.

Response: The SBOE provides the following clarification. Federal law in 34 CFR, §300.311(b), states that when a child is suspected of having an SLD, each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

Comment: A teacher commented that because of widespread misunderstanding that dyslexia interventionists can identify a student with an SLD, students have been denied eligibility.

Response: The SBOE disagrees with the commenter's assertion that dyslexia interventionists can independently identify a student with an SLD. The handbook and IDEA require an MDT to evaluate and an ARD committee to determine the presence of an eligible disability and the need for special education and related services.

Comment: A teacher asked for an example of when a student with an SLD in basic reading or reading fluency would not have dyslexia.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An administrator commented that TEA has created a large rift between therapy providers and those tasked with identifying learning disabilities and that one member should not be allowed to determine the existence of a disability.

Response: The SBOE disagrees that TEA has created a large rift because neither SBOE nor TEA provides that one member is allowed to determine the existence of a disability.

Comment: A dyslexia coordinator commented that on page 40, figure 3.7, a statement should be added that average phonological scores as measured on phonological tests alone do not rule out dyslexia and that ongoing phonological deficits may be evidenced in word reading, decoding, and spelling.

Response: The SBOE disagrees that further clarification is needed. Figure 3.7 already states that average phonological scores alone do not rule out dyslexia.

Comment: A diagnostician commented that not all students will meet criteria for SLD because dyslexia is not severe enough and that dyslexia should be supported in both special education and under Section 504.

Response: The SBOE disagrees that criteria for SLD, including dyslexia, is conditional on a "severity" level.

Comment: A diagnostician commented that there is discrepancy in the field about the interpretation of dysgraphia and whether it is a separate disorder of written expression.

Response: The SBOE provides the following clarification. The identification of an SLD, including dysgraphia, would be an ARD committee decision based on the evaluation report.

Comment: A teacher commented that it is increasingly difficult to distinguish between SLD basic reading and dyslexia and that they are not one and the same. The teacher asked for more guidance.

Response: The SBOE disagrees that more guidance is necessary. Dyslexia is an example of and meets the definition of an SLD.

Comment: An occupational therapist (OT) commented that page 61 has sentences that contradict by stating that dysgraphia is not associated with generalized developmental, motor, or coordination difficulties, but a following section says that dysgraphia can be due to impaired feedback the brain is receiving from the fingers and problems with motor planning and sequencing.

Response: The SBOE cannot find the source of the comment and, therefore, disagrees that a contradiction is present.

Comment: A special education director asked whether the evaluation report would indicate the presence of dyslexia.

Response: The SBOE provides the following clarification. An evaluation report would indicate whether the team of qualified professionals has come to the conclusion that the student meets the criteria for an SLD, including dyslexia. However, the ARD committee has the responsibility to review the evaluation report to determine if the student meets eligibility for special education and related services as a student with an SLD and whether the student requires the provision of these services based on the disability. Changes to the handbook have been made at adoption based on similar comments to clarify the MDT and ARD committee responsibilities.

Comment: A special education director asked how an ARD committee could determine that the district's dyslexia program will not meet the student's needs if the student hasn't started the program yet.

Response: The SBOE provides the following clarification. If a student is not making expected progress, any ARD committee member may ask for an ARD committee meeting to review a student's individualized education program (IEP).

Comment: An education service center staff member and a diagnostician commented that Chapter 3 does not align with the Legal Framework and IDEA and that it appears that the term "504 procedures" has been substituted with "ARD committee" despite these processes serving different purposes. The commenters further stated that parents play a role in the identification process in a Section 504 meeting but under IDEA, the FIIE is responsible for identification. These and two other commenters stated that the provision about the ARD committee determining if the student has dyslexia on page 39 and the MDT including the parent on page 37 are misleading and will lead to confusion.

Response: The SBOE disagrees that the information in the handbook does not align with IDEA. However, the SBOE has modified text related to MDT and ARD committees at adoption. An FIIE will indicate whether the student meets the criteria for dyslexia, and the ARD committee has the authority to determine eligibility for special education services based on the identification of a disability and the need for these services. Additionally, a parent is naturally a part of an MDT since the LEA must provide prior written notice that describes the evaluation procedures the MDT (LEA) proposes to conduct. Further, the parent will be involved in submitting data to the MDT as part of its data gathering process.

Comment: A diagnostician commented that dyslexia testing should be done at the end of Grade 1, not Kindergarten.

Response: The SBOE disagrees. If a disability is suspected along with a possible need for special education and related services, the district must refer the student for a special education evaluation.

Comment: A CALP commented that unexpectedness should be kept in the definition for dyslexia and that figure 3.7 should remain in the handbook, including referring to "unexpectedness."

Response: The SBOE cannot locate the source of this comment and is, therefore, unable to agree or disagree.

Comment: A CALP commented that a "preponderance" of qualitative and quantitative data should be reviewed during an evaluation, not just looking at numbers on an assessment.

Response: The SBOE agrees.

Comment: One individual asked if dyslexia is synonymous with SLD in basic reading or reading fluency. If so, the categories should be collapsed.

Response: The SBOE provides the following clarification. IDEA lists specific areas of SLD, which include basic reading skills and reading fluency. The categories cannot be collapsed.

Comment: Two individuals commented that orthographic processing should be included with phonological processing on page 37, figure 3.4.

Response: The SBOE disagrees that changes are necessary at this time and has determined that figure 3.4 is appropriate as proposed. However, the SBOE will consider this for future iterations of the handbook.

Comment: A diagnostician commented that the requirement for a dyslexia specialist's signature on the evaluation is disappointing.

Response: The SBOE disagrees and notes that TEC, §29.0031(c), requires the MDT and ARD committee member who has the required knowledge of dyslexia instruction, dyslexia and related disorders, and the reading process to sign the evaluation report documenting their participation in the evaluation. To the extent that the commenter meant that the dyslexia specialist was this person, then the SBOE notes that the LEA must abide by state law.

Comment: A school psychologist commented that the handbook appears to have an underlying assumption that a child will have had great Tier 1 instruction, great RtI tiered intervention, and is absent any other factors that could impact reading abilities. The commenter further added that this is not the case and that schools continue to deal with COVID-19 impacts. Additionally, the commenter noted that some entire classrooms are resulting in students demonstrating at-risk status on dyslexia screeners.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A school psychologist commented that districts are using district of innovation status to exempt themselves from TEC, §28.0062, and to get around an approved screening measure, resulting in no norms, validity, or reliability data.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A school psychologist and assistant director commented that people are misinterpreting reading difficulties and at-risk designations on the screener to mean a disability and are going straight to special education referrals.

Response: The SBOE provides the following clarification. The handbook describes the data gathering process that should occur once a student is determined to be at risk for dyslexia.

Comment: An assistant special education director commented that if the state wants screeners to be mandated and given with fidelity, then the state should mandate which screener must be given.

Response: The SBOE disagrees that it should mandate the screener that must be given, as this is not within its statutory authority to do. However, the SBOE does dictate the criteria required for dyslexia screeners.

Comment: An administrator commented that without funding, schools will not be able to complete evaluations before the end

of Grade 1, even if a screener is conducted no later than the middle of the year.

Response: This comment is outside the scope of proposed rule-making. Districts are required to meet their Child Find obligations if they suspect a disability and the need for special education and related services.

Comment: An individual asked what it means to screen for related disorders and commented that Kindergarten and Grade 1 are too early to administer some screeners.

Response: The SBOE disagrees that Kindergarten and Grade 1 are too early to administer screeners. Currently the requirement for universal screeners applies to dyslexia only as the handbook does not discuss required criteria for dysgraphia screeners.

Comment: A dyslexia interventionist commented that page 28 still mentions tools even though a corresponding sentence about tools was removed.

Response: The SBOE agrees that this is confusing and has removed this statement at adoption.

Comment: A coordinator for dyslexia services stated that there is a contradiction in the handbook about screeners and cut points. The commenter stated that since dyslexia is a continuum of severity, it doesn't make sense to say that an LEA cannot modify cut points.

Response: The SBOE disagrees that a contradiction exists. Screeners should have cut points to determine at-risk designations. LEAs are responsible for inputting students determined to be at-risk into PEIMS. This is not the same as identifying students for dyslexia.

Comment: A coordinator for dyslexia services commented that screening for dysgraphia should be part of the required screeners.

Response: The SBOE disagrees. At this time, there are no required criteria for dysgraphia screeners, but the SBOE will consider this for future iterations of the handbook.

Comment: An individual commented that removal of dysgraphia screeners allows for additional time to research and develop one to determine those students who are at-risk.

Response: The SBOE provides the following clarification. There are no required criteria for dysgraphia screeners included in the handbook at this time.

Comment: An individual commented that there appears to be no training requirements for noncertified teachers at open-enrollment charter schools to administer screeners.

Response: The SBOE disagrees and provides the following clarification. Anyone conducting a screener must be trained in the administration of the screener.

Comment: A CALT commented that they are opposed to dysgraphia screeners for end of Kindergarten and Grade 1 and that this would add more to teachers who are already struggling.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An individual commented that dyslexia screeners should be required at the end of Grades 5 and 6.

Response: This comment is outside the scope of the proposed rulemaking, as the SBOE does not have statutory authority to require universal screeners at additional grade levels. However,

the SBOE provides the following clarification. Any time a student is suspected to be at risk of a disability, including dyslexia, at any grade level, steps should be taken to gather data to inform teachers and parents whether a disability is suspected that may require the provision of special education and related services.

Comment: An education specialist commented that there should be an exception listed to the dyslexia screeners if a child's Section 504 committee or ARD committee determine it is not appropriate or is already identified with dyslexia.

Response: The SBOE disagrees and has determined that the commenter's suggestion is not necessary to include in the handbook.

Comment: An education specialist asked that the sentence about educational aides not being able to administer screeners be bolded.

Response: The SBOE agrees that the statement is important but disagrees that bolding the statement is necessary. The SBOE has determined that the sentence is appropriate as proposed.

Comment: A director of special education commented that the new areas listed in the dyslexia screener are problematic.

Response: The SBOE disagrees and points out that there are no new criteria listed in the handbook for the required screeners.

Comment: A dyslexia coordinator commented that the timing of the Grade 1 screener is unclear and some districts screen at the beginning of the year.

Response: The SBOE agrees that the language could be interpreted differently. Therefore, at adoption, this has been clarified to read that the Grade 1 screeners must occur as close to the middle of the school year as possible but no later than January 31.

Comment: An assistant special education director commented that TEA should clarify whether dyslexia intervention is special education time.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A district staff member questioned whether students in bilingual programs who are receiving reading language arts instruction in Spanish will receive dyslexia instruction in Spanish if they score higher in English than Spanish on language testing, or if a student in Grade 5 would automatically receive instruction in English when they move to Grade 6.

Response: The SBOE provides the following clarification. The provision of dyslexia instruction for an emergent bilingual (EB) learner should be in accordance with the program model the student is currently receiving.

Comment: A dyslexia practitioner commented that a provider of dyslexia instruction must follow curriculum with fidelity and should not be able to adapt the curriculum.

Response: The SBOE agrees that whether a student is able to complete an evidence-based dyslexia program without adaptations should be a district's first consideration. However, because specially designed instruction is individualized and unique to a student, some adaptations might be necessary when data indicates a need for more intensive or supplemental supports.

Comment: A dyslexia specialist asked why a district has to choose a dyslexia program to use and why that same program cannot be used for reading intervention.

Response: The SBOE provides the following clarification: Because evidence-based dyslexia programs are considered specially designed instruction and, therefore, special education services, the provision of those services must follow IDEA requirements.

Comment: An individual commented that programs must be provided with fidelity, including group sizes.

Response: The SBOE agrees that an evidence-based dyslexia program must be provided with fidelity unless an ARD committee determines that modifications are necessary to intensify the program or provide additional supports.

Comment: Two individuals commented that schedule conflicts are a huge limitation to dyslexia instruction, including whether a district can remove students from special areas or electives.

Response: This comment is outside the scope of the proposed rulemaking

Comment: Two individuals commented that group sizes should be mandatory or capped.

Response: The SBOE agrees that teaching a program with fidelity, including group sizes, is required when a student is able to participate in the program without more intensive supports. However, the SBOE cannot cap or provide a maximum group size as the recommended sizes vary based on each program.

Comment: A teacher commented that the standard definition needs to be removed from page 79.

Response: The SBOE disagrees, as the appendix has been removed at adoption.

Comment: A CALT asked when secondary students are supposed to receive dyslexia instruction if they cannot be removed from electives.

Response: This comment is outside the scope of proposed rulemaking.

Comment: A CALT commented that schools cannot provide all instruction during homeroom time.

Response: This comment is outside the scope of proposed rulemaking.

Comment: An assistant director commented that a mandate needs to be included around Tier 1 instruction. The commenter stated that so many noncertified teachers make instruction weak and, therefore, make it look like all children have dyslexia.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An assistant special education director commented in support of the removal of page 44 of the handbook.

Response: The SBOE agrees.

Comment: A director of special education commented that there is a conflict in the handbook among Section 504 evaluations, eligibility, and services. The commenter indicated that the flowchart on page 43 mentions referral for a Section 504 evaluation, and page 31 states that a parent can seek an IEE or an evaluation under Section 504.

Response: The SBOE agrees that there could be misinterpretation and has revised both sections at adoption.

Comment: A dyslexia specialist asked why the Section 504 option had to be removed.

Response: The SBOE provides the following clarification. TEC, §29.0031, acknowledges that dyslexia is an example of and meets the definition of an SLD under IDEA. Further, TEC, §7.028, requires changes to the handbook to no longer provide distinctions between types of dyslexia instruction. Therefore, students who require the provision of dyslexia instruction will receive this under IDEA. Students who only require accommodations to access the school environment may continue to receive accommodations under Section 504.

Comment: A special education teacher asked for clarification on the purpose of having to evaluate students already identified under Section 504 and asked whether this is possible overidentification. The teacher further commented that parents are opting out of testing and now these students will get removed from programs.

Response: The SBOE disagrees that this is overidentification. As stated in TEC, §29.0031, dyslexia is an example of and meets the definition of an SLD under IDEA. Dyslexia instruction is considered specially designed instruction.

Comment: A teacher commented that the language on page 31 could make a parent think a student could be tested for dyslexia under Section 504 and requested that language be added that an FIIE is used to determine dyslexia. A special education director made a similar comment.

Response: The SBOE agrees that this might be confusing to a parent. While a parent could request certain aids, accommodations, and services under Section 504, at adoption the SBOE has deleted this sentence since the placement of it doesn't align with the sentence above it regarding a parent's right to request an IEE (see page 31).

Comment: A director of special education and a diagnostician commented that schools need funding for handwriting interventions and for general education teachers to attend writing academies.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An individual commented that the word "targeted" should be added to figure 2.4 when referring to intervention history and should include progress monitoring data.

Response: The SBOE disagrees and has determined that figure 2.4 is appropriate as proposed.

Comment: An individual commented that the term "may" should be changed to "must" on page 24 for interpretation of data.

Response: The SBOE is unable to locate the source that generated the comment and is, therefore, unable to agree or disagree with the comment.

Comment: An individual commented that page 24 should include accumulated quantitative and qualitative data.

Response: The SBOE is unable to locate the source that generated the comment and is, therefore, unable to agree or disagree with the comment.

Comment: An individual commented that there should be an approved list of targeted intervention on page 24.

Response: The SBOE disagrees and has determined that a list is unnecessary.

Comment: An individual commented that the term "adequate instruction" should be defined.

Response: The SBOE disagrees that a definition is necessary, as this is left to the qualified group of professionals.

Comment: An individual commented that figure 2.5 should include the Grade 7 population and include more focus on tiered or targeted instruction rather than just screening.

Response: The SBOE disagrees. Screening for dyslexia is required only in Kindergarten and Grade 1 under TEC, §38.003. Figure 2.5 addresses those screeners.

Comment: An individual asked what an "accelerated reading program" is as listed on page 30 and whether there will be a list of programs.

Response: The SBOE provides the following clarification. The SBOE does not have the authority to interpret this statutory term.

Comment: An individual asked that the handbook explain the difference between research-based, scientifically based, and evidence-based.

Response: The SBOE disagrees and has determined that the terms do not need to be clarified at this time. However, the SBOE will consider this for future iterations of the handbook.

Comment: A community member recommended including knowledge and fidelity of the implementation of the language program model an EB student may use. The commenter further stated that sometimes the models are different, and this can cause slower progress for an EB student.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A community member asked that "needs and recommendations" be included on page 37.

Response: The SBOE is not able to locate the source that generated the comment and is, therefore, unable to agree or disagree with the comment.

Comment: An individual commented that page 46 of the handbook contains too many quotes and needs best practices and resources instead.

Response: The SBOE disagrees and has determined that no changes to this text are needed at this time. However, the SBOE will consider for future iterations of the handbook.

Comment: Six individuals asked whether there must be two progress reports for a student with dyslexia receiving dyslexia instruction through an IEP or if one is sufficient. Two of the six individuals asked what the progress report must specifically include. The commenters also pointed out typos in this section.

Response: The SBOE provides the following clarification. The handbook states that, to the extent the IEP progress report does not address the student's participation in dyslexia instruction, two progress reports must be issued. It is up to the ARD committee and PDI as to whether this equates to one or two progress reports based on how the IEP goal is written. At adoption, the handbook has been modified to correct the typos.

Comment: A director of special education and teacher commented that revisions should be made to the flowchart on page 43 to revise steps 4 and 5.

Response: The SBOE agrees, and edits have been made to the flowchart at adoption.

Comment: Four individuals commented that more guidelines should be given in relation to when and how LEAs could modify an evidence-based dyslexia program.

Response: The SBOE disagrees and has determined it is unnecessary to provide additional information at this time. However, the SBOE will consider this in future iterations of the handbook.

Comment: An individual asked where PDIs can receive training and recommended that information be listed in the handbook.

Response: The SBOE provides the following clarification. The providers in figure 4.1 can assist in PDI training.

Comment: An individual commented that dyslexia training should be included on page 52.

Response: The SBOE provides the following clarification. The training recommended by the commenter is already listed.

Comment: An individual commented that writing should be listed as a component of comprehensive literacy instruction on page 65.

Response: The SBOE is unable to agree or disagree because it is unclear where the commenter is requesting this change be made.

Comment: An individual asked what the guidelines are to demonstrate knowledge of dysgraphia.

Response: The SBOE provides the following clarification. The guidelines are determined locally by each MDT and ARD committee.

Comment: An individual and a teacher asked that more specificity be added related to the involvement of OTs on page 69, including whether they could provide writing instruction.

Response: The SBOE disagrees and has determined that additional specificity is not needed at this time. However, the SBOE will consider this in future iterations of the handbook.

Comment: An individual commented that an explanation should be included on how technology tools and typing responses into the online State of Texas Assessments of Academic Readiness (STAAR®) may have an impact on a student's physical ability to write.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Five individuals commented that the dyslexia handbook should go away altogether because there is no longer a need for it.

Response: The SBOE disagrees. The SBOE is required by state law to develop procedures related to screening of, testing of, and treatment for dyslexia and related disorders.

Comment: An individual commented that if the handbook is going to cite research, it needs to include current research.

Response: The SBOE agrees that current research is necessary and will continue to analyze the research cited in future iterations of the handbook.

Comment: One individual commented that page 31 addresses only one prong of special education eligibility.

Response: The SBOE agrees that clarification could be beneficial and has addressed the handbook at adoption by adding a suspicion of a disability and a need for special education and related services.

Comment: A dyslexia instructional coach commented that ineffective treatments, such as reading recovery, should be added to the list of ineffective treatments on page 59.

Response: The SBOE disagrees and has determined that a change is unnecessary at this time. However, the SBOE will consider updating this list in future iterations of the handbook.

Comment: An education specialist requested that the Talking Books Program be mentioned in the handbook.

Response: The SBOE disagrees and has determined that it is unnecessary to mention the program in the handbook. The SBOE does acknowledge that the program is a part of state law when a student is determined at-risk for dyslexia.

Comment: A teacher requested that the term "interventionist" be kept on page 30 as the student may not be identified with dyslexia yet.

Response: The SBOE agrees that this section might be confusing with the list of positions that might be reviewing a student's data. Revisions have been made at adoption to ensure the list is not seen as exhaustive or limiting. A change has also been made about the team who would interpret screening data.

Comment: A teacher asked what the PEIMS code would be used for a group of students who are receiving dyslexia instruction and are also receiving special education services.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A diagnostician commented that the handbook does not align with IDEA and questioned why.

Response: The SBOE cannot agree or disagree with the comment, as it is not clear what the commenter feels is misaligned.

Comment: A diagnostician commented that IDA should not be quoted in the handbook and that the state definition of dyslexia needs to be changed.

Response: The SBOE disagrees and has determined that it is unnecessary at this time to remove IDA references. However, the SBOE will consider this for future iterations of the handbook.

Comment: A diagnostician commented that the handbook is founded on antiquated ideas and should reflect the most recent research.

Response: The SBOE cannot agree or disagree with this comment, as the stated antiquated ideas are not referenced. This comment will be considered in future iterations of the handbook.

Comment: A diagnostician commented that page 40, which refers to dyslexia as an SLD, needs to be corrected.

Response: The SBOE agrees that this may be confusing. At adoption, page 40 has been modified to remove the parenthetical term "dyslexia" immediately following the phrase "basic reading skills."

Comment: A CALT/LDT commented that CALT-Qualified Instructor (QI) should be specifically referenced on page 37 as there are independent training centers.

Response: The SBOE disagrees and has determined that the commenter's suggestion does not need to be specifically referenced.

Comment: An assistant director and a director of special education commented that a special education teacher should not

have to be involved in the implementation of a student's IEP if a PDI is not certified. One commenter further recommended that the state treat this situation similarly to speech therapists.

Response: The SBOE disagrees. Speech therapy is authorized under 34 CFR, §300.39(a)(2), to be considered a special education service rather than a related service if allowed under state standards. PDIs do not have this authority.

Comment: An assistant director commented that Child Find should be a part of TEA trainings and that technical assistance should include clear guidance on dyslexia characteristics, the screening process, and critical evidence-based components of dyslexia instruction.

Response: The SBOE agrees, and training will continue to focus on these items.

Comment: An education specialist requested that page 41 include a statement that an ARD committee will determine the most appropriate way to serve the student.

Response: The SBOE agrees that a statement such as this could be beneficial, and the handbook has been modified at adoption to incorporate this suggestion.

Comment: An education specialist recommended bolding the sentence on page 47 about evidence-based dyslexia instruction being available to students served under IDEA.

Response: The SBOE disagrees and has determined that this change is not necessary.

Comment: A dyslexia therapist commented that special education teachers need more training.

Response: The SBOE agrees that all teachers and providers need training but disagrees that it is necessary to require any particular training in the handbook that is not already included.

Comment: An administrator asked why there are dyslexia diagnosticians.

Response: The SBOE provides the following clarification. The term "dyslexia diagnostician" is not used in the handbook or rule, so it cannot comment on that term.

Comment: A parent commented that children need all the help that is allowed and that teachers need help.

Response: This comment is outside the scope of the proposed rulemaking. However, the SBOE agrees that all children should be assisted to help them reach their maximum potential, and teachers should receive appropriate training.

Comment: A diagnostician commented that clearer standards are needed on the role of a special education teacher and dyslexia specialist.

Response: The SBOE disagrees that clearer standards are necessary. State and federal law determine required ARD committee members.

Comment: A special education director and a CALT disagreed with the assessment that the proposed rulemaking would have no fiscal impact.

Response: The SBOE disagrees. The rule and handbook do not introduce any fiscal impact in addition to what is required by IDEA and the district's Child Find obligations.

Comment: Two individuals commented that there is a lack of guidance on implementation of early interventions.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Two individuals commented that the flow chart on page 43 implies that a parent can request a Section 504 evaluation.

Response: The SBOE provides the following clarification. Section 504 eligibility is still based on an evaluation, so a parent could request this if the student does not qualify for special education and related services. However, changes have been made to the flowchart at adoption to clarify the process.

Comment: An individual commented in support of the removal of dysgraphia requirements.

Response: The SBOE is unsure what requirements the commenter is referring to and is, therefore, unable to agree or disagree with the comment.

Comment: Four individuals stated that more guidance is needed on graphomotor functions in relation to dysgraphia.

Response: The SBOE disagrees and has determined that it is unnecessary to make changes at this time. However, the SBOE will consider this in future iterations of the handbook.

Comment: Four individuals commented that OTs are not necessary for dysgraphia evaluations.

Response: The SBOE disagrees. The handbook does not require the presence of OTs; instead, it states that they may likely need to be a part of the MDT or ARD committee if the student experiences challenges with fine motor skills.

Comment: An LDT asked if question 19 on page 86 is saying that students who are not identified with dyslexia can be put in a dyslexia program through an ARD committee without meeting criteria.

Response: The SBOE provides the following clarification. The appendix has been removed at adoption, and TEA will revise the Q&A as necessary.

Comment: Three practitioners commented that the term "condition of" should be removed from dyslexia where this is listed in the handbook.

Response: The SBOE agrees that the phrase is unnecessary and has removed it at adoption.

Comment: Three practitioners commented that there is no current commissioner's list on page 21.

Response: The SBOE agrees and has deleted reference to that list, along with making a few other clarifying changes in that section.

Comment: A dyslexia coordinator asked if dysgraphia intervention is considered a special education service or a Section 504 accommodation.

Response: The SBOE provides the following clarification. This decision would be made by an ARD committee.

Comment: A dyslexia coordinator commented that a question is missing from Appendix A that was posted with the HB 3928 FAQ.

Response: The SBOE provides the following clarification. The appendix has been removed at adoption.

Comment: A dyslexia coordinator commented that clarification is needed on page 71 about a student identified with dysgraphia but not considered a student with a disability under IDEA.

Response: The SBOE agrees and has made changes at adoption to clarify the process.

Comment: A dyslexia coordinator stated that clarification is needed on if students in prekindergarten that are age 5 can be evaluated for an SLD.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A dyslexia coordinator asked if dyslexia instruction is available for students in prekindergarten if the student does not otherwise qualify for free prekindergarten by the state.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A CALT stated that the experts should not be deleted from page 8.

Response: The SBOE disagrees. The list referenced by the commenter identifies the 2018 committee, and the handbook has now been revised twice since that time.

Comment: A special education director suggested grammatical and punctuation changes on page 66.

Response: The SBOE disagrees and has determined that the suggested changes are unnecessary.

Comment: A special education director commented that dyslexia modules should be made specifically for school psychologists and diagnosticians.

Response: The SBOE provides the following clarification. The dyslexia modules are created by TEA and are primarily designed for evaluators.

Comment: One parent commented that protections and education for parents are being eroded by the move to special education and requested that more testimony be allowed before finalization.

Response: The SBOE disagrees. The changes to the handbook are primarily driven from changes to state law.

Comment: One parent commented that the attempts of the handbook to downplay the use of a cognitive evaluation is misleading and in conflict with federal law. The parent further commented that the handbook should not dictate the manner in which an SLD evaluation is conducted.

Response: The SBOE disagrees. State law requires the SBOE to develop procedures for the screening of, testing of, and treatment for dyslexia. The SBOE is not dictating a manner in which an SLD evaluation must be conducted.

Comment: A CALP commented that consideration should be given to parents who reject special education testing and that it is unfair to require special education testing for the identification of, and services for, dyslexia.

Response: The SBOE provides the following clarification. TEC, §29.0031, states that dyslexia is an example of and meets the definition of SLD under IDEA. Further, the SBOE is prohibited from distinguishing between different types of dyslexia instruction. Therefore, when a student is identified with dyslexia and requires the provision of dyslexia instruction, he or she needs a special education service.

Comment: A diagnostician commented that Chapter 3 is not needed.

Response: The SBOE disagrees as the SBOE is required to develop procedures for the screening of, testing of, and treatment for dyslexia and related disorders.

Comment: A diagnostician commented that the handbook should focus on instruction and intervention and not processes covered by the special education department.

Response: The SBOE disagrees as the SBOE is required to develop procedures for the screening of, testing of, and treatment for dyslexia and related disorders.

Comment: TCASE commented that the SBOE should consider how districts should address contracted staff who cannot be required by the district to attend any training or address this issue in guidance once rulemaking is complete.

Response: This comment is outside the scope of the proposed rulemaking.

§74.28(d)

Comment: TCASE and a school district commented that the word "trained" should be removed from proposed re-lettered subsection (d), as a PDI would already be required to have the necessary training. The commenters stated that retaining the word could imply that additional training is needed.

Response: The SBOE agrees and has made a change in subsection (d) at adoption to remove the word "trained."

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.102(c)(28), as amended by House Bill (HB) 3928, 88th Texas Legislature, Regular Session, 2023, which requires the State Board of Education (SBOE) to approve a program for screening and testing students for dyslexia and related disorders; TEC, §29.0031, as amended by HB 3928, 88th Texas Legislature, Regular Session, 2023, which requires that dyslexia is considered and meets the definition of specific learning disability, as this is defined in the Individuals with Disabilities Education Act. It also requires certain actions when a student is suspected of having dyslexia and in the evaluation for dyslexia; TEC, §29.0032, as amended by HB 3928, 88th Texas Legislature, Regular Session, 2023, which requires that providers of dyslexia instruction be fully trained in the local educational agency's materials in order to provide that instruction; TEC, §38.003(a), which requires that students enrolling in public schools be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in Kindergarten and each student in Grade 1; and TEC, §38.003(c), which requires the SBOE to adopt any rules and standards necessary to administer TEC, §38.003, Screening and Treatment for Dyslexia and Related Disorders.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.102(c)(28), 29.0031, and 29.0032, as amended by House Bill 3928, 88th Texas Legislature, Regular Session, 2023; and §38.003(a) and (c).

§74.28. *Students with Dyslexia and Related Disorders.*

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings.

(1) Screening a student for dyslexia or a related disorder, a term used in Texas Education Code (TEC), §38.003, means the administration of a universal screening instrument required for students in Kindergarten and Grade 1.

(2) Testing a student for dyslexia or a related disorder, a term used in TEC, §38.003, means a comprehensive evaluation as required under 34 Code of Federal Regulations (CFR), Part 300, and includes evaluation components as stated in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders," referenced in subsection (c) of this section, for the identification of dyslexia or a related disorder.

(3) Treatment for a student identified with dyslexia or a related disorder, a term used in TEC §38.003, means any instructional accommodations through an accommodation plan under Section 504 or instructional accommodations, modifications, and/or the provision of dyslexia instruction in accordance with a student's individualized education program (IEP).

(4) Direct dyslexia instruction, a term used in TEC, §7.102(c)(28), or dyslexia instruction means evidence-based dyslexia instruction that includes the required components of dyslexia instruction and instructional delivery methods as outlined in the handbook referenced in subsection (c) of this section and as described by a student's IEP under TEC, §29.005.

(5) Provider of dyslexia instruction (PDI) means a provider who meets the requirements of TEC, §29.0032.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school must adopt and implement a policy requiring the district or school to comply with this section, inclusive of the handbook referenced in subsection (c) of this section and the provision of dyslexia instruction for students identified with dyslexia or a related disorder as determined by the student's admission, review, and dismissal (ARD) committee.

(c) A school district's or open-enrollment charter school's policy must be implemented according to the State Board of Education's (SBOE's) "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" provided in this subsection. Before adopting changes to the handbook, the SBOE will consider input provided by educators and professionals in the field of reading and dyslexia and related disorders, as well as parents and other stakeholders, from across the state.

Figure: 19 TAC §74.28(c)

(d) A school district or open-enrollment charter school must provide evidence-based dyslexia instruction by a PDI for students with dyslexia or a related disorder that includes the required instructional and delivery components found in the handbook referenced in subsection (c) of this section.

(e) Each school district and open-enrollment charter school shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of the screening for dyslexia and related disorders required for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).

(f) Each school district and open-enrollment charter school shall provide to parents of students enrolled in the district or school information on:

- (1) characteristics of dyslexia and related disorders;
- (2) evaluation and identification of dyslexia and related disorders;
- (3) effective instructional strategies for teaching students with dyslexia and related disorders;
- (4) qualifications of and contact information for PDIs at each campus or school;

(5) instructional accommodations and modifications;

(6) the steps in the special education process, as described in the form developed by the Texas Education Agency to comply with TEC, §29.0031(a)(1); and

(7) how to request a copy and access the electronic version of the handbook referenced in subsection (c) of this section.

(g) School districts and open-enrollment charter schools will be subject to monitoring for compliance with federal law and regulations in connection with this section. School districts and open-enrollment charter schools will be subject to auditing and monitoring for compliance with state dyslexia laws in accordance with administrative rules adopted by the commissioner of education as required by TEC, §38.003(c-1).

(h) School districts and open-enrollment charter schools must include the member required by TEC, §29.0031(b), on the multidisciplinary team and ARD committee, as appropriate, who meets the re-

quirements of TEC, §29.0031(b)(1) or (2), or who meets the training requirements established by the SBOE as described in the handbook referenced in subsection (c) of this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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