

BILL ANALYSIS

Senate Research Center

S.B. 2140
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Education
4/24/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the federal Individuals with Disabilities Education Act (IDEA), public school students who are suspected of struggling with a learning disability are entitled to a full individual evaluation (FIE). The FIE is the means by which states must determine whether a child suspected of having a learning disability needs and is entitled to special education and related services. In listing many different types of learning disabilities that might trigger a need for special education and related services, IDEA expressly includes dyslexia.

In line with federal intent, S.B. 2140 provides that a school district may not delay an evaluation of a child suspected of having a disability because of the implementation of a variety of intervention processes.

Additionally, S.B. 2140 provides that a school district must seek parental consent to conduct a full individual and initial evaluation (FIIE).

Furthermore, S.B. 2140 provides that if, as a result of dyslexia, a student needs any additional instruction not provided to students without dyslexia or additional instruction to access and progress in the general curriculum, then the ARD committee must: consider the student eligible for an individualized education plan (IEP) as a student with a disability.

Finally, S.B. 2140 provides that districts must employ persons who may be a therapist, practitioner, specialist, or interventionist for students with dyslexia and related disorders.

As proposed, S.B. 2140 amends current law relating to a student's eligibility for special education services provided by a school district, including services for dyslexia and related disorders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 29.0031, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Beckley Wilson Act.

SECTION 2. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0031, as follows:

Sec. 29.0031. DYSLEXIA AND RELATED DISORDERS. (a) Prohibits a school district from delaying an evaluation of a child suspected of having a disability because of the implementation of an intervention process where the school district:

- (1) suspects that a K-12 student has dyslexia or a related disorder;
- (2) identifies a student as at risk for reading difficulties, including dyslexia and related disorders, with quantitative and qualitative data

showing that the student exhibits characteristics of dyslexia or other specific learning disabilities; or

(3) removes a student from their assigned campus who exhibits academic difficulties in reading, spelling, written expression, or complex conditions and behaviors that could result from undiagnosed learning disabilities.

(a-1) Requires a school district to seek parental consent for a Full Individual Initial Evaluation that:

(1) assesses for dyslexia and related disorders using the best practices for identifying dyslexia aligned with knowledge and practice standards of an international organization on dyslexia and other recognized professional organizations, including the process outlined in the Texas Dyslexia Handbook (Figure: 19 TAC §74.28(c));

(2) assesses for associated academic difficulties and other conditions that commonly affect students with dyslexia;

(3) includes at least one member on the multidisciplinary evaluation team with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction; and

(4) continues to provide grade level, evidence-based core reading instruction (Tier 1) and providing appropriate tiered interventions.

(a-2) Requires an individual defined in Subsection (d) to be included in the interpretation of the evaluation data and co-sign the evaluation when a student is evaluated by a Licensed Specialist in School Psychology or diagnostician for dyslexia or a related disorder under this section and is indicated not to have dyslexia or a related disorder.

(b) Provides that the identification of dyslexia based on a preponderance of data in the evaluation process in Subsection (a):

(1) satisfies the criteria for a student to meet the first prong of eligibility under the Individuals with Disabilities Education Act (IDEA). Provides that the state of Texas acknowledges that dyslexia is a condition included within the Specific Learning Disability category, thus dyslexia itself is a Specific Learning Disability and can be listed in the Individualized Education Program (IEP) as dyslexia, without the need to insert the broader term 'Specific Learning Disability; and

(2) does not require a variance among specific areas of cognitive function or between specific areas of cognitive function and academic achievement.

(c) Requires the admission, review, and dismissal committee, if as a result of dyslexia, a student needs any additional instruction not provided to students without dyslexia, or additional instruction to access and progress in the general curriculum, to:

(1) consider the student is eligible for an IEP as a student with a disability; and

(2) document the instruction in the IEP that aligns with the Texas Dyslexia Handbook (Figure: 19 TAC §74.28(c)) ensuring it is delivered with fidelity to program descriptors, grouping formats, and training and skill of the most qualified teacher while meeting the individual needs of the student; or

(3) if a parent or guardian declines the IEP, the school district is required to submit a statement to the Texas Education Agency (TEA) documenting that the parent fully understands the rights they are waving under IDEA before recommending accommodations via a 504 without delay.

(d) Requires districts to employ persons who are authorized to be a therapist, practitioner, specialist, or interventionist for students with dyslexia and related disorders. Provides that the person hired under this subsection is not required to hold a certificate or permit issued under Subchapter B (Bilingual Education and Special Language Programs) in special education or a teaching certificate but is required to:

(1) when dyslexia is suspected, be prioritized as a member of the multidisciplinary evaluation team under Subsection (a) with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction;

(2) be fully trained in the district's adopted dyslexia instructional material; and

(3) hold an appropriate license, including a license issued under Chapter 403 (Licensed Dyslexia Practitioners and Licensed Dyslexia Therapists), Occupations Code; or

(4) hold a certification issued by an appropriate association or have received training from an appropriate training provider, including an academic language practitioner or therapist certified by the Academic Language Therapy Association.

(d-1) Provides that the completion of a literacy achievement academy under Section 21.4552 (Teacher Literacy Achievement Academies) by an educator who participates in the evaluation or instruction of students with dyslexia does not satisfy the requirements of this subsection.

(e) Requires the board of trustees of each school district to adopt a policy consistent with the grievance procedure adopted under Section 26.011 (Complaints), which does not interfere with parents due process rights under IDEA, to allow a parent to contest the school district's implementation of this section and the Texas Dyslexia Handbook (Figure: 19 TAC Section 74.28(c)).

(f) Requires the commissioner of education (commissioner) to adopt rules as necessary to implement this section. Requires that the rules:

(1) include a process for school districts to submit a statement to TEA each time a parent declines an IEP that attests that the parent fully understands the rights they are waving under IDEA; and

(2) include annual training requirements and signed affidavits to ensure hearing officers and school board trustees are aware and understand changes in legislation, commissioner rules, and any updated guidelines from the State Board of Education.

SECTION 3. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 4. Requires the commissioner to adopt rules necessary to implement this Act using a negotiated rulemaking process under Chapter 2008 (Negotiated Rulemaking), Government Code, as soon as practicable after the effective date of this Act.

SECTION 5. Requires each school district to notify the parent or person standing in parental relation to a student who has been identified as having dyslexia or a related disorder and who

received dyslexia intervention and instructional support in accordance with Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), during the 2022–2023 school year of the parent's or person's rights and benefits to request a full individual evaluation under Section 29.004 (Full Individual and Initial Evaluation), Education Code, as soon as practicable after the effective date of this Act. Requires the commissioner to develop and make available a model notice that a school district is required to use to provide the notice required by this subsection.

SECTION 6. Requires TEA to provide additional training materials to school districts on the evaluation and identification of students with dyslexia or a related disorder in accordance with this Act, not later than September 1, 2023.

SECTION 7. Effective date: September 1, 2023.