

PRESENTED AT
39TH ANNUAL SCHOOL LAW CONFERENCE

February 15-16, 2024
Austin, Texas

**READING FROM THE SAME PAGE:
RECENT UPDATES TO DYSLEXIA SERVICES AND THE
DYSLEXIA HANDBOOK**

MYRA S. CHICKERING
Rogers, Morris & Grover, L.L.P.

Co-author:
KYLE STONE
Rogers, Morris & Grover, L.L.P.

Author Contact Information:
Myra S. Chickering
Rogers, Morris & Grover, L.L.P.
Houston, Texas 77057
mchickering@rmgllp.com
713.960.6016

I. INTRODUCTION AND GENERAL OVERVIEW

Dyslexia is a neurological condition that affects an individual's reading and writing skills. It has been a topic of interest in the fields of education and psychology for a long time. Before discussing current dyslexia laws in Texas, it is essential to understand this condition's origins.

The term “dyslexia” itself can be traced back to the late 19th century when Rudolf Berlin, a German ophthalmologist, first coined the term in 1887. LD Res. Found. Action, *The History of Dyslexia*, <http://tinyurl.com/3ht79pka> (last visited Jan. 18, 2024). However, the awareness of reading difficulties and challenges predates this formal recognition. In the mid-1800s, scientists first began to discuss the existence of certain learning disabilities. *Id.* Physicians first referred to dyslexia as “word blindness.” *Id.* In 1877, a German neurologist called it “complete text blindness . . . although the power of sight, the intellect, and the powers of speech are intact.” *Id.* In 1896, an English doctor published what is credited as the first description of the learning disorder that would come to be known as developmental dyslexia:

Percy F. . . aged 14 . . . has always been a bright and intelligent boy.
[He's] quick at games, and in no way inferior to others of his age.
His great difficulty has been and is now his inability to learn to read.

Sally Shaywitz & Jonathan Shaywitz, *Overcoming Dyslexia*, at 143 (2d ed. 2018). Early accounts of individuals struggling with reading comprehension and fluency date back centuries, with anecdotal evidence suggesting that historical figures such as Leonardo da Vinci may have experienced symptoms associated with dyslexia. *Thomas Jefferson Univ., Was Leonard Da Vinci's Dyslexia Responsible for his Brilliance?* (May 7, 2019), <http://tinyurl.com/539bxanb>.

A “paradox that has intrigued and frustrated scientists for [over] a century,” dyslexia “appears to be linked to certain genes that affect how the brain processes reading and language.” The Yale Ctr. for Dyslexia & Creativity, *supra*; Mayo Clinic, *Diseases and Conditions: Dyslexia* (Aug. 6, 2022), <http://tinyurl.com/4s9fdren>. It “results from individual differences in the parts of the brain that enable reading.” Mayo Clinic, *supra*. “It tends to run in families,” so “[a] family history of dyslexia or other reading or learning disabilities increases the risk of having dyslexia.” *Id.* As explained by Dr. Sally Shaywitz, whose research provides the framework for the modern understanding of dyslexia:

Science has moved forward at a rapid pace so that we now possess the data to reliably define dyslexia, to know its prevalence, its cognitive basis, its symptoms and remarkably, where it lives in the brain and evidence-based interventions which can turn a sad, struggling child into not only a good reader, but one who sees herself as a student with self-esteem and a fulfilling future.

Shaywitz, S.E. Testimony Before the Comm. on Science, Space, & Tech., U.S. House of Representatives, 2014.

As our understanding of dyslexia grew, so did the recognition of the need for comprehensive support and accommodations for individuals grappling with this learning

disability. The turning point came in 1975 with the enactment of the Education for All Handicapped Children Act, now known as the Individuals with Disabilities Education Act (IDEA). Public Law 94-142, 89 Stat. 794 (1975). The IDEA marked a pivotal moment in the history of special education, setting forth a legal framework to ensure that students with disabilities, including dyslexia, receive the education and support they require to thrive educationally. U.S. Dep’t of Educ., Off. for Civ. Rights, *About IDEA*, <http://tinyurl.com/5yh465u3> (last visited Jan. 18, 2024).

Under the IDEA, dyslexia is a “specific learning disability,” meaning a “disorder in one or more of the basic psychological processes involved in understanding or in using language.” 20 U.S.C. § 1401(30); 34 C.F.R. § 300.8(c)(10). Students diagnosed with dyslexia who need special education and related services are entitled to receive services tailored to their unique needs. 20 U.S.C. § 1401(3)(A); 34 C.F.R. § 300.8(a)(1). The goal is to provide students with the necessary tools and accommodations to access the curriculum and participate in educational activities on an equal footing with their peers. 20 U.S.C. § 1400(d).

This article overviews recent updates to dyslexia services and the Dyslexia Handbook in the State of Texas, focusing on the 2021 and 2023 updates.

II. RECENT DEVELOPMENTS

A. 2021 UPDATES

“Texas has a long history of supporting the fundamental skill of reading. This history includes a focus on early identification and intervention for students with dyslexia.” Tex. Educ. Agency, *Dyslexia and Related Disorders*, <http://tinyurl.com/3k8yy296> (last visited Jan. 18, 2024). Indeed, under longstanding Texas law, school districts must screen and test students “for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education” (SBOE). Tex. Educ. Code § 38.003(a). The dyslexia screening program “must include screening at the end of the school year of each student in kindergarten and each student in the first grade.” *Id.* Although the Education Code does not explicitly state when screening must occur during first grade, school districts must comply with the Dyslexia Handbook. *Id.* § 38.003(b)(2)(A). According to the Texas Education Agency (TEA), 19 Tex. Admin. Code § 74.28(c) stands for the proposition that “[t]he SBOE . . . has determined that students in first grade must be screened no later than the middle of the school year” – January 31st. Tex. Educ. Agency, *Dyslexia Screening*, <http://tinyurl.com/yc2hv3zn> (last visited Jan. 18, 2024).

For many years in Texas, school districts focused on dyslexia screeners instead of comprehensive evaluations. Indeed, school districts oftentimes did not comprehensively evaluate dyslexic students for special education and instead serviced dyslexia needs under Section 504 through Texas’s dyslexia program. U.S. Dep’t of Educ., Off. of Special Educ. Programs, *Texas Part B Monitoring Visit Letter*, at 10 (Jan. 11, 2018), <http://tinyurl.com/3kak9jvs> (2018 Monitoring Letter). This stemmed from language in an older version of the Dyslexia Handbook. Tex. Educ. Agency, *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, at 22–23 (2018), <http://tinyurl.com/yeykujc5> (2018 Dyslexia Handbook).

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Reading from the Same Page: Recent Updates to Dyslexia Services and the Dyslexia Handbook

Also available as part of the eCourse

[2024 School Law eConference](#)

First appeared as part of the conference materials for the
39th Annual School Law Conference session

"Reading from the Same Page: Recent Updates to Dyslexia Services and the Dyslexia Handbook"