PARADISE INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES
Eligibility

PARADISE ISD has entered into an Interlocal Agreement to cooperatively operate its special education programs under the authority of Tex. Ed. Code § 11.157. The Wise County Shared Services Special Education Services Cooperative may provide for the efficient delivery of legally required special education and related services to PARADISE ISD's eligible students with disabilities as set forth in the Interlocal Agreement, including the implementation of these Special Education Operating Procedures.

EVALUATIONS SUPPLEMENT—AREAS OF ELIGIBILITY

AUTISM
DEAF-BLINDNESS
DEAF OR HARD OF HEARING
EMOTIONAL DISABILITY
INTELLECTUAL DISABILITY
MULTIPLE DISABILITIES
ORTHOPEDIC IMPAIRMENT
OTHER HEALTH IMPAIRMENT
SPECIFIC LEARNING DISABILITY
SPEECH OR LANGUAGE IMPAIRMENT
TRAUMATIC BRAIN INJURY
VISUAL IMPAIRMENT
NONCATEGORICAL EARLY CHILDHOOD
FOR MORE INFORMATION ABOUT EACH AREA OF ELIGIBILITY

Paradise ISD Board Policy along with these *Special Education Operating Procedures* constitute the Policies and Procedures of Paradise ISD, designed to be consistent with the State policies and procedures developed pursuant to the IDEA. Paradise ISD *Special Education Operating Procedures* are not to be for the purpose of creating a requirement that is not otherwise imposed by the Individuals with Disabilities Education Improvement Act ("IDEA"), together with its implementing federal regulations, state statutes and rules, as they shall from time to time be amended, and shall not be construed to create a higher standard than that established by IDEA. These *Special Education Operating Procedures* will be posted on Paradise ISD's website. These *Special Education Operating Procedures* should be interpreted consistent with the IDEA. Paradise ISD's *Special Education Operating Procedures* are reviewed and updated, as needed, on at least an annual basis. Paradise ISD will make timely changes to policies and procedures in response to IDEA amendments, regulatory or rule changes, changes to state policy, or new legal interpretation as are necessary to bring Paradise ISD into compliance with the requirements of IDEA. Paradise ISD maintains systems to ensure that all students with disabilities residing in the District, including students with disabilities attending non-public schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and provided a free appropriate public education. Paradise ISD maintains systems to ensure that students with disabilities and their parents are afforded the procedural safeguards required under the IDEA (and its implementing federal regulations, state statutes and rules) including with respect to the confidentiality of records and personally identifiable information.

AUTISM

Students with autism typically have a developmental disability *significantly* impacting verbal and nonverbal communication and social interaction which adversely affects a student's educational performance. This delay generally manifests prior to age 3.[1]

A student may not be determined eligible as a student with autism if the student's educational performance is adversely affected primarily because the student has an emotional disability.[2]

Additional characteristics associated with autism may include—

- engagement in repetitive activities and stereotyped movements;
- resistance to environmental change or change in daily routines; and/or
- unusual responses to sensory experiences.

The absence of these or other characteristics often associated with autism does not exclude a student from eligibility as a student with autism. A student who manifests the characteristics of autism after age 3 could be identified as having autism if the criteria in this Operating Procedure are satisfied.[3]

A student may be determined eligible as a student with autism without having a medical or psychological diagnosis of autism.[4] The definitions of conditions or categories that are used for purposes of establishing an individual's eligibility for mental health services, as found in the Diagnostic and Statistical Manual of Mental Disorders (DSM), are not synonymous with criteria used for determining whether a child is a "child with a disability" for purposes of establishing eligibility for services under the IDEA.[5] The group of qualified professionals conducting an evaluation of a student suspected of having autism will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

The written evaluation report by the group of qualified professionals must include specific recommendations for communication, social interaction, and positive behavioral interventions and strategies.[6]

[1] 34 C.F.R. § 300.8(c)(1)
[2] 34 C.F.R. § 300.8(c)(1)(ii)
[3] 34 C.F.R. § 300.8(c)(1)(iii)
[4] 19 TEX. ADMIN. CODE §89.1040(c)(1)
[5] *Letter to Coe* (OSEP 9/14/1999)
[6] 19 TEX. ADMIN. CODE §89.1040(c)(1)

PRACTICE GUIDE—When evaluating a student suspected of having autism, the group of qualified professionals conducting the evaluation may consider components such as observations during structured and unstructured times, autism rating scales by more than one rater, speech and language assessment, functional behavioral assessment (FBA) and private evaluation reports diagnosing autism. Private evaluation reports diagnosing or identifying autism may be considered along with the District's autism evaluation of the student. If appropriate to understand the private evaluation report and its recommendations or conclusions, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. If appropriate, the group is encouraged to make recommendations concerning strategies for students with autism as necessary for the development of the IEP. See also SECTION 3.3: FAPE. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

DEAF-BLINDNESS

A student who may be eligible under the category of deaf-blindness must have concurrent or coexistent hearing and visual impairments. Additionally, the combination of these impairments must cause such severe communication and other developmental and educational needs that the eligible student cannot be accommodated in a special education program solely for children with deafness or children with blindness.[7]

A student with deaf-blindness is one who, based on an evaluation conducted in accordance with the procedures outlined in **EVALUATIONS-EVALUATION PROCEDURES**, meets—

- the eligibility criteria for deaf or hard of hearing and visual impairment;
- the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;

A student with deaf-blindness is also one who, based on an evaluation conducted in accordance with the procedures outlined in **EVALUATIONS-EVALUATION PROCEDURES**,, has—

- documented hearing and visual losses that, if considered individually, may not meet the requirements for deaf or hard of hearing or visual impairment, but the combination of such hearing and visual losses adversely affects the student's educational performance; or

[7] 34 C.F.R. § 300.8(c)(2)

- a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without the provision of special education services, will adversely affect the student's educational performance.[8]

The group of qualified professionals conducting an evaluation of a student suspected of having deaf-blindness will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

DEAF OR HARD OF HEARING

A student may be eligible for special education and related services as a student who is deaf or hard of hearing[9] if the hearing impairment is so severe that it impairs the processing of linguistic information through hearing with or without amplification, and that adversely affects educational performance.[10]

The group of qualified professionals must ensure that the evaluation data includes—

- an audiological evaluation performed by a licensed audiologist,
- a communication assessment completed by the multidisciplinary team, and
- a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended hearing assistive technology.[11]

A child under 3 years of age meets the criteria for deaf or hard of hearing if the student's record indicates that the child is experiencing a developmental delay because of hearing loss or impairment, or the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment.[12]

The group of qualified professionals conducting an evaluation of a student suspected of being deaf or hard of hearing will conduct assessments and observations, and collect data, as necessary

[8] 19 TEX. ADMIN. CODE §89.1040(c)(2)
[9] The terms *deaf or hard of hearing* are referenced in Texas law while federal law typically references the terms *deafness* and *hearing impairment.*
[10] 34 C.F.R. § 300.8(c)(3)
[11] 19 TEX. ADMIN. CODE §89.1040(c)(3)(A)
[12] 19 TEX. ADMIN. CODE §89.1040(c)(3)(B)

for the ARD Committee to make an eligibility determination. The group should consider the student's unique mode of communication when conducting the evaluation.[13]

PRACTICE GUIDE—When evaluating a student suspected of being deaf or hard of hearing, the group of qualified professionals selecting and using standardized tests to assess cognitive functioning and academic achievement may consider whether the tests have been normed for students who are deaf or hard of hearing. The group may request the student's most recent audiological evaluation report and recommendations concerning the student's need for amplification. If appropriate to understand private evaluation reports and their recommendations or conclusions, including recommendations for amplification and use of assistive technology, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
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EMOTIONAL DISABILITY

A student may be eligible for special education and related services as a student with an emotional disability if the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance[14]:

- an inability to learn, which cannot be explained by intellectual, sensory, or health factors;
- an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- inappropriate types of behavior or feelings under normal circumstances;
- a general pervasive mood of unhappiness or depression; or
- a tendency to develop fears or physical symptoms associated with personal or school problems.

The term "emotional disability " also includes students with schizophrenia. The term does not include a student who is socially maladjusted unless the ARD Committee determines based on evaluation by a group of qualified professionals that the student has an emotional disability

[13] Tex. Ed. Code § 29.303

[14] The term emotional disability is synonymous with the term emotional disturbance and serious emotional disturbance, as these terms are used in federal or state law pertaining to students eligible for special education and related services

consistent with the criteria outlined above.[15] The term "social maladjustment" is a persistent pattern of violating social norms with truancy, substance abuse, perpetual struggle with authority or manipulation.[16]

With respect to the criterion that the student manifest one or more characteristics of emotional disability to a "marked degree," this generally refers to the frequency, duration, or intensity of a student's emotionally disturbed behavior in comparison to the behavior of peers and can be indicative of either degree or acuity or pervasiveness.[17]

The definitions of conditions or categories that are used for purposes of establishing an individual's eligibility for mental health services, as found in the Diagnostic and Statistical Manual of Mental Disorders (DSM), are not synonymous with criteria used for determining whether a child is a "child with a disability" for purposes of establishing eligibility for services under the IDEA.[18] IDEA neither requires nor precludes the application of the DSM criteria in making eligibility determinations. The DSM classification system may assist the group of qualified professionals in evaluating and diagnosing disability conditions in students, including the disability condition of emotional disability.[19]

The group of qualified professionals conducting an evaluation of a student suspected of having an emotional disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

The group of qualified professionals must ensure that the written evaluation report includes specific recommendations for behavioral supports and interventions.[20]

PRACTICE GUIDE—When evaluating a student suspected of having an emotional disturbance, the group of qualified professionals conducting the evaluation may consider components such as observation during structured and unstructured times and/or a behavior rating scale including ratings by more than one rater. The group may consider additional components such as a functional behavioral assessment (FBA), disciplinary history, and the student's history of in-patient or other hospitalizations or therapeutic placements. The group completing the evaluation may consider specifying examples of how the student manifests the characteristics that may be the basis of the student's serious emotional disturbance eligibility. If appropriate to understand private evaluation reports, their recommendations or conclusions, or the student's placement history, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

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[15] 34 C.F.R. § 300.8(c)(4)
[16] *Hansen v. Republic R-III School District*, 632 F.3d 1024 (8th Cir. 2011); *Springer v. Fairfax County School Board*, 134 F.3d 659 (4th Cir. 1998).
[17] *Letter to Anonymous* (OSEP 8/11/1989)
[18] *Letter to Coe* (OSEP 9/14/1999)
[19] *Letter to Woodson* (OSEP 4/5/1989)
[20] 19 TEX. ADMIN. CODE §89.1040(c)(4)

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

INTELLECTUAL DISABILITY

A student with an intellectual disability displays *significantly* sub-average general intellectual functioning, coexisting with deficits in adaptive behavior, that adversely affects the student's educational performance.[21] The student's sub-average general intellectual functioning and coexistent deficits in adaptive behavior typically manifest during the student's developmental period.

A student with an intellectual disability is one who:

- has been determined to have significantly sub-average intellectual functioning as measured by a standardized, individually administered test of cognitive ability in which the overall test score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test; and
- concurrently exhibits deficits in at least two of the following areas of adaptive behavior: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, or safety.[22]

The group of qualified professionals conducting an evaluation of a student suspected of having an intellectual disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

It is permissible to have evaluation criteria that use intelligence tests to determine whether a child has a disability, provided that the intelligence test has been validated for the specific purpose for which it is being used, that neither the test itself nor its administration is racially or culturally discriminatory and does not constitute the sole criterion for determining an appropriate educational program for a child.[23]

PRACTICE GUIDE—When evaluating a student suspected of having an intellectual disability, the group of qualified professionals conducting the evaluation may indicate the degree of cognitive disability to enable the ARD committee to develop goals that are appropriately ambitious, but not ambitious beyond what may be reasonably expected given the student's unique circumstances.[21] The group may consider adaptive behavior assessments to guide the ARD committee in developing an IEP that addresses the student's unique functional needs. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

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[21] 34 C.F.R. § 300.8(c)(6)
[22] 19 TEX. ADMIN. CODE §89.1040(c)(5)
[23] *Letter to Warrington* (OSEP 9/2/1993)

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

MULTIPLE DISABILITIES

A student who may be eligible for special education and related services as a student with multiple disabilities has more than one disability or concurrent impairments (such as intellectual disability and a visual impairment or an emotional disability and orthopedic impairment), and the combination of these disabilities results in such severe educational need that the student cannot be accommodated in special education programs designed solely for students with one of the impairments. "Multiple disabilities" does not include deaf-blindness.[25]

To qualify as a student with multiple disabilities, the student must have a combination of disabilities and meet all of the following conditions—

- The student's disabilities are expected to continue indefinitely, and
- the disabilities severely impair performance in two or more of the following areas:
    - psychomotor skills
    - self-care skills
    - communication
    - social and emotional development; or
    - cognition.

Students who have more than one of the disabilities but who do not meet the criteria cited above must not be classified or reported as having multiple disabilities. [26]

The group of qualified professionals conducting an evaluation of a student suspected of having multiple disabilities will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

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[24] *E.R. v. Spring Branch Independent School District*, 909 F.3d 754 (5th Cir. 2018)
[25] 34 C.F.R. § 300.8(c)(7) ; 19 TEX. ADMIN. CODE §89.1040(c)(6)(C)
[26] 19 TEX. ADMIN. CODE §89.1040(c)(6)

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

ORTHOPEDIC IMPAIRMENT

A student with a severe orthopedic impairment adversely affecting her or his educational performance may be eligible for special education and related services. The phrase *orthopedic impairment* includes impairments caused by disease, like poliomyelitis or bone tuberculosis, as well as impairments from other causes, such as cerebral palsy, amputations, and fractures or burns that cause contractures.[27]

A student's eligibility with an orthopedic impairment must include a medical diagnosis provided by a licensed physician.[28] "Medical services" under IDEA are defined as services provided by a licensed physician to determine whether a child has a medically related disabling condition, which results in the child's need for special education and related services.[29] The District will ensure that such services are at no cost to the parent.[30]

The group of qualified professionals conducting an evaluation of a student suspected of having an orthopedic impairment will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

PRACTICE GUIDE— When evaluating a student suspected of having an orthopedic impairment, the group of qualified professionals conducting the evaluation may consider components such as a motor skills assessment. The group may want to consider additional components such as an assistive technology assessment and reports prepared by private providers. If appropriate to understand private evaluation reports, their recommendations or conclusions, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. The District may consider seeking consent for medical evaluation at District expense by professionals selected by the District, if necessary, to understand a student's eligibility for special education and unique disability-related needs. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data

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[27] 34 C.F.R. § 300.8(c)(8)
[28] 19 TEX. ADMIN. CODE §89.1040(c)(7)
[29] 34 C.F.R. § 300.34(c)(5)
[30] *Letter to Anonymous* (OSEP 6/3/2020)

- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

OTHER HEALTH IMPAIRMENT

A student may be eligible for special education and related services as a student with Other Health Impairment (OHI) if the student exhibits limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, resulting in limited alertness in the educational environment, which is due to chronic or acute health problems, and by reason thereof demonstrates an educational need for specially designed instruction. [31]

This disability category includes such health conditions as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome.[32] The list of acute or chronic health conditions in the definition of OHI is not exhaustive, but rather provides examples of problems that children have that could make them eligible for special education and related services under the category of other health impairment. [33] [34]

A student's eligibility based on other health impairment must include identification or confirmation of the student's chronic or acute health problem provided by a licensed physician, a physician assistant or an advanced practice registered nurse, with authority delegated under the Texas Occupation Code.[35] "Medical services" under IDEA are defined as services provided by a licensed physician to determine whether a child has a medically related disabling condition, which results in the child's need for special education and related services.[36] The District will ensure that such services are at no cost to the parent.[37]

PRACTICE GUIDE—When areas of assessment require the input of a licensed physician, physician assistant, or advanced practice registered nurse, such as when considering an Other Health Impairment (OHI), the District may either arrange to have the student examined at District expense by a professional selected by the District or choose to have a professional who has previously treated the student complete the OHI form. When the District elects to have a professional who has previously treated the student complete the OHI form or otherwise provide evaluative input, the District should seek the parent's or guardian's consent for disclosure and exchange of confidential information with the student's treating professional.

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[31] 34 C.F.R. § 300.8(c)(9)
[32] *Id.*
[33] 71 Fed. Reg. 46550 (August 14, 2006)
[34] *Letter to Sterner* (OSEP 8/19/1998)
[35] 19 TEX. ADMIN. CODE §89.1040(c)(8)
[36] 34 C.F.R. § 300.34(c)(5)
[37] *Letter to Anonymous* (OSEP 6/3/2020)

The group of qualified professionals conducting an evaluation of a student suspected of having an OHI will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.[38]

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports
- Written request for consent to exchange confidential information with licensed physician, physician assistant, or advanced practice registered nurse

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SPECIFIC LEARNING DISABILITY

Prior to conducting an initial evaluation of a student suspected of having a specific learning disability, in order to ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics, the group of qualified professionals will consider the following:

- Data that demonstrates the student was provided appropriate instruction in reading and/or mathematics within general education settings delivered by qualified personnel.
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, which must be provided to the student's parents.
    - Documentation of the repeated assessments may include RtI progress monitoring data, in-class tests on grade-level curriculum, or other regularly administered District or classroom assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.[39]

In order to qualify as a student with a specific learning disability (SLD), the student—

- has been determined through a variety of assessment tools and strategies to meet the criteria for a specific learning disability;

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[38] *Alvin Independent School District v. A.D.*, 503 F.3d 378 (5th Cir. 2007)(Student was not eligible under IDEA because he had passing grades and success on state skills test evidencing academic progress; his teachers testified that, despite his behavioral issues, he did not need special education and was achieving social success in school; many of his behavioral problems resulted from non-ADHD related issues like alcohol abuse and a death in the family).

[39] 19 TEX. ADMIN. CODE § 89.1040(c)(9)

- does not achieve adequately for the student's age or meet state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided learning experiences and instruction appropriate for the student's age or state-approved grade-level standards, as indicated by performance on multiple measures such as in-class tests; grade average over time (e.g. six weeks, semester); repeated performance on progress monitoring measures; norm- or criterion-referenced tests; and statewide assessments;

- does not make sufficient progress to meet age or state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when using a process based on the student's response to scientific, research-based intervention; or

- exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments.[40]

- Except that the student is not one with a specific learning disability if the findings specified above are *primarily* the result of: a visual, hearing, or motor disability; an intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; or emergent bilingual skills. The presence of a sensory impairment, such as visual impairment, deaf-blindness, or being deaf or hard of hearing does not rule out the possibility of the presence of an SLD.[41]

Dyslexia is an example of and may meet the definition of a specific learning disability in Basic Reading and/or Reading Fluency.[42] Dysgraphia may meet the definition of a specific learning disability in Written Expression. [43]

When considering a student for eligibility as a student with a specific learning disability, the student must be observed in the student's learning environment, including the general education classroom setting, to document the student's academic performance and behavior in the areas of difficulty. The presence of a significant variance among specific areas of cognitive function or between specific areas of cognitive function and academic achievement is not required when determining whether a student has a significant learning disability

The Multidisciplinary Team must decide to either:

- use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation; or

[40] *Id.*; 34 C.F.R. § 300.309
[41] TEA's "FAQs: Dyslexia Evaluation, Identification and Instruction—House Bill 3928" is available at https://tea.texas.gov/academics/special-student-populations/special-education/hb-3928-faqs.pdf
[42] TEX. ED. CODE § 29.0031(a); 19 TEX. ADMIN. CODE § 89.1040(c)(9)
[43] *Id.*

- have at least one member of the group of qualified professionals conduct an observation of the student's academic performance in the general education classroom after the student has been referred for an evaluation and the school has obtained parental consent.[44]

The group of qualified professionals conducting an evaluation of a student suspected of having a specific learning disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

The determination of whether a student suspected of having a SLD is a student with a disability must be made by a team consisting of:

- the student's parents;
- at least one person qualified to conduct individual diagnostic examinations of children, including:
    - a licensed specialist in school psychology/ school psychologist;
    - an educational diagnostician;
    - a speech language pathologist; or
    - a remedial learning teacher; and
- the student's general education teacher or, if the student does not have a general education teacher, a general education classroom teacher qualified to teach a student of his or her age is required. If the student is younger than school age, an individual qualified by the TEA to teach a student of his or her age.

Are there any additional evaluation requirements for students suspected of having dyslexia?[45]

For students suspected of having dyslexia, the team must include a person with specific knowledge in the reading process, dyslexia and related disorders, and dyslexia instruction who is:

- a licensed dyslexia therapist (LDT);
- an individual who holds the most advanced dyslexia-related certification issued by an association recognized by the SBOE, and identified in, or substantially similar to an association identified in, either the rules or Handbook adopted by the SBOE; or
- If neither of the first two is available, an individual who meets applicable training requirements adopted by the SBOE.[46]

When identifying dyslexia and determining eligibility or continued eligibility for special education and related services, the ARD committee must include a professional who meets these requirements, including any requirements of TEA's "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders."

[44] 34 C.F.R. § 300.310(b)

[45] TEA's "FAQs: Dyslexia Evaluation, Identification and Instruction—House Bill 3928"

[46] Tex. Ed. Code § 29.0031(b); TEA's "FAQs: Dyslexia Evaluation, Identification and Instruction—House Bill 3928" is available at https://tea.texas.gov/academics/special-student-populations/special-education/hb-3928-faqs.pdf

There are specific evaluation domains and questions outlined in TEA's Dyslexia Handbook that the District must use when determining the presence of dyslexia. When a student is identified with dyslexia and/or dysgraphia, the terms dyslexia and/or dysgraphia, as appropriate, must be used in a student's evaluation report, however, for formal eligibility purposes under special education, the category of specific learning disability will be reported by the District. When making a determination regarding dyslexia, the following questions must be considered:

- Do the data show difficulty with accurate and/or fluent word reading, poor spelling skills, or poor decoding ability?
- Do these difficulties (typically) result from a deficit in the phonological component of language?
- Are these difficulties unexpected for the student's age in relation to the student's other abilities and provision of effective classroom instruction?

When considering the data, the ARD committee must interpret evaluation results in light of the student's educational history, linguistic background, environmental or socioeconomic factors, and any other pertinent factors that affect learning. The team must first look for a pattern of evidence reflective of the primary characteristics of dyslexia, i.e., unexpectedly low performance in some or all of the following areas:

- reading words in isolation,
- decoding unfamiliar words accurately and automatically,
- reading fluency for connected text (rate and/or accuracy and/or prosody), and
- spelling (an isolated difficulty in spelling would not be sufficient to identify dyslexia).

If the ARD committee determines that the student exhibits weaknesses in reading and spelling, the committee will then examine the student's data to determine whether these difficulties are unexpected in relation to the student's other abilities, sociocultural factors, language difference, irregular attendance, or lack of appropriate and effective instruction.

ARD committees must consider the data with an understanding that:

- No single instrument, score, or formula that will automatically rule in or rule out dyslexia; average phonological scores alone do not rule out dyslexia;
- It is not required that a student demonstrate a specific cognitive weakness on standardized assessments as demonstrated by achieving below a certain threshold to otherwise display a pattern of strengths and weakness relevant to the identification of dyslexia; and
- It is not one single indicator but a preponderance of data (both informal and formal) that provides the committee with evidence for whether these difficulties are unexpected.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers

- ARD committee reports

SPEECH OR LANGUAGE IMPAIRMENT

A speech or language impairment includes communication disorders, such as stuttering, impaired articulation, expressive or receptive language impairment, or voice impairment that adversely affects a student's educational performance.[47]
The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a speech or language impairment must include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.[48]

The group of qualified professionals conducting an evaluation of a student suspected of having a speech or language impairment will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

TRAUMATIC BRAIN INJURY

Students with traumatic brain injury have acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.[49]

A student's eligibility based on a traumatic brain injury must include a medical diagnosis provided by a licensed physician. The group of qualified professionals that collects or reviews

[47] 34 C.F.R. § 300.310(c)(11)
[48] 19 TEX. ADMIN. CODE § 89.1040(c)(10)
[49] 34 C.F.R. § 300.8(c)(12)

evaluation data in connection with the determination of a student's eligibility based on a traumatic brain injury must include—

- a licensed specialist in school psychology (LSSP)/ school psychologist[50]
- an educational diagnostician, or
- other appropriately certified or licensed practitioner with experience and training in the area of the disability.[51]

"Medical services" under IDEA are defined as services provided by a licensed physician to determine whether a child has a medically related disabling condition, which results in the child's need for special education and related services.[52] The District will ensure that such services are at no cost to the parent.[53]

The group of qualified professionals conducting an evaluation of a student suspected of having a traumatic brain injury will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

PRACTICE GUIDE—When evaluating a student suspected of having a traumatic brain injury, the group of qualified professionals conducting the evaluation may consider additional components such as an assistive technology assessment and reports prepared by private providers. If appropriate to understand private evaluation reports, their recommendations or conclusions, the District may seek the parent's or guardian's consent to release and exchange confidential information with the private provider. The District may consider seeking consent for medical evaluation at District expense by professionals selected by the District, if necessary, to understand a student's eligibility for special education and unique disability-related needs. Recommendations in the evaluation report should be based upon the student's unique needs rather than the area of eligibility.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

VISUAL IMPAIRMENT

A student with a visual impairment may qualify for special education and related services if the student has an impairment in vision, even with correction (such as glasses or contact lenses), that

[50] 22 TEX. ADMIN. CODE § 465.38(b)(1)
[51] 19 TEX. ADMIN. CODE § 89.1040(c)(11)
[52] 34 C.F.R. § 300.34(c)(5)
[53] *Letter to Anonymous* (OSEP 6/3/2020)

adversely affects educational performance. The phrase *visual impairment* includes both partial sight and blindness.[54] Information from a variety of sources must be considered by the group of qualified professionals that collects or reviews evaluation data in connection with the determination of the student's eligibility based on visual impairment in order to determine the need for specially designed instruction.

A student with a visual impairment is one who—

- has been determined by a licensed ophthalmologist or optometrist to
    - have no vision or to have a serious visual loss after correction or
    - have a progressive medical condition that will result in no vision or a serious visual loss after correction.[55]

A child under 3 years of age meets the criteria for visual impairment if the child's record indicates that the child is experiencing a developmental delay because of vision loss or impairment, or the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment.[56]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a visual impairment includes a person who is appropriately certified as an orientation and mobility specialist.[57] The District must ensure that an appropriately certified orientation and mobility specialist is included in an initial eligibility determination and any reevaluation of a student who has been determined to be eligible for the district's special education program on the basis of a visual impairment.[58]

The written report from the group of qualified professionals includes:

- a medical report by a licensed ophthalmologist or optometrist that indicates the student's visual loss stated in exact measures of visual field and corrected visual acuity, at a distance and at near range, in each eye. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates. The report by the licensed ophthalmologist or optometrist should also include prognosis whenever possible and whether the student has no vision or visual loss after correction; or a progressive medical condition that will result in no vision or a visual loss after correction; [59]
- a functional vision evaluation by a certified teacher of students with visual impairments or a certified orientation and mobility specialist that includes the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation;[60]

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[54] 34 C.F.R. § 300.8(c)(13)
[55] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)
[56] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(C)
[57] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(B)
[58] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(B)
[59] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(i)
[60] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(ii)

- a learning media assessment by a certified teacher of students with visual impairments including recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area;[61] and
- an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist and must be conducted in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student.[62]

The group of qualified professionals conducting an evaluation of a student suspected of having a visual impairment will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

NONCATEGORICAL EARLY CHILDHOOD

SPECIAL NOTICE CONCERNING "NONCATAGORICAL EARLY CHILDHOOD" ELIGIBILITY: The District shall no longer use this eligibility beginning with the 2025-2026 school year. Any eligible student who begins the 2025-2026 school year already identified as meeting the requirements of "Noncategorical Early Childhood" may maintain this eligibility category, if determined appropriate by the student's ARD committee, until the required re-evaluation before the age of six.[63]

Children between the ages of 3-5 who are evaluated as having an intellectual disability, an emotional disability, a specific learning disability or autism may be described as "noncategorical early childhood" for the purposes of special education eligibility.[64]

The group of qualified professionals that collects or reviews evaluation data in connection with the determination of the child's eligibility based on noncategorical early childhood must include the applicable members for intellectual disability, emotional disability, specific learning disability, or autism. The group of qualified professionals conducting an evaluation of a student suspected of meeting eligibility criteria for a noncategorical early childhood disability will

[61] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(iii)
[62] 19 TEX. ADMIN. CODE § 89.1040(c)(12)(A)(iv)
[63] 19 TEX. ADMIN. CODE § 89.1040(c)(14)(3)
[64] 19 TEX. ADMIN. CODE § 89.1040(c)(13)

conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation reports
- Collection of information from parents and independent service providers
- ARD committee reports

FOR MORE INFORMATION ABOUT EACH AREA OF ELIGIBILITY

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.[65] The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.[66]

- For more information about **AUTISM**, please contact the Coordinator of Assessment and Compliance.
- For more information about **DEAF-BLINDNESS**, please contact the Coordinator of Assessment and Compliance.
- For more information about **DEAF OR HARD OF HEARING**, please contact the Coordinator of Assessment and Compliance.
- For more information about **EMOTIONAL DISABILITY**, please contact the Coordinator of Assessment and Compliance.
- For more information about **INTELLECTUAL DISABILITY**, please contact the Coordinator of Assessment and Compliance.
- For more information about **MULTIPLE DISABILITIES**, please contact the Coordinator of Assessment and Compliance.
- For more information about **ORTHOPEDIC IMPAIRMENT**, please contact the Coordinator of Assessment and Compliance.
- For more information about **OTHER HEALTH IMPAIRMENT**, please contact the Coordinator of Assessment and Compliance.

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[65] 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)
[66] 34 C.F.R. § 300.306

- For more information about **SPECIFIC LEARNING DISABILITY**, please contact the Coordinator of Assessment and Compliance.

- For more information about **SPEECH OR LANGUAGE IMPAIRMENT**, please contact the Coordinator of Assessment and Compliance.

- For more information about **TRAUMATIC BRAIN INJURY**, please contact the Coordinator of Assessment and Compliance.

- For more information about **VISUAL IMPAIRMENT**, please contact the Coordinator of Assessment and Compliance.

- For more information about **NONCATEGORICAL EARLY CHILDHOOD**, please contact the Coordinator of Assessment and Compliance.