

DYSLEXIA LEGISLATION AND THE FIEE

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RELEVANT DOCUMENTS

- TEA: Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (September, 2021)
- HB 3928 (2023)
- TEA: FAQs: Dyslexia Evaluation, Identification and Instruction (Update Nov. 15, 2023)
- TEA: Guidance for the Comprehensive Evaluation of Specific Learning Disabilities (October, 2023)
- Learning Disabilities Association of America (LDA) Core Principles: Evaluation and Identification of LD (Feb. 2019); Best Practices in the Use of Cognitive Assessment in LD Identification (Dec. 2019)
- National Association of School Psychologists (October, 2022). Identification of Students with Specific Learning Disabilities (Position Statement). *Communique*, Vol. 51, No.2

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PEIMS DATA 2016-2023

Primary Disability (selected disability categories) All Texas Public School Districts Including Charter Schools							
	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
AU	12.35% 58,945	13.00% 64,783	13.53% 71,951	13.7% 80,557	13.95% 84,431	14.63% 92,912	15.43% 108,464
ED	5.74% 27,401	5.82% 29,029	5.97% 31,789	6.16% 36,197	6.19% 37,461	6.0% 38,122	5.68% 39,925
SLD	32.9% 157,229	31.66% 157,752	30.78% 163,688	31.2% 183,452	31.57% 191,045	32.23% 204,684	33.66% 236,564
ID	10.45% 49,887	10.64% 53,037	10.7% 56,886	10.36% 60,896	10.18% 61,611	10.08% 64,028	9.77% 68,685
OHI	13.85% 66,125	14.12% 70,360	14.35% 76,291	14.33% 84,263	14.15% 85,644	13.82% 87,775	12.88% 90,543
SI	20.0% 95,498	20.15% 100,412	20.25% 107,668	19.94% 117,272	19.81% 119,876	19.32% 122,669	18.75% 131,774
Total % of total pop.	477,281 8.9%	498,320 9.23%	531,712 9.8%	587,987 10.7%	605,843 11.26%	635,097 11.70%	702,784 12.7%

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BOCCIO, D.E. (JULY, 2023) NASP ADVANCED SKILLS INSTITUTE

- Referenced a study done on administrative pressure encountered by school psychologists (Boccio, Weisz, & Lefkowitz, 2016). N=282
- Some findings from the study showed the following:
 - 55% Avoid recommending certain support services due to costs to district
 - 51% "Make do" with inadequate assessment and/or intervention materials
 - 47.5% Agree with a special education placement that was not the LRE appropriate for student
 - 42% Make a student eligible for special education who did not meet eligibility requirements

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THE PERFECT STORM

- More referrals
- Less time to devote to evaluations due to volume
- More pressure to qualify
- Less staff; More contractual services
- More DNQs
- More False Positives
- Within this context we must be more careful and thorough in our selection and interpretation of tests and in consideration of all data accumulated in this process. Thus the process will involve synthesis of more data and more time.

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SLD DEFINITION HAS NOT CHANGED

34 CFR §300.8(C)(10) AND 19 TAC §89.1040(C)(9)(A)

- Specific Learning Disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
- The definition emphasizes three main factors: the presence of a disorder in processing, the inability to learn an academic skill, and the assumption that processing and academic deficits are related (manifest in)
- This has been the conceptual representation of SLD since the term was introduced and defined by Kirk in the early 1960's

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MODELS FOR IDENTIFICATION OF SLD HAVE NOT CHANGED

- There are still two models for the identification of SLD: RtI and PSW
- The definitions of RtI and PSW have not changed.
- RtI citations: 19 TAC 89.1040(c)(9)(B)(iii)(I) 34CFR 300.309(a)(2)(i), 300.311(a)
- PSW citations: 19 TAC 89.1040(c)(9)(B)(iii)(I) 34 CFR 300.309(a)(2)(ii)

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PSW MODEL

- This presentation addresses issues related to the PSW model.
- **The child 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 by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with §§ 300.304 and 300.305**

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FIE EVALUATION COMPONENTS HAVE NOT CHANGED

- 34 CFR 300.304 Evaluation Procedures; 19 TAC 89.1040
- Technically, we are conducting a comprehensive evaluation in accordance with CFR and TAC standards: use a variety of assessment tools and strategies, not use any single measure or assessment as the sole criterion, use technically sound instruments, ensure non-discriminatory procedures, administered by trained and knowledgeable personnel, assess in all areas of suspected disability as appropriate (health, vision, hearing, social-emotional, general intelligence, academic performance, communication, motor), be sufficiently comprehensive, ...

▪ SO WHAT HAS CHANGED IN EVALUATION?

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HB3928 – BECKLEY-WILSON ACT

- Signed on June 10, 2023 by the governor; implementation first day of school this year
- Bill to enact certain requirements regarding dyslexia evaluation and provision of services to students with dyslexia
- HB 3928 states we must comply with all federal and state requirements including the Dyslexia Handbook; the Handbook had already moved the evaluation process to special education, but HB 3928 and the subsequent FAQ clarifies and adds procedures

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FAQ (NOV. 15, 2023) HB3928: NOTABLE ADDITIONS FOR FIIE

- Form provided to parents if Dyslexia is suspected which provides information regarding additional rights under IDEA versus 504 (p.3)
- Require that each district provide information to a student's parent regarding the process for requesting an FIIE when the student is placed in a DAEP and as part of the student's personalized transition plan when returning to campus from a DAEP (p.14)

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FAQ (NOV. 15, 2023) HB3928: NOTABLE ADDITIONS FOR FIIE

- Section 504 committees must begin the process of discussing a student's continued need for an evidence-based dyslexia program and submitting referrals for full individual and initial evaluations (FIIEs). Absent any directives prescribed by the SBOE through its upcoming rule and Handbook revisions, TEA anticipates that each LEA should hold a Section 504 meeting as soon as possible but no later than by the end of the 2024-2025 school year to determine whether the student continues to require an evidence-based dyslexia program. If so, the LEA must refer the student for an FIIE (p.7)

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HB 3928: 2 MAJOR CHANGES IN EVALUATION

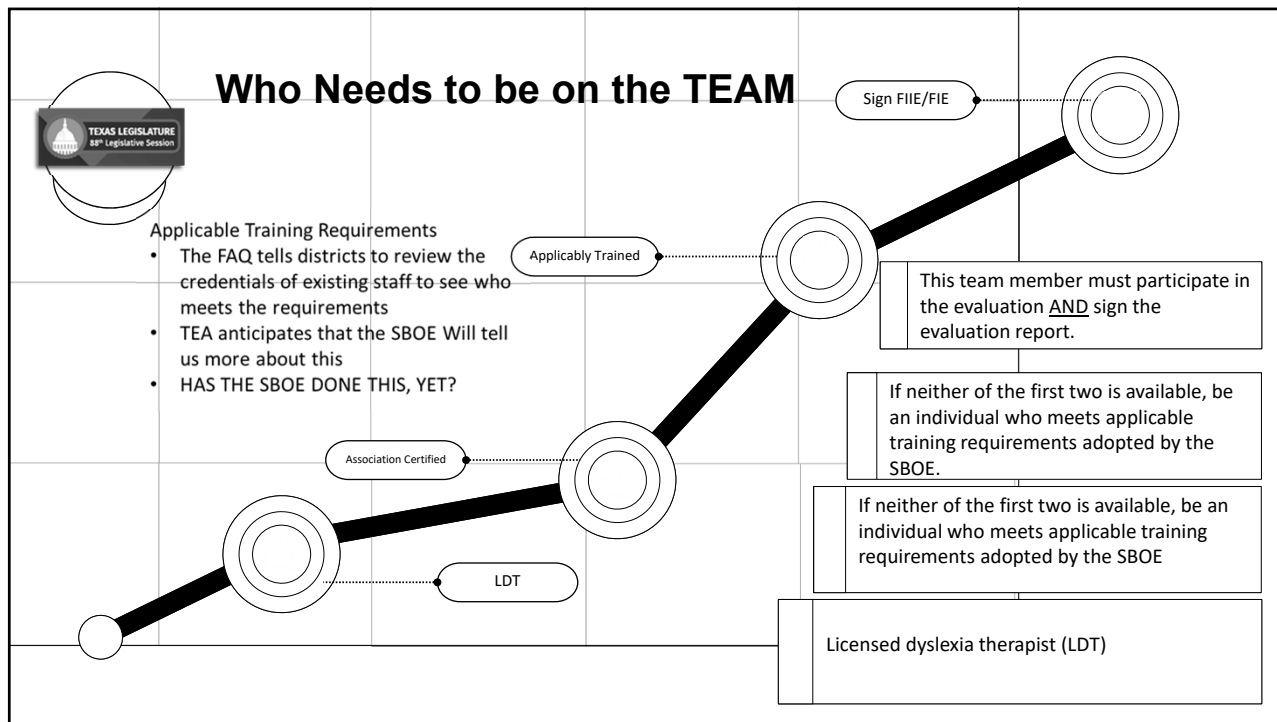
- Who is on the multidisciplinary evaluation team (MDET) that conducts the FIE for a student suspected of dyslexia?
- Dyslexia is SLD.
 - This had already been stated in the Dyslexia Handbook, but clarification here has implications on how we write conclusions. There are also implications regarding conducting the assessments based on the recent Guidance for the Comprehensive Evaluation of SLD (October, 2023).

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MULTIDISCIPLINARY EVALUATION TEAM TEA FAQ UPDATE NOV. 15, 2023 (P.5)

- Requirements for Member With Dyslexia and Reading Knowledge. When dyslexia is suspected, a person with specific knowledge in the reading process, dyslexia and related disorders, and dyslexia instruction must serve on the LEA's MDT and any ARD committee that is convened to determine eligibility for special education and related services. The bill created new TEC §29.0031, which lists three means to satisfy this membership requirement:
 - Be an LDT;
 - Be 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, be an individual who meets applicable training requirements adopted by the SBOE. Because the SBOE must decide on certain qualifications and training requirements, each LEA should analyze the current credentials and qualifications of existing staff and determine who is most appropriately trained to meet the specific knowledge required by the bill. ...

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HOW HAS YOUR DISTRICT IMPLEMENTED THE ADDITIONAL MDET MEMBER?

- Many school districts already included a dyslexia specialist on the MDET and have been doing so for many years.
- Many school districts began the process of incorporating a dyslexia specialist on the MDET when the Handbook was being revised/updated.
- This is a “best practice” and has been recommended for several years.
- At this time, how does your district do this?
 - Follow the RIOT model (Review of Records, Interviews, Observations, Tests)
 - Meet to discuss the components of the FIEE and determine which team members will conduct specific assessments/procedures including who will conduct the required observation for the FIEE
 - Once all assessment data is gathered, who integrates the data into the FIEE?
 - Each member reviews the FIEE, the team discusses conclusions and members sign the report

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DYSLEXIA = SLD TEA FAQ UPDATE NOV. 15, 2023 (P.5)

- Dyslexia is a specific learning disability (SLD). The bill created TEC §29.0031 that now states dyslexia is an example of and meets the definition of a SLD under IDEA. This is in conformity with IDEA's federal regulations at 34 C.F.R. §300.8(c)(10), which specifically lists dyslexia as an example of an SLD. TEA provides the following guidance associated with an evaluation for dyslexia:
 - The condition of dyslexia, if identified, must be documented and used in a student's evaluation and any resulting IEP. However, for purposes of the Public Education Information Management System (PEIMS), 34 C.F.R. §300.311 requires specific documentation of a child's eligibility determination as a child with an SLD. Thus, for the purpose of data reporting, an LEA would indicate the eligibility category for a student identified with dyslexia as SLD. As a result of the bill, TEA anticipates that each software vendor that contracts with LEAs for IEP development and implementation will add dyslexia to the list of SLD areas. In other words, dyslexia would be added to the existing list of SLD areas (e.g., basic reading skill, math calculations, reading fluency, written expression) so that ARD committees can simply select "dyslexia" to indicate the type of SLD identified. Whereas the current Handbook states that dyslexia is an example of an SLD in basic reading and/or reading fluency, the impact of HB 3928 is that dyslexia can instead be listed on its own as the area of SLD identified.

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WHAT DOES THIS MEAN?

- SLD is the disability category, Dyslexia is the type
- Our software programs have already added Dyslexia to the list of types of SLD
- Based on the 2021 Handbook, we recommended identifying Dyslexia as part of SLD this way:
 - SLD BRS/Dyslexia or SLD RF/Dyslexia
 - NOW, you would conclude SLD Dyslexia
- HOWEVER, we strongly encourage you to identify why the student meets the criteria for Dyslexia – is it due to basic reading skills or reading fluency? Is it due to poor word recognition and poor decoding or can the student read and decode accurately but has a deficit in fluency?
- Our suggestion currently:
 - SLD Dyslexia (BRS) or SLD Dyslexia (RF)
- We believe this is critical since it delineates if the disorder is due to poor word recognition or poor fluency and has substantial implications for programming.

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EXAMPLE

- **Note: prior to this conclusion statement, you would have described your data to outline how Ralph displays a PSW consistent with SLD based on the method you used. Then you would form a conclusion.**

Based on the analysis and synthesis of multiple data sources, it is concluded that Ralph meets the criteria for the educational disability condition of SLD – Dyslexia. Ralph has a significant deficit in Basic Reading Skills and a deficit in phonological processing, specifically as related to segmenting and manipulating phonemes and applying phonetic skills to form sound-symbol associations.

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DYSLEXIA = SLD TEA FAQ UPDATE NOV. 15, 2023 (P.5)

- There are specific evaluation domains and questions outlined in the Handbook that must be used when determining the presence of dyslexia.
- There is no single instrument, score, or formula that will automatically rule in or 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.
- Dyslexia identification is based on the preponderance of evidence.

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WHAT DOES THIS MEAN? P. 28 HANDBOOK SPECIFIC EVALUATION DOMAINS

- Domains to Assess Specific to Dyslexia:
- **Academic Skills**
- The school administers measures that are related to the student's educational needs. Difficulties in the areas of letter knowledge, word decoding, and fluency (rate, accuracy, and prosody) may be evident depending upon the student's age and stage of reading development. In addition, many students with dyslexia may have difficulty with reading comprehension and written composition.
- **Cognitive Processes**
- Difficulties in **phonological and phonemic awareness** are typically seen in students with dyslexia and impact a student's ability to learn letters and the sounds associated with letters, learn the alphabetic principle, decode words, and spell accurately. **Rapid naming skills** may or may not be weak, but if deficient, they are often associated with difficulties in automatically naming letters, reading words fluently, and reading connected text at an appropriate rate. **Memory for letter patterns, letter sequences, and the letters in whole words (orthographic processing)** may be selectively impaired or may coexist with phonological processing weaknesses. Finally, various language processes, such as morpheme and syntax awareness, memory and retrieval of verbal labels, and the ability to formulate ideas into grammatical sentences, may also be factors affecting reading (Berninger & Wolf, 2009, pp. 134–135).

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DYSLEXIA HANDBOOK, P. 29

Figure 3.4. Areas for Evaluation

Academic Skills	Cognitive Processes	Possible Additional Areas
<ul style="list-style-type: none"> • Letter knowledge (name and associated sound) • Reading words in isolation • Decoding unfamiliar words accurately • Reading fluency (rate, accuracy, and prosody are assessed) • Reading comprehension • Spelling 	<ul style="list-style-type: none"> • Phonological/phonemic awareness • Rapid naming of symbols or objects 	<ul style="list-style-type: none"> • Vocabulary • Listening comprehension • Verbal expression • Written expression • Handwriting • Memory for letter or symbol sequences (orthographic processing) • Mathematical calculation/reasoning • Phonological memory • Verbal working memory • Processing speed

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GUIDANCE DOCUMENT ON SLD P.22

No single instrument, score or formula.

There are no requirements specifying that a student demonstrates a specific number of strengths and weaknesses within their data, however a pattern of strengths and weaknesses in performance, achievement, or both is necessary. The pattern is relative to age, grade-level standards, or intellectual development. Evaluators must select, administer, and interpret norm-referenced instruments in conjunction with other relevant data from the student's performance. Consider all data collectively and ensure that one score or calculation is not superseding the preponderance of data gathered when determining if there is a PSW relevant to the identification of an SLD.

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WHAT DOES THIS MEAN?

- "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"
- ? This does not say that a cognitive weakness is not required. . . because the statement says as demonstrated by
- Also, the Dyslexia Handbook says cognitive weaknesses must be assessed. Phono-RAN-Ortho noted on p. 28 and other processes on p. 29 in the table. The IDEA says processing disorder. So no cognitive weakness required would be a major contradiction.
- This does say that the processing deficit/weakness does not have to be on a standardized assessment nor based on a threshold (cut-off) score.

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TEA: GUIDANCE FOR COMPREHENSIVE EVALUATION OF SLD (OCTOBER, 2023)

- P.21: LEAs may choose to use a PSW method as part of the evidence for determining the presence of a specific learning disability.
- P.22: Although Texas allows PSW as a method of SLD criteria and identification, it does not specify that a particular model for analyzing and interpreting data (i.e., pattern seeking) must be used. There are different ways that a PSW approach can be conceptualized. TEA does not endorse nor recommend a specific model of PSW.
- P.22: If using a specific PSW model for data analysis, teams cannot rely on single scores or calculations to make determinations. Formula-based decisions are often unreliable and should not be used as the primary or sole basis for determination. Predetermined cut scores (boundaries of proficiency or categories) should not be used as the sole source for determining strengths and weaknesses. Regardless of the assessment tools, confidence intervals should be used and take into account the measurement error of the tests and permit the expression of a range of scores, not a set cut-point.

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TEA GUIDANCE FOR COMPREHENSIVE EVALUATION OF SLD (P. 22)

- The MDT should examine the data for characteristics of a disability displayed repeatedly across data sets and over time. The MDT should consider the following:
 - ◆ Does the data present a PSW in performance, achievement, or both that is atypical compared to age, grade-level standards, or intellectual development? Is that pattern relevant to the identification of SLD? Does the pattern appear to be attributable to disability?
 - ◆ When assessing cognitive processes and academic skills, are there deficits in academic areas that correlate with processing deficits?

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BUT THIS IS ADDED UNDER THE 2ND BULLET

- For example, weaknesses in word reading may correspond to deficits in phonological processing. Note, however, that while these types of correlations may be present and can be helpful to consider in the overall analysis of data, it is not required that a student demonstrate a specific normative cognitive weakness on standardized assessments as demonstrated by achieving below a certain threshold to otherwise display a PSW relevant to the identification of an SLD. For example, some students with SLD in basic reading, including with the condition of dyslexia, may not demonstrate a normative deficit in cognitive processing testing but rather within their academic performance and achievement data.
- **WHAT DOES THIS MEAN?**

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CONFUSION ABOUNDS

- First, we can pick the PSW method to use, but then have some parameters around that like cut-off scores, formulas, ...
 - All recognized PSW methods have requirements for multiple data sources and use of clinical judgment, so this should not be an issue. If it is an issue, it is with the evaluator not the method.
- Second, we are to consider if the data indicate a PSW in performance, achievement or both relevant to SLD determination.
 - This is simply the definition of PSW in the IDEA.
- Third, we are to consider if there are deficits in academic areas that correlate to processing areas.
 - Yes. This is the pattern, but then the "for example" part says the processing deficit may not be there normatively, or the deficit does not have to be a score on a standardized measure, or the deficit does not have to be a designated score (threshold) to show a deficit, ...

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CONFUSION ABOUND

- It seems like the following statements
 - *it is not required that a student demonstrate a specific normative cognitive weakness on standardized assessments as demonstrated by achieving below a certain threshold to otherwise display a PSW relevant to the identification of an SLD.*
 - *For example, some students with SLD in basic reading, including with the condition of dyslexia, may not demonstrate a normative deficit in cognitive processing testing but rather within their academic performance and achievement data.*
- are more about how we establish the cognitive deficit versus do we have to establish such a deficit.
- ?Maybe: allow for establishing a phonological awareness deficit on a non norm-referenced measure. For example, phonological awareness can be measured on criterion-referenced, curriculum-based or informal measures (e.g., mCLASS, PAST, PASS, Really Great Reading, Acadience....)

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BIG ISSUE GOING AROUND SEEMS TO BE COGNITIVE DEFICITS

- If we use any of the recognized PSW methods, cognitive correlates for academic deficits are part of the method. This is consistent with the second bullet on p. 22.
- The Dyslexia Handbook requires assessment in cognitive processes (phonological awareness and rapid naming at minimum).
- PSW based on the LDA and NASP documents indicate that processing deficits are indeed required for the presence of SLD.
- I am not sure what this Guidance document is saying, but I am sure that this will be interpreted in a variety of ways.
- I do not think that the document specifically states that no cognitive processing deficit is required.

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LDA DOCUMENTS

- Evaluation and Identification of LD: “cognitive processing deficits are agreed to be a hallmark of Learning Disabilities; it is essential that processing abilities associated with the acquisition and use of skill sets involving oral language, reading, writing and math, be assessed using valid and reliable instruments...the model of the structure of the intellect that is widely accepted by researchers and practitioners in the field is the Cattell-Horn-Carroll Theory(CHC) ...”
“underachievement is a symptom of LD but it is not sufficient as a sole criterion for identification”
- Best Practices in the Use of Cognitive Assessment in LD Identification: “The correspondence between weaknesses in academic skills and related cognitive processes together with strengths in cognitive abilities and processes is a common pattern of performance in students with SLD.”

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NASP POSITION STATEMENT

- SLDs are endogenous in nature; characterized by neurologically based deficits in cognitive processes
- Cognitive processing deficits are specific and interfere with the acquisition of academic skills
- SLDs are heterogeneous – no single defining academic or cognitive deficit is common to all types of SLDs
- SLD is largest category of students identified under IDEA
- Majority of students identified with SLD have a disability in reading

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FLANAGAN, ORTIZ, & ALFONSO. (2013) ESSENTIALS OF CROSS-BATTERY ASSESSMENT- THIRD EDITION (P.227-228)

- At the very core of the concept of LD is the assumption that, if not for the presence of an underlying cognitive deficiency which is affecting acquisition or development of a specific academic skill, an individual would be able to learn that skill satisfactorily because he or she displays the capacity to do so in other cognitive and academic skill areas...a historical review of the concept of LD reveals that identification of SLD has almost always included a consideration of an individual's overall cognitive ability as well as his or her unique pattern of strengths and weaknesses..."

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WHAT ABOUT INTELLIGENCE?

- Texas Education Code §38.003 Defines dyslexia and related disorders in the following way:
- "'Dyslexia' means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity. ..."
- Shaywitz, S. & Shaywitz, J. (2020). *Overcoming Dyslexia* (2nd Edition). Vintage Books, New York.
- Unexpected underachievement (p. 158 of *Overcoming Dyslexia* 2nd Ed., 2020) Shaywitz says, "The construct of unexpected underachievement refers to a child whose reading is unexpectedly low in relation to his or her intelligence."
- We know that a FSIQ is not required as part of the identification, but indication of adequate/intact cognitive ability is a major factor in determining not only dyslexia, but SLD.

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FINAL SUGGESTIONS

- Select a PSW approach/method that is recognized for SLD determination and has been researched (publications)
 - Such an approach will be consistent with the terminology used in IDEA, “relevant to the determination of SLD,” and the SLD definition of “a disorder in basic psychological processes”
- Follow the requirements of the chosen approach – all PSW methods require multiple sources of data and use of clinical judgment
- Follow the IDEA outlined evaluation procedures and ensure that you have assessed all areas required (i.e., Dyslexia Handbook)
- Ensure that interpretations of the data and conclusions are accurate based on a synthesis of multiple data sources

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CASE APPLICATION



Academic Skills	Performance Level	Cognitive Processing	Performance Level
Letter Knowledge	Knows all letters & sounds	Phonological/Phonemic	Low
Words in Isolation	Low	Rapid Naming	Low
Decoding Unfamiliar Wrds	Low	Orthographic Proc	---
Reading Fluency	Low		
Reading Comprehension	Low	Is this sufficient to determine SLD-Dyslexia?	
Spelling	Low		
Math Calculation	Low Average	What are your concerns about these data? What alternate hypotheses may be applied here? What else do you need to do?	
Math Problem Solving	Low		

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CASE APPLICATION



Academic Skills	Performance Level	Cognitive Processing	Performance Level
Letter Knowledge	Knows all letters and sounds	Phonological/Phonemic	Average
Words in Isolation	Low	Rapid Naming	Average
Decoding Unfamiliar Wrds	Average	Orthographic Proc	---
Reading Fluency	Low		
Reading Comprehension	Average	Is this sufficient to determine SLD-Dyslexia?	
Spelling	Low Avg.		
Math Calculation	Average	What are your concerns about this evaluation? Is there some area that should be assessed but was not?	
Math Problem Solving	Low		

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Peggy 2nd grade

Areas to Assess	Data Sources and Results
Letter Knowledge (name and associated sound)	Report Cards & Teacher Interviews: 2 nd grade and intervention teachers note that Peggy has mastered these skills
Reading words in isolation	2 nd grade word list=40% (at this point, should be 70%); KTEA-3 LWRecog=77
Decoding unfamiliar words	KTEA-3 NonWordDec=80
Reading Fluency	36 wcpm on 2 nd grade passage=25 th %ile (expected 72-100 wcpm at this point in 2 nd grade) Accuracy=68% (21/31 words) Prosody=choppy, sounds out individual letters for many words prior to saying whole word; 1 st grade passage=60 wcpm (50 th percentile for ending 1 st grade) Overall Fluency=beginning 2 nd grade
Reading Comprehension	KTEA-3 ReadComp=94; Teacher explained that Peggy can understand passages if she can read the text and if the teacher corrects words as she reads, she understands the passage
Spelling	KTEA-3 Spelling=78; analysis of errors reflect phonological errors (left out spelling for sounds in a word, bump=bup)
Phonological/Phonemic Awareness	CTOPP-2 PA=81
Rapid Naming	CTOPP-2 RapLettNam=88
Other data	WISC-V FSIQ=101 (no weaknesses in Gc, Gc, Gwm, Gv, and Gs); KTEA-3 Computation=98, ConcAppl=93; KG (COVID closure); 1 st grade intervention in spring; currently in intervention

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