

RELEVANT LAWS IN EDUCATION

In a recent Supreme Court decision Chief Justice Roberts noted that IDEA requires IEPs to be developed with expertise from schools and input from parents and schools must give "cogent and responsive explanation[s] for their decisions on services."



There are specific laws that can assist in providing logical and responsive decisions specific to reading and dyslexia .

1. **The Americans with Disabilities Act (ADA) 504 Accommodations.** This law applies to all entities, including public schools that receive at least \$1.00 of federal funds, and requires they must provide equal access to persons with disabilities. In schools, 504 Accommodations provide equal access to the curriculum for persons with disabilities. Students can have 504 Accommodations without an IEP.

2. **The Individuals with Disabilities Education ACT (IDEA).** This law is the federal law that applies to special education. Dyslexia qualifies as a disability under **both of these two categories listed in IDEA:**

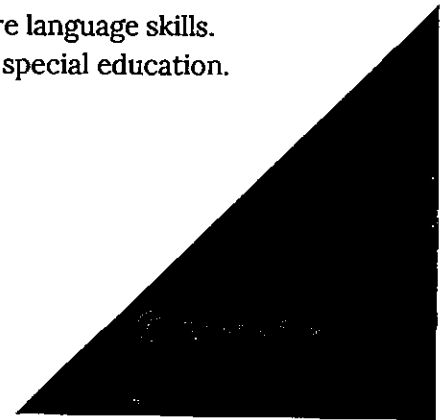
Specific Learning Disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, **dyslexia**, and developmental aphasia.

See 20 U.S.C. §1401(30) and 34 CFR §300.8(c)(10).

Speech or language impairment means a communication disorder such as stuttering, impaired articulation, a **language impairment***, or a voice impairment, that adversely affects a child's educational performance.

See 20 U.S.C §1401(30) and 34 CFR §300.8(c)(11)

*Note: Phonemic Awareness, and rapid naming skills are language skills. A deficit in these phonological processes can qualify for special education.



THE IDEA READING CRITERIA: 20 U.S.C. § 6368(3)(4)(5)(6)(7)

(3) Essential components of reading instruction

The term "essential components of reading instruction" means

explicit and systematic instruction in —

- (A) phonemic awareness;
- (B) phonics;
- (C) vocabulary development;
- (D) reading fluency, including oral reading skills; and
- (E) reading comprehension strategies.



(4) Instructional staff

The term "instructional staff" —

- (A) means individuals who have responsibility for teaching children to read; and
- (B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

(5) Reading

The term "reading" means a complex system of deriving meaning from print that requires all of the following:

- (A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.
- (B) The ability to decode unfamiliar words.
- (C) The ability to read fluently.
- (D) Sufficient background information and vocabulary to foster reading comprehension.
- (E) The development of appropriate active strategies to construct meaning from print.
- (F) The development and maintenance of a motivation to read.



(6) Scientifically based reading research

The term "scientifically based reading research" means research that —

- (A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and
- (B) includes research that—
 - (i) employs systematic, empirical methods that draw on observation or experiment;
 - (ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
 - (iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and
 - (iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.



(7) Screening, diagnostic, and classroom-based instructional reading assessments

(A) In general - the term "screening, diagnostic, and classroom-based instructional reading assessments" means —

- (i) screening reading assessments;
- (ii) diagnostic reading assessments; and
- (iii) classroom-based instructional reading assessments.

(B) Screening reading assessment - the term "screening reading assessment" means an assessment that is—

- (i) valid, reliable, and based on scientifically based reading research; and
- (ii) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special services or additional reading instruction.



(C) Diagnostic reading assessment - the term "diagnostic reading assessment" means an assessment that is—

- (i) valid, reliable, and based on scientifically based reading research; and
- (ii) used for the purpose of—
 - (I) identifying a child's specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3;
 - (II) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and
 - (III) helping to determine possible reading intervention strategies and related special needs.



(D) Classroom-based instructional reading assessment - the term "classroom-based instructional reading assessment" means an assessment that—

- (i) evaluates children's learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and
- (ii) is used to improve instruction in reading, including classroom instruction.

- **The above reading criteria defined by Congress coincide with the findings of the National Reading Panel**



THE LAW
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The Massachusetts Law for Special Education has more specific requirements.

Summarization of some important MA requirements, not legal advice:

In addition to Federal IDEA law, Massachusetts includes the duty of the district to identify, evaluate and diagnose. There is no listed exception. Consider the following excerpts hold true for all disability that will impact education including dyslexia.

MA General Laws Section 71B Section 3:

Section 3: Identification of school age children with a disability; diagnosis of disability; proposal of program; evaluations and assessments of child and program.

... In accordance with the regulations, guidelines and directives of the department issued jointly with the departments of mental health, developmental services, public health, youth services, and the commission for the blind and the commission for the deaf and hard of hearing and with assistance of the department, the school committee of every city, town or school district **shall identify** the school age children residing therein who have a disability, as defined in section 2, **diagnose and evaluate the needs of such children, propose a special education program to meet those needs, provide or arrange for the provision of such special education program, maintain a record of such identification, diagnosis, proposal and program actually provided and make such reports as the department may require.**

Another important excerpt from the law:

... said evaluation shall include an assessment of the child's current educational status by a representative of the local school department, an assessment by a classroom teacher who has dealt with the child in the classroom, a complete medical assessment by a physician, an assessment by a psychologist, an assessment by a nurse, social worker, or a guidance or adjustment counselor of the general home situation and pertinent family history factors; and **assessments by such specialists as may be required in accordance with the diagnosis including when necessary**, but not limited to an assessment by a neurologist, an audiologist, an ophthalmologist, a **specialist competent in speech, language** and perceptual factors and a psychiatrist.

AN ACT RELATIVE TO STUDENTS WITH DYSLEXIA, SECTION 57A

Section 1. Chapter 71 of the General Laws is hereby amended by inserting after section 57 the following section:

Section 57A. The department of elementary and secondary education, in consultation with the department of early education and care, **shall**, subject to appropriation, issue guidelines to assist **districts in developing screening procedures or protocols for students that demonstrate 1 or more potential indicators of a neurological learning disability including, but not limited to, dyslexia.**

In addition Section 1 of chapter 287 of the acts of 2012 is also amended to require the "action steps to implement the research-based recommendations contained in reports written by experts in early language and literacy development; and (7) action steps to implement research-based recommendations contained in reports written by experts in early language and literacy development on student screening and teacher preparation methods with respect to reading disability, but not limited to, dyslexia. (This section addresses the Early Literacy Expert Panel.)