



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

April 25, 2016

Kelli Unnerstall
Decoding Dyslexia Missouri

Dear Ms. Unnerstall:

This is in response to the comments you provided to the Office of Special Education and Rehabilitative Services on the October 23, 2015 Dear Colleague Letter (DCL) addressing the use of the terms dyslexia, dyscalculia, and dysgraphia in evaluation and eligibility determinations under the Individuals with Disabilities Education Act (IDEA), and in individualized education program (IEP) documents. Specifically, you ask whether “a school district, through their evaluation, by a multi-disciplinary team including a school psychologist or a school psychological examiner, may identify a child as having dyslexia under the category of Specific Learning Disability. In other words, can this team diagnose the child as having dyslexia and use this diagnosis as meeting the eligibility requirements under Specific Learning Disability (assuming all of the other conditions are met)?” You express concern that your school district believes that the DCL “only applies to the term dyslexia being recognized if a parent provides an evaluation conducted by an outside agency. In other words the term dyslexia would never come up unless a parent receives an outside evaluation.”

In determining whether a child has a disability under the IDEA, including a specific learning disability, the public agency must conduct a comprehensive evaluation, which requires the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child. Information obtained through the evaluation, which includes information provided by the parent, may assist in determining: 1) whether the child is a child with a disability; and 2) the content of the child’s IEP to enable the child to be involved in, and make progress in, the general education curriculum. 34 CFR §300.304(b)(1). Therefore, information about the child’s learning difficulties, including the presenting difficulties related to reading, mathematics, or writing, is important in determining the nature and extent of the child’s disability and educational needs.

As we explained in our October 23, 2015 letter, while IDEA does not prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in eligibility determinations, there is no requirement under IDEA that a disability label or “diagnosis” be given to each student receiving special education and related services, so long as the child is regarded as having a disability and receives needed special education and related services. 34 CFR §300.111(d). To ensure that this occurs, the public agency must ensure that each child is assessed in all areas related to the suspected disability, including as appropriate, academic performance. 34 CFR §300.304(c)(4). There is no provision in the IDEA that gives a parent the right to dictate the specific areas that the public agency must assess as part of the comprehensive evaluation; the public agency is only required to assess the child in particular areas related to the child’s suspected disability, as it determines

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appropriate. However, if a determination is made through the evaluation process that a particular assessment for dyslexia is needed to ascertain whether the child has a disability and the child's educational needs, including those related to the child's reading difficulties, then the public agency must conduct the necessary assessments. We also note that an evaluation for dyslexia could be an evaluation by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services. 34 CFR §300.34(c)(5). If the public agency decides that a medical evaluation or any other assessment is necessary to determine whether the child has a disability and his or her educational needs, the entire evaluation must be provided at no cost to the parents.

Parents who disagree with an evaluation obtained by a public agency have the right to seek an independent educational evaluation (IEE) at public expense. Under 34 CFR §300.502(b)(2), if a parent requests an IEE at public expense, the public agency must, without unnecessary delay, either: (i) file a due process complaint to request a due process hearing under 34 CFR §300.507 to show that its evaluation is appropriate; or (ii) ensure that an IEE is provided at public expense, unless the agency demonstrates in a hearing pursuant to 34 CFR §§300.507-300.513 that the evaluation obtained by the parent did not meet agency criteria.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

If you have any further questions, please do not hesitate to contact Laura Duos at 202-245-6772 or by email at Laura.Duos@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs