

The Texas Education Agency (TEA) adopts on an emergency basis new §74.1101, concerning dyslexia screening. The new section implements the requirements of Governor Abbott's waiver of the Texas Education Code (TEC), §38.003(a), to screen each student in Kindergarten for dyslexia and related disorders at the end of the school year.

The new section is adopted on an emergency basis to take effect immediately. The TEA finds that an imminent peril to health, safety, and welfare exists due to the COVID-19 pandemic. As a consequence of the pandemic, the governor has declared a state of disaster for Texas and has ordered that schools be closed to in-classroom attendance for the remainder of the 2019-2020 school year. In recognition of this peril, the governor waived state law in TEC, §38.003(a), which requires the screening of students for dyslexia at the end of the school year. These screenings necessitate close proximity between students and teachers and would lead to unnecessary risk at a time when the state has taken extraordinary actions to reduce exposure to the virus and minimize its spread. The pandemic and its associated health risks require the adoption of the new section on fewer than 30 days' notice. The governor's waiver also recognizes the importance of interventions for students with dyslexia and requires TEA to adopt measures to ensure that school operations in the subsequent school year are implemented to ensure that the purposes of screening and treatment for dyslexia are accomplished, despite the delay in screening that may occur in the 2019-2020 school year. The emergency rule informs school districts and open-enrollment charter schools of their requirements should they utilize the governor's waiver of the end-of-year dyslexia screener required by TEC, §38.003(a), for Kindergarten students in the 2019-2020 school year. The emergency rule requires school districts and open-enrollment charter schools to provide a reading diagnostic at the beginning of the 2020-2021 school year, or at a time designated by the commissioner should circumstances make this infeasible, followed up with the screening requirement by the end of January 2021. These measures should allow the identification and interventions necessary to fulfill the purposes of the screening requirements and assist students at risk of dyslexia, despite the delay in screening from the 2019-2020 school year.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §38.003(c-1), which authorizes Texas Education Agency (TEA) to develop procedures to ensure the purposes of dyslexia screening are accomplished. In addition, Governor Abbott's May 21, 2020 waiver of TEC, §38.003(a), is conditional upon a school district or an open-enrollment charter school complying with

procedures adopted by TEA to ensure the purposes of the screening are fulfilled despite the delay in screening.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §38.003(c-1), and Governor Abbott's May 21, 2020 waiver of TEC, §38.003(a).

<rule>

§74.1101. Dyslexia Screening Requirements for 2019-2020 and 2020-2021 School Years.

- (a) Conditional waiver for 2019-2020 school year. The requirement established under Texas Education Code (TEC), §38.003(a), to screen each student in Kindergarten for dyslexia and related disorders by the end of the school year was waived by the governor for the 2019-2020 school year due to school closures resulting from the COVID-19 pandemic, subject to guidance and rules adopted by Texas Education Agency.
- (b) Applicability. The waiver described under subsection (a) of this section applies to school districts and open-enrollment charter schools that implement the requirements of subsection (c) of this section.
- (c) Requirements for 2020-2021 school year. School districts and open-enrollment charter schools must administer the reading diagnostic instrument required by TEC, §28.006, within the first 20 school days of the 2020-2021 school year.
 - (1) A student should be provided reading intervention as needed based on the reading diagnostic instrument results.
 - (2) A student should be referred for an evaluation if dyslexia or a related disorder is suspected.
 - (3) A student should be referred for a full and individual initial evaluation as required by state and federal law if a need for special education services is suspected in addition to suspicion of the presence of dyslexia.
 - (4) Students in Grade 1 must be screened for dyslexia and related disorders by the end of January 2021 in accordance with TEC, §38.003(a), and the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" adopted under §74.28 of this title (relating to Students with Dyslexia and Related Disorders).
- (d) Alteration of timelines. The commissioner of education may alter the timelines under subsection (c) of this section for the state or an individual school district or open-enrollment charter school if circumstances resulting from the COVID-19 pandemic necessitate alteration.