



LAW UPDATE SPECIAL EDUCATION

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AB 1369 - Student Dyslexia

In October of 2015, Governor Jerry Brown signed AB 1369 into law. The new law requires schools to assess students struggling with reading for dyslexia. In addition, the law requires the California Department of Education to develop resources to aide Districts in assessing dyslexic students and locating evidence-based approaches for teaching reading to dyslexic students. The CDE is required to post information on assessments and educational programs to its' website by the start of the 2017-2018 school year.

AB 1369 amends the California Education Code and adds sections 56334 and 56335, which outline the requirements of the Superintendent of Public Instruction of the CDE described above.

Identification of students with dyslexia is a hot subject at the federal level as well. The Office of Special Education and Rehabilitation ("OSEP") released a Dear Colleague letter, also in October of 2015, which encouraged state offices of education and local school districts to review their policies to ensure those policies did not disallow the use of the terms dyslexia, dysgraphia, or dyscalculia when describing a student's disability in a student's IEP.¹

OSEP's letter clarified that specific learning disability under the IDEA is defined as "a disorder in one or more of the basic psychological processes involved in the 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."² (Emphasis added).

In its letter, OSEP clarified that community members had reported that many school district officials were reluctant to include the terms dyslexia, dysgraphia, or dyscalculia when identifying a student's disability in an IEP. Instead, some members reported, district officials were

¹ Dear Colleague, Oct. 23, 2015, 66 IDELR 188. Available at: <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-dyslexia-10-2015.pdf>

² See 20 U.S.C. § 1401(30) and 34 C.F.R. § 300.8(c)(10).

describing students as having Specific Learning Disabilities only. OSEP clarified that there is nothing in the IDEA or its implementing regulations which would prohibit a district from indicating that a student has dyslexia on an IEP, and that doing so may be helpful in certain circumstances in which dyslexia is the basis of the student's disability.³

OSEP also pointed out that "regardless of whether a child has dyslexia or any other condition explicitly included in [the] definition of specific learning disability, or has a condition such as dyscalculia or dysgraphia not listed expressly in the definition, the LEA must conduct an evaluation [...] to determine whether that child meets the criteria for specific learning disability or any other disabilities listed in 34 C.F.R. § 300.8."⁴

Finally, OSEP clarified that the IDEA does not require specific services or accommodations be provided to individual children based solely on the disability category in which the child has been classified.⁵

Given the level of attention that the California Legislature, the California Department of Education, and the Federal Office of Special Education and Rehabilitation have given to this issue, Schools Legal Service is recommending that LEAs begin review of their policies and procedures now in anticipation of CDE's publication of assessment and teaching strategies for dyslexic students. Further guidance is available from our office regarding strategies for reviewing and revising IEPs as the CDE responds to AB 1369.

If you have any questions concerning this or related issues, do not hesitate to contact our office.

– Kyle W. Holmes

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³ Dear Colleague, Oct. 23, 2015, 66 IDELR 188.

⁴ See 34 C.F.R. §§ 300.304-300.311.

⁵ Dear Colleague, Oct. 23, 2015, 66 IDELR 188.