

# Lions, and Tigers and the TEA Strategic Plan, Oh My: What LSSPs Need to Know

Region 4 ESC Guidance on TEA Special Education Strategic Plan

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## Introduction (Page 1)

### DoE Corrective Action Plan

- 3 IDEA Violations
  1. Locate and identify
  2. FAPE
  3. Supervisory and Monitoring
- This document focuses on #1 and #2 of the IDEA violations

### TEA Special Education Strategic Plan

- The Plan consists of 5 components:
  - 1. State Monitoring
  - 2. Identification, Evaluation, and Offer of FAPE (Child Find)
  - 3. Training, Support, and Development
  - 4. Student, Family, and Community Engagement
  - 5. Technical Assistance Networks and Structures
- This document focuses on #2 of the 5 components of the Strategic Plan

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## Introduction

- Students who are currently:
  - identified under Section 504
  - receiving dyslexia services
  - receiving RtI services
- Or whose parents requested an evaluation but the evaluation was denied

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## Purpose

- The purpose of this document is to:
  - provide a framework for data gathering and data analysis in order to assist districts in decision-making regarding which students should be referred for special education evaluation.
  - provide legal case synopses regarding Child Find and compensatory education decisions that have been made.
- It is anticipated that several forms in the document can be used by districts to develop their own procedures.

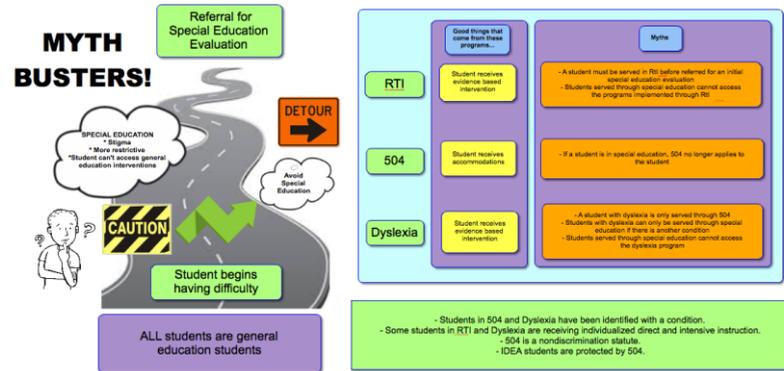
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## Bottom Line: The 2 Questions

- Is there reason to suspect that the student has a disability condition recognized under IDEA?
- AND
- Is there reason to suspect that because of the disability the student needs special education and related services?

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## How do you decide?

### Not by

#### Myths-

"He has to be in RTI longer for us to evaluate."  
"She cannot receive dyslexia and SPED services simultaneously."

Preconceived notions  
"He won't qualify."

District history  
"It's how we have always done it."

Emotional reactions  
"It's due to his home life."

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## How do you decide?

### But by

#### Gathering data -

A lot of data across multiple domains (e.g., grades, STAAR, discipline history, accommodations, interventions, progress monitoring, etc.)

Systematically analyzing the data, especially looking for trends within and across the data

Realize that there is no status quo – only individual data-based decision-making

Being objective

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## New Era

- Gather and systematically analyze information
- Equal consideration of RtI, 504, Dyslexia, Special Education
- Simultaneous not sequential considerations

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## Technically,

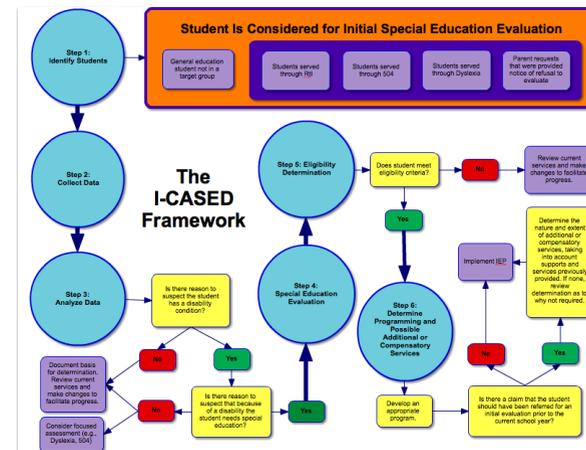
- For students in Section 504 and Dyslexia, a disability condition has been identified, BUT
- Knowledge of a disability alone is not sufficient to trigger a Child Find duty. This knowledge must be coupled with a reasonable suspicion that, because of the disability, the student needs special education and related services.

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## I-CASED FRAMEWORK

- **I**dentify Students
- **C**ollect Information
- **A**nalyze Data
  - Consider data to make decisions – could be referral to RtI, 504, IDEA
  - If decision is to refer for FIE, then special education evaluation is conducted
- **S**pecial Education Evaluation
- **E**ligibility Determination, and if eligible
- **D**etermine Programming and Possible Additional or Compensatory Services

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## SPP 11 Data Collection

Indicator 11: Child Find (Timely Initial Evaluation) DRAFT REVISED 07/2018  
 Section One: Students ages 3-21 for whom a request for a Full and Individual Initial Evaluation (FIE) was received.

a.*	Number of students aged 3-21 for whom a verbal or written request for a FIE was received: (prior written notice must be provided in each request and in compliance with CFR §100.501)	200
a.1*	Number of requests for a FIE in which the reason for request indicates a claim the child should have been referred prior to the current school year.	25
a.2.	Number of students ages 3-21 for whom signed, written parental consent to evaluate was received (TEC §29.004)	175
a.3.	Number of students determined not eligible [(a.3.+a.4.) Must = a.2.]	50
a.4.	Number of students determined eligible [(a.3.+a.4.) Must = a.2.]	125
a.5.*	Number of students determined eligible and the ARD committee determined additional services are needed, taking into consideration support and services previously provided [a.5. must be equal to or less than a.4.]	125
a.6.*	Types of additional services documented in the IEP (a student may count in multiple service types)	
i.*	Related services	7
ii.*	Supplementary aids and services	12
iii.*	Program modifications	5
iv.*	Supports for personnel	10
a.7.*	Timeline to implement additional services [(a.7.i.+a.7.ii.) Must = a.5.]	
i.*	Up to six months	5
ii.*	More than six (6) months, up to one (1) year	10

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## Step 1: What groups of students should be considered?



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## Step 1 IDENTIFY STUDENTS

- A mandatory review of students in RtI, Section 504 and Dyslexia is not required.
- However it is from this population that most “missed” referrals would come, therefore districts may want to adopt a *proactive* approach.
- If so, districts can take a global look at students in these three target groups and a fourth group - those whose parents requested evaluation but were denied.

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## Step 1 IDENTIFY STUDENTS

- For districts who choose to do so, it is recommended that:
  - a list of the students in the target groups be developed;
  - for each student, basic information would be obtained (use readily available and easily accessible information at this step); and
  - the list be reviewed to ascertain if particular students should be *prioritized for further data collection and analysis* to determine possible referral for special education evaluation.
- Districts will need to determine the initial data to be used for prioritizing based on their unique populations. Page 10 has a list of possible data sources to consider.

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## Step 1 IDENTIFY STUDENTS

- Districts may choose to do this at the central administration level only.
- For large districts, it may be more efficient to take place at the campus level.
- If done at campus level, coordinators/ directors would meet with campus staff to explain the purpose and provide guidance for the process.

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## Student Identification (Page 9)

	RII	504	Dyslexia	Parent Request
<b>Students to be Included</b>	<ul style="list-style-type: none"> <li>Any student receiving Tier 2 interventions</li> <li>Any student receiving Tier 3 interventions</li> <li>If the interventions are not designated by Tier, any student receiving supplementary interventions outside of the typical interventions provided by the general education classroom teacher</li> </ul>	<ul style="list-style-type: none"> <li>Students who have a 504 plan and are receiving accommodations</li> <li>Students who have protection under 504 but no plan was necessary</li> </ul>	<ul style="list-style-type: none"> <li>Students who were evaluated for Dyslexia and are receiving dyslexia intervention through general education, but not eligible for special education</li> </ul>	<ul style="list-style-type: none"> <li>Written requests made by parents and denied through a Notice of Refusal*</li> </ul>

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## Sample List (page 11)

STUDENT DATABASE: RII, 504, Dyslexia and Parent Request										
Name of Student or ID #	Grade	RII	Date Services Began	504	Date Services Began	Dyslexia	Date Services Began	Parent Request Date	Date Denied	Condition/ Diagnosis or Area of Intervention or None
Julia	2nd			√	9/1/17			√ 12/2/17	12/14/17	ADHD
Scott	3rd	√	11/10/17							No condition/ diagnosis Tier 2 for Math
Marisol	3rd			√	1/12/18	√	1/12/18			Dyslexia
Antonio	1 <sup>st</sup>							√ 9/1/17	9/12/17	None
Robert	4 <sup>th</sup>	√	11/5/17	√	3/3/16					ADHD; Tier 2 for math

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## Practical Considerations - Prioritizing

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## Step 2

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**Step 2:  
Collect Data**

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## Step 2

- Table 1: Types of Data: Rationale (Pages 14-16)
- Table 2: Data Sources (Pages 17-19)
- Appendix E: Data Checklist
- How far back the district should look is dependent on the claim of the referral agent

**Data Checklist**

Student: \_\_\_\_\_

Below is the recommended list of data that should be systematically reviewed. Circle Y when items are gathered and attach the information to this checklist. Circle N/A if the data is not applicable to the student.

Y or N/A	Data Source	Notes
Y / N/A	Grades	
Y / N/A	Benchmarks	
Y / N/A	State Assessment	
Y / N/A	State Assessment Computation Data	
Y / N/A	Discipline Record	
Y / N/A	Criminal/Misconduct	
Y / N/A	Attendance Record	
Y / N/A	School Changes/Transfers	
Y / N/A	Previous School Evaluations	
Y / N/A	Outside Evaluations or Diagnoses	
Y / N/A	Hospitalizations	
Y / N/A	Interventions	
Y / N/A	Accommodations	
Y / N/A	Teacher Input	
Y / N/A	Physical/Health Factors	
Y / N/A	Second Language Factors	
Y / N/A	Summer School	
Y / N/A	Other:	
Y / N/A	Other:	

Additional Notes or Information:  
\_\_\_\_\_  
\_\_\_\_\_

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## Practical Considerations - Data

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## Step 3

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**Step 3:  
Analyze Data**

```

graph TD
    A((Step 3: Analyze Data)) --> B{Is there reason to suspect the student has a disability condition?}
    B -- No --> C[Document basis for determination. Review current services and make changes to facilitate progress.]
    B -- No --> D[Consider focused assessment (e.g., Dyslexia, 504)]
    B -- Yes --> E{Is there reason to suspect that because of a disability the student needs special education?}
    
```

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## Step 3

- Table 3 (Pages 23-31)
- Appendix E: Guiding Questions

Data Source	Guiding Questions	Summary	Area of Concern?
Grades	<ol style="list-style-type: none"> <li>1. Are the grades reflective of the student's knowledge of the grade level content?</li> <li>2. Were the grades obtained without excessive reliance on retakes and/or retakes?</li> <li>3. Do the grades show stability or improvement over time?</li> <li>4. Are falling grades because of not making up work when absent or not turning in assignments?</li> <li>5. Has the student been referred?</li> </ol>		YES/NO
Benchmarks	<ol style="list-style-type: none"> <li>1. Is the student at the level consistent with grade expectations at the time the benchmark is taken?</li> <li>2. What is the gap between current and expected performance in the area of concern?</li> <li>3. If not at grade level, has the student's benchmark improved consistently?</li> </ol>		YES/NO
State of Texas Assessments of Academic Readiness® (STAAR®)	<ol style="list-style-type: none"> <li>1. Did the student meet the passing standard on STAAR® in Reading?</li> <li>2. Did the student meet the passing standard on STAAR® in Math?</li> <li>3. Did the student meet the passing standard on STAAR® in Writing?</li> <li>4. Does the student have a history of meeting the passing standard on STAAR® in Reading?</li> <li>5. Does the student have a history of meeting the passing standard on STAAR® in Math?</li> <li>6. Does the student have a history of meeting the passing standard on STAAR® in Writing?</li> <li>7. What types of accelerated instruction programs have been implemented?</li> <li>8. Did the student have any accommodations on the STAAR®? <small>*Students transferring from a private school or another state will not have STAAR® records. For these students, answer the questions using the private school or other state standard assessment.</small></li> </ol>		YES/NO
State Assessment	<ol style="list-style-type: none"> <li>1. How did the student perform in comparison with other students in the student's class?</li> </ol>		YES/NO

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## Decision-Making

- The decision to refer a student for a special education evaluation is a complex process.
- Multiple sources of data are needed to support a referral decision.
- The use of data analysis is to prevent overreliance on one data source and to promote objective decision-making
- In a data-based decision-making process:
  - No one data source can be used to make the decision.
  - For each data source, the context of the data must be considered.
  - Data are interrelated.

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## Examples (Page 21)

- It is not sufficient to decide that because the student has passing grades he cannot be referred (use of 1 data source). The grades may be based on retaking tests or homework in which he receives help (context). The student may be receiving numerous accommodations (interrelated data sources).
- It is not sufficient to decide that a student should be referred because he has several discipline referrals (use of 1 data source). The referrals may be due to dress code violations (context). The student may be performing well in advanced classes (interrelated data sources).

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## Step 3

- Overarching consideration – when determining if there is an indication of a need, consider impact on **access and progress** in general education
- Consider Level of Impact
  - Typical for age
  - Some issues, but does not adversely affect access and progress in the general education curriculum
- Example – Accommodations (Page 27)

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Important Triggers (pages 33-34)	
Outside evaluations and diagnoses	An external evaluation or other documentation that provides a diagnosis must be carefully considered. This provides a basis of knowledge for the presence of a condition.
Hospitalizations	This is particularly important if the student is absent for many days. It is also critical to discern whether the hospitalization is due to physical or mental health reasons.
Increase in number and types of accommodations	Adding more types of accommodations may signify so much support that the content, methodology or delivery of instruction is affected.
Slow or poor progress in intervention	Interventions have an expected trajectory for progress and the student's progress is monitored based on that trajectory. Slow or poor progress may signify the lack of response to intervention which in turn is suggestive of a need to evaluate
Below average grade-level performance	Students who are well below grade level on benchmarks and state assessments, especially those who show declines across time, may need evaluation to assist in determining cognitive strengths and weaknesses that facilitate or inhibit learning.
Discipline referrals	Information regarding an increase in the number of discipline referrals, the severity of infractions, and the number of days the student is out of class for disciplinary reasons is important in suspecting an emotional or behavioral disorder.
Grades	Grades represent achievement in grade-level curriculum and are important indicators of progress. However, grades must be considered in context and may not represent actual grade-level achievement.
Attendance	Attendance represents continuity in exposure to instruction and the pattern is important to consider. Both number of and reasons for absences must be considered.

### Step 3

Once the review is completed, indicate the team's response to the following questions.

Based on the review, does the team determine that there is reason to suspect the student has a disability condition recognized under the Individuals with Disabilities Education Act (IDEA)?	Yes	No	
If the answer to the above question is yes, does the team determine there is reason to suspect that the student needs special education?	Yes	No	N/A

If the answer to both questions is Yes, the student should be referred for an initial special education evaluation. If the answer to one or both questions is No, the documentation should be maintained so the district has a record to show a review was completed as well as the decision not to propose an IIE.

If referred, does the reason for request indicate a claim that the student should have been referred for an initial evaluation prior to the current school year?	Yes	No
--	-----	----

- Are there any data that tip the decision toward evaluation?
- Summary and Determination

### Step 4

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Step 4: Special Education Evaluation

### Step 4 SPECIAL EDUCATION EVALUATION

- If the decision is to propose an evaluation through special education, the district must seek consent from the parent to evaluate within a reasonable time.
- While a reasonable time is not defined in the IDEA, a conservative timeline would be within 15 school days – this is consistent and in alignment with the timeline for responding to a written parent request
- 19 TAC §89.1011 – Full Individual and Initial Evaluation (FIIIE)
- 34 C.F.R. §300.304 – Evaluation Procedures
- 19 TAC §89.1040 – Eligibility Criteria

## Implications for Evaluators

- This is not the time to do less.
- It is highly recommended that consent for the FIE be obtained in a face-to-face meeting with the parent.
- This is the time to have a real multidisciplinary team and approach to the evaluation.
- The FIE and the resulting decision of the presence of a disability condition will come under much scrutiny.
- If the student is found eligible, the FIE will be used to assist in the determination of need for additional or compensatory services.

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## Implications for Evaluators

- Evaluations must be comprehensive and
  - provide a review of all previous data gathered on the student, including interventions that have been implemented and the student's progress in these interventions;
  - provide a thorough discussion of the student's current levels of functioning and how this compares to expectations; and
  - provide an analysis and synthesis of what these data signify - data cannot just be in the FIE, they must be interpreted.

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## Implications for Evaluators

- Evaluations must follow a comprehensive, rigorous and legally defensible approach to determining the presence of a disability condition.
  - for LD, this means expertise in the model that has been adopted by the district and application of the model across all evaluation personnel. This also means knowledge and expertise in determining dyslexia and other related disorders.
  - for ED, this means expertise in the determination of the 5 characteristics of ED and issues of co-morbidity and differential classification.
  - for OHI, this means knowledge of diagnostic criteria and how certain conditions (e.g., ADHD) have a direct impact on educational functioning.

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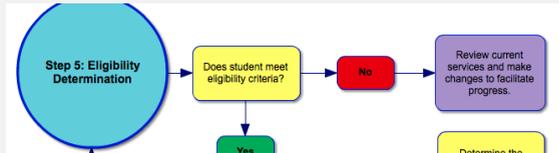
## Implications for Evaluation Staff

- Do not cut corners
- Evaluators should be aware that the information in the FIE will be one source of data used to determine additional or compensatory services
- Must be able to defend a DNQ
- Use appropriately credentialed staff (TSBEP letter in Appendix D)
- If contractors are used are they using your district's model for determining conditions (e.g., LD, ED, ...)? Based on NASP Guidelines: Regardless of whether personnel are employed or contracted, it is the responsibility of the unit to ensure the same level and quality of services as those provided by personnel from within the unit. [Unit=district in this context]
- Endrew F. standard for an appropriate IEP

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## Step 5

Page 39



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## Step 5

- Does the student have a disability condition recognized under IDEA?
- Does the student need special education (specially designed instruction)?

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## Step 5

- Specially designed instruction (SDI) means adapting, as appropriate, the *content*, *methodology*, or *delivery of instruction* to address the unique needs of the student that result from their disability and to ensure access to the general curriculum so that the student can meet the educational standards that apply to all children.

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## Step 5 (Pages 39-40)

- **Content.** Content is the standard set by the state. In Texas, that is the Texas Essential Knowledge and Skill (TEKS). When determining SDI, the members of the ARD committee should consider how the student is accessing the general education curriculum (i.e., accommodations, modifications, or prerequisite skills), and whether adaptations to the content are needed as a result of the disability. If the answer is "yes," the content needs to be adapted as a result of the disability, then the committee must determine how the content should be adapted.
- **Methodology.** Methodology refers to any educational practice or approach that is evidence-based/best practices. Each methodology has its own principles and components. For a student receiving special education services, it is not required to document the specific title/name of the methodology within the IEP. Rather, the specific components of the methodology necessary as a result of the student's disability should be defined within the IEP. These components are what become the SDI for the student and ultimately implemented via special education services.
- **Delivery of instruction.** Delivery of instruction is the application and implementation of the evidence-based/best practices that are needed as a result of the disability. Once described and documented within the IEP, these elements become the student's SDI.

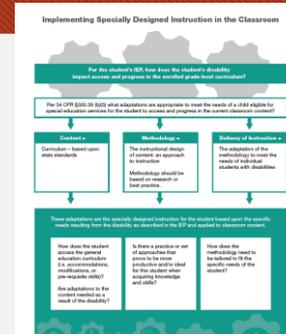
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## Step 5 (Page 40)

- One perspective on this is that when a student with a disability requires or must have whatever evidence-based practice(s) the teacher is using as a result of the student's disability then it becomes SDI. The fact that it may not appear that a student is receiving anything "different" than his or her general education peers or that a student may be doing the same work as everyone else in the class does not in and of itself preclude those strategies from being SDI for a student.
- OSERS Letter (Appendix D) – Specially Designed Instruction

## Figures 3 and 4 (Pages 42 & 43)



Marta is a student with a hearing disability that impacts the area of reading.		
IEP-Determined Adaptations to Content	Research-Based Methodology	Delivery of Instruction
<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Fluently reads materials aloud to self</li> <li>Visuals</li> <li>Repetitive practice</li> </ul>	<ul style="list-style-type: none"> <li>Science reading materials are presented at instructional level</li> <li>Fluently read materials aloud to student</li> <li>Student utilizes flashcards for frequently used words with pictures</li> </ul>
<p>While the teacher may read directions to all students on a regular basis, allow students to read items aloud during class, and utilize graphics and vocabulary posted around the classroom and in the textbook, the IEP team has identified specific strategies and instruction that eliminate or mitigate the impact of the student's reading disability on his/her science instruction.</p>		
Michael is a student with the disability of OHS due to Attention Deficit Hyperactivity Disorder (ADHD), which impacts his acquisition of knowledge and skills in the classroom.		
IEP-Determined Adaptations to Content	Research-Based Methodology	Delivery of Instruction
<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Positive Behavior Interventions and Supports</li> </ul>	<ul style="list-style-type: none"> <li>Explicit instruction on routines and procedures</li> <li>Post routines on the student's desk</li> <li>Use visual cues and/or gestures to remind student of a specific routine</li> </ul>
<p>These are specific to reduce and address his needs, but are also considered components of the Positive Behavior Interventions and Supports (PBIS) methodology. While PBIS may be implemented school-wide, the specific components the IEP team has identified and defined. The IEP committee has outlined the delivery of specially designed instruction in respect to behavior supports that the student requires due to the impact of his disability on his education.</p>		

## Step 5 (Student not yet referred is Step 3)

- If the SDI consideration is being made prior to referral (Step 3), the team making the referral should review all of the available data and based on that data determine if it is reasonable to suspect that a student may require adaptations as a result of the suspected disability.
- Decision vs. Suspicion -At the point prior to referral (Step 3), the threshold is suspicion, which is lower, because an IFILE has not been completed.

## Step 5

- Information provided in TEA Dyslexia letter (Appendix D)
- The letter has been interpreted differently by attorneys
- TEA panel at TCASE specifically said No – not every student in dyslexia needs to have an IFILE
- TEA panel did say to review students receiving services and make data-based decisions
- Dyslexia services could be SDI depending on circumstances but are not automatically SDI

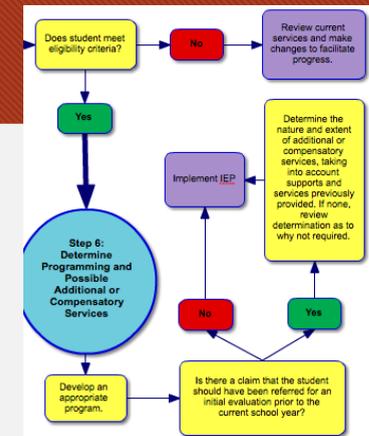
## Child Find Appendix A (Page 3) Important Points

- District frequently has knowledge of a disability, but this is not sufficient to trigger the Child Find duty. This must be coupled with a reasonable suspicion that the because of the disability, the child needs special education (reasonable educator suspicion)
- District cannot rely solely on grades or grade-to-grade promotion to determine that FIIE is not warranted. Must consider multiple factors including social and behavioral needs.
- A student may be receiving accommodations but no Child Find duty arises – one issue here is effectiveness – if effective and student is making progress in the general curriculum, then no reason to suspect need for special education
- Child Find is a continuing obligation – data at one point in time may not raise the double suspicion of disability and need. However, circumstances may change to lead to that suspicion.

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## Step 6

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## Step 6 DETERMINE PROGRAMING AND POSSIBLE ADDITIONAL OR COMPENSATORY SERVICES

- The TEA Special Education Strategic Plan (2018) states that for each student who should have been evaluated previously, and who is now evaluated and found to be eligible for special education and related services, the ARD committee "must determine whether additional services are required for that student, taking into account the supports and services previously provided" (p. 16).
- This determination is made based on all of the data gathered.
  - Pre-referral information
  - FIIE
  - Previous supports and services
  - Actual grade level functioning **compared to expected grade-level functioning (peer performance)**

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## Additional/Compensatory Services based on a claim for referral prior to current school year (pp.45-46)

- Must be considered for a student when the referring source claims that the student *should have been evaluated previously* and who is now *evaluated and found eligible*
- Not automatic
- Takes into account previous services and supports provided
- Goal is to place student in the position that the student would be in had the district provided the needed services in the first place
- Result of analysis by ARD committee *after* eligibility has been determined and the IEP has been created
- Remember, the IEP is reasonably calculated to enable the student to make progress that is appropriate in light of the child's unique circumstances
- If this is an issue/claim, analysis and consideration prior to ARD is strongly advised

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## Analyzing an Additional/Compensatory Services based on a claim for referral prior to current school year



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## Step 6 Guiding Questions (pages 46-47)

- What supports and services were previously provided to the student? (p. 46 has examples)
- Were the supports and services designed to address the needs identified in the FIIE? (e.g., a behavior contract had been developed to address task avoidance/completion; accommodations had been in place to facilitate attention; student attended summer school for reading intervention)
- What were the results of the supports and services on the ability of the student to access and make progress in the general curriculum? If effective, then there may be no need to add additional services to the IEP.
- What do the data show regarding the referral for evaluation? (summary documentation for guiding questions in step 3)

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## Step 6 Guiding Questions (pages 46-47)

- Were the supports and services similar to, more or less than what has now been developed in the IEP?
- As a result of the disability, what is a reasonable expectation for a learning rate for the student?
- What are the constraints on learning/behavior due to the disability?
- What supports and services could be added to the IEP to increase academic/behavioral progress beyond what the IEP has put in place for the next year? [Consider tutoring before and after school or a summer program to move the student ahead on the IEP, not to simply maintain progress as would be the goal of an ESY program.]
- Would the same or similar services have been put in place if the student had been identified previously?

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## Compensatory Services based on a claim for referral prior to current school year - Appendix B

- Forms of Compensatory Services
  - Can involve many types of services
  - Generally prospective services
  - Can also include reimbursement for private services
  - Can also include extending services beyond age 21
- Amount of Compensatory Services
  - Quantitative approach (1-1 calculation for amount of time)
  - Qualitative approach (individualized, fact-specific; flexible; designed to address amount of services required to place the student in the same position he would have been if IDEA had not been violated)
  - Hybrid

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### 3 Major Decision Points

- Referral
- Eligibility
- Additional/Compensatory Services based on a claim for referral prior to current school year

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### Link to FINAL Guidance Document

<https://esc4.box.com/v/R4GuidanceDocument>

Access to:

- Guidance Document for TEA Special Education Strategic Plan
- Presentation Handout
- Order Form

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