

Iowa IDA Leadership Group
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Early Literacy Law, the 2014 Dyslexia Law, and Special Education

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I. Iowa's Early Literacy Law

A. *Citation.* Iowa Code § 279.68; Iowa Administrative Code chapter 281 – 62.

B. *Purpose.* Iowa's Early Literacy Law ("Law") has the following purpose: "all actions ... must provide reasonable expectation that a student's progress toward reading proficiency is sufficient to master appropriate grade four level reading skills prior to the student's promotion to grade four." Key lesson from this definition? It is focused exclusively on reasonable expectations toward an *outcome*. The purpose is cause-neutral about why a child is not proficient in reading.

C. *Universal Screening and Progress Monitoring.* The Early Literacy Law requires universal screening for children in grades K-3. For children who are at risk (the most recent screening results below benchmark *or* one screening result above benchmark for a child who is identified as substantially deficient) or who are substantially deficient in reading (two consecutive screening results below benchmark), the Law requires periodic progress monitoring. Schools must use screening and progress monitoring instruments approved by the Department.

D. *Substantial Deficiency in Reading.* A child who scores below benchmark on two consecutive universal screenings is a child with a substantial deficiency in reading. If a child is so identified, the Law requires schools to provide "intensive reading instruction" until the deficiency has been remediated. Those services must "be a minimum of 90 minutes daily of scientific research-based reading instruction." Schools must provide additional supports, which may include a school district shall prescribe other strategies, which may include but are not limited to the following:

- (1) Small group instruction.
- (2) Reduced teacher-student ratios.
- (3) More frequent progress monitoring.
- (4) Tutoring or mentoring.
- (5) Extended school day, week, or year.
- (6) Summer reading programs.

E. Curriculum. The curriculum provided to children with substantial deficiencies in reading must comply with the following standards.

- Assists students assessed as exhibiting a substantial deficiency in reading to develop the skills to read at grade level.
- Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.
- Is supported by scientifically based research in reading.
- Is implemented by certified instructional staff with appropriate training and professional development.
- Is implemented by certified instructional staff with fidelity, which shall meet such standards for fidelity of implementation that the department may adopt.
- Includes a scientifically based and reliable assessment.
- Provides initial and ongoing analysis of each student's reading progress (see above).
- Is implemented during regular school hours.
- Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

F. Parent Notice and Involvement. The Law requires parent notification when a child is first identified as having a substantial deficiency in reading. The notice must contain the following:

- That the child has been identified as having a substantial deficiency in reading;
- A description of the services currently provided to the child;
- A description of the proposed supplemental instructional services and supports that the school district will provide to the child that are designed to remediate the identified area of reading deficiency; and
- Strategies for parents and guardians to use in helping the child succeed in reading proficiency, including but not limited to the promotion of parent-guided home reading.

Additionally, the Law requires notice about the progress the child is making. The law also requires a plan outlined in a "parent contract, including regular parent-guided home reading."

G. Summer Reading Program and Promotion to Grade Four. If a child has a substantial deficiency at the end of third grade, the law requires the school to offer an intensive summer reading program. If the child does not enroll and complete the summer literacy program, the child must be retained in third grade.

H. *“Good Cause” Exemptions from Third Grade Retention.* The Law provides five exemptions from Item G, above. They are as follows:

- Limited English proficient students who have had less than two years of instruction in an English language learners program.
- Students requiring special education whose individualized education program indicates that participation in a locally determined or statewide assessment required by this chapter is not appropriate, consistent with the requirements of rules adopted by the state board of education for the administration of Iowa Code chapter 256B.
- Students who demonstrate an acceptable level of performance on an approved alternative performance measure *[additional documentation required]*.
- Students who demonstrate mastery through a student portfolio under approved alternative performance measures *[additional documentation required]*.
- Students who have received intensive remediation in reading for two or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade one, grade two, or grade three. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist attendance centers and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

I. *Other Miscellaneous Provisions.* The Law provides the following additional requirements. First, each school district must address early literacy in its comprehensive school improvement plan, including addressing attendance centers with “chronic early elementary absenteeism.” If more than fifteen percent of a school’s students are not proficient in reading, the CSIP must include “strategies to reduce that percentage, including school and community strategies to raise the percentage of students who are proficient in reading.” Second, each school district, “subject to an appropriation of funds by the general assembly,” shall provide professional development services regarding early literacy and “in responding to children’s unique reading issues and needs and to increase the use of evidence-based strategies.”

II. 2014 Dyslexia Law

A. *Citation.* Senate File 2319.

B. *Purpose.* Senate File 2319 was designed to address the notion that a diagnosis of dyslexia is not educationally relevant. It addresses dyslexia in the Early Literacy Law, but does not require services to students with dyslexia who are not substantially deficient in reading or at risk for substantial deficiency.

C. *Provisions.* This amended law contained three important provisions.

First, SF 2319 amended Iowa's Early Literacy Law to add a definition of dyslexia. That definition is as follows: "a specific and significant impairment in the development of reading, including but not limited to phonemic awareness, phonics, fluency, vocabulary, and comprehension that is not solely accounted for by intellectual disability, sensory disability or impairment, or lack of appropriate instruction."

Notes: This definition does not require a physician's diagnosis. This definition is based on the World Health Organization's definition of dyslexia in the ICD-10.

Second, SF 2319 amended the Law's requirements to assist students with substantial deficiency in reading to specifically "include but not be limited to strategies that formally address dyslexia, when appropriate."

Note: This provision will hopefully put an end to the urban myth that dyslexia is "a medical issue, not an educational issue."

Third, SF 2319 requires the Iowa Reading Research Center, subject to an appropriation, to work with the Area Education Agencies and the Department of Education, to develop and offer to school districts at no cost professional development services for elementary teachers "in the use of evidence-based strategies to improve the literacy skills of all students."

III. Individuals with Disabilities Education Act ("IDEA")

A. Citation. 20 U.S.C. §§ 1400 et seq.; 34 C.F.R. pt. 300; Iowa Code ch. 256B; Iowa Admin. Code ch. 281 – 41.

B. Purpose. The IDEA is designed to provide a "free appropriate public education" ("FAPE") to children with disabilities. The standard for appropriateness is whether the educational program is "reasonably calculated to confer educational benefit." *Board of Educ. v. Rowley*, 458 U.S. 176 (1982).

C. "Eligible Individual." A student is eligible under the IDEA if the student has a physical or mental condition that causes the child to need specially designed instruction/support services and related services. Dyslexia is specifically named in both state and federal regulations. Need is measured against standards that apply to all children.

Note: A diagnosis (including a diagnosis of dyslexia) does not automatically qualify a student for IDEA services. Low performance (including low performance in reading) does not automatically qualify a student for IDEA services. The low performance must be caused by a disability.

D. Duty to Evaluate. The IDEA requires public agencies to evaluate students who might be eligible under the IDEA. The standard is "might." A diagnosis may be sufficient to

generate suspicion, but not always. Substantial deficiency in reading may generate suspicion, but not necessarily.

E. Contents of Evaluation. An evaluation must be comprehensive and designed to answer two questions: Is the student an eligible individual? What is the nature of the student's needs? Parents may request specific evaluation methods, but the methods are ultimately determined by the evaluation team.

F. Nature of Services. As noted above, the IDEA requires that services be "reasonably calculated" to confer educational benefit. The services must be provided in the least restrictive environment. The standard for appropriateness is not "recovery," attainment of maximum benefit or potential, or "free of symptoms." Parents may request specific services, and schools must consider those requests; however, teams – not parents – determine the nature and location of services. Parents are required team members.

G. Disability "Labels" Under the IDEA. The IDEA does not require specific labels. The evaluation data and educational goals are far more important than a label. Under Iowa law, a label is only required when necessary to confer a FAPE.

H. Procedural Safeguards. The IDEA provides parents with procedural safeguards if they disagree with decisions under the IDEA, including decisions about identification, evaluation, placement, and the provision of FAPE.

IV. Section 504 of the Rehabilitation Act of 1973

A. Citation. 29 U.S.C. § 794; 34 C.F.R. pt. 103.

B. Purpose. Section 504 is a civil rights law. It prohibits recipients of federal financial assistance from discriminating based on disability.

C. "Eligible Individual." A student is eligible under Section 504 if the student has a physical or mental impairment that substantially limits the student in a major life activity. That major life activity need not be "learning." The question of substantial limitation is answered without regard to the effects of mitigating measures (ordinary eyeglasses and contact lenses excepted). Need is measured against the population as a whole.

Notes: A diagnosis (including a diagnosis of dyslexia) does not automatically qualify a student for Section 504 services. Section 504 also provides protections for students who have a record of an impairment or who are regarded as having an impairment; these students are protected from discrimination; however, they are not entitled to services.

D. Duty to Evaluate. Section 504 requires public agencies to evaluate students who might be eligible. The standard is "might." A diagnosis may be sufficient to generate suspicion, but not always. Substantial deficiency in reading may generate suspicion, but not necessarily.

E. Contents of Evaluation. An evaluation must be comprehensive and designed to answer two questions: Is the student eligible under Section 504? What is the nature of the student's needs? Parents may request specific evaluation methods, but the methods are ultimately determined by the evaluation team.

F. Nature of Services. Section 504 requires schools to provide a free appropriate public education. Section 504 requires schools to meet the needs of children with disabilities "as adequately as the needs of" children without disabilities are met. The services must be provided in the least restrictive environment. In providing *services*, schools *may* consider the effects of mitigating measures. The standard for appropriateness is not "recovery," attainment of maximum benefit or potential, or "free of symptoms." Parents may request specific services, and schools must consider those requests; however, teams – not parents – determine the nature and location of services. Parents are required team members.

G. Procedural Safeguards. Section 504 provides parents with procedural safeguards if they disagree with decisions under Section 504, including decisions about identification, evaluation, placement, and the provision of FAPE.

V. Myths about Dyslexia in Iowa's Schools

- "A child with dyslexia is automatically entitled to an IEP."
- "Dyslexia is a medical diagnosis; therefore, it is not an educational issue."
- "Because Iowa does not use categorical labels under IDEA, Iowa does not provide dyslexia services."
- "All students with dyslexia require the same type of services to receive benefit."
- "My child is substantially deficient in reading. My child must be eligible for special education."
- "A physician's diagnosis of dyslexia is binding on the schools."
- "If a child does not receive a dyslexia label, the services provided are not appropriate."
- "A teacher cannot mention dyslexia to a parent because the school would be bound to pay for services."
- "Schools do not need to pay attention to outside diagnoses of dyslexia."