

# Texas dyslexia law essay sample



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## Dyslexia: A Conceptual Understanding

In the United States, the generic term “ learning disability” is used to describe a state of an individual’s communicative capabilities and potentials to be taught effectively as affected by psychological and neurological conditions. The term covers various conditions such as dysgraphia or writing disorder; dyslexia or reading disorder; dyscalculia or mathematics disorder and developmental aphasia (Flanagan & Mascolo, 2005). According to the National Joint Committee for Learning Disabilities, the term connotes “ a heterogeneous group of disorders manifested by significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning or mathematical abilities” (Hallahan & Mercer, 2005).

Dyslexia etymologically came from Greek words which when translated mean difficulty in words. Based on the results of research, it is neurological and is due to biochemical and genetic origin[1] (Schumacher, Anthoni, Dahdou & Konig, 2006). Dyslexia mainly affects writing and reading capabilities which may involve “ deficits in processing spoken language and also, non-language difficulties” (Murphy, 2004).

The American Psychiatric Association, in its Diagnostic and Statistical Manual of Mental Disorders DSM-IV defined dyslexia as “ reading achievement that falls substantially below expected levels given an individual’s age and education” (APA, 2002). International organizations such as the World Health Organization defined it as a “ disorder manifested by difficulty learning to read, despite conventional instruction, adequate intelligence and socio-

cultural opportunity. It is dependent upon fundamental cognitive disabilities which are frequently of constitutional origin” (WHO, 1992).

According to the National Center for Learning Disabilities approximately 15% of the U. S. population has difficulty to read (NCLD, n. d.). The U. S. National Institute for Health (1994) placed a range of 5 to 9 percent of school aged children afflicted with dyslexia. On the other hand, the International Dyslexia Association puts a “ 15-20 % of the U. S. population having a language-based disability; of the students with specific learning disabilities receiving special education services 70-80% have deficiency in reading’(INTERDYS, n. d.).

### Constitutional and Federal Framework on Disability Legislation in the Education

The United States Constitution contains a strong precept of equality in the 14<sup>th</sup> Amendment where Section 1 thereof provides, “ No State shall deny to any persons within its jurisdiction the equal protection of the laws” (U. S. Constitution). This serves as a working philosophy to disability legislation.

The landmark case which the Supreme Court decided involving the 14<sup>th</sup> Amendment and education was *Brown v. Board of Education* (1954).[2] Its pronouncement was with strong and powerful words and logic, striking down segregation along the lines of race as a disability in the area of education as a violation of the Constitution. It ruled that “ in these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity in education. Such an opportunity must be made available on equal terms” (*Brown v. Board of Education*). Also, in the case of *Penn*

Association of Retarded Children v. Pennsylvania,[3] the Federal Court of Appeals struck down the continuance of segregation in education based on disability. Similarly in the landmark case of Mills v. District of Columbia Board of Education (1972)[4] the Court ruled that since segregation from public schools based on race or cultural differences is unconstitutional so is the exclusion of disabled children in the context of education.

In addition, Section 5 of the 14<sup>th</sup> Amendment granted the authority for the legislature to enact and enforce laws in observance of the principle of equality as mandated.[5] Moreover, these decisions in the court cases inspired the federal government in granting allocations for education. The Elementary and Secondary Education Act (ESEA) of 1965 provided for federal aid to states for the purpose of supporting educational objectives of those general students who are economically unable to receive education.[6] Title I of the law was amended to provide funding for special programs for students with disabilities such as the deaf, the blind and the mentally retardate (Simon, 2005). The Office of Special Education Programs (OSEP) (formerly known as the Bureau of Education) was created under the U. S. Department of Health, Education and Welfare (Simon, 2005). The ESEA was amended by the Education of the Handicapped Act (EHA) of 1974, thus increasing the allocations for state grants (Simon, 2005). In 1975, EHA was extensively amended by the Education for All Handicapped Children Act (Simon, 2005).

In 1990, this law was later amended and renamed as the Individuals with Disabilities Education Act (IDEA) to provide a requirement for the states availing of the federal allocation, to implement special educational services to the disabled children. This law only covers those with disabilities from

birth up to the age of 21 (Simon, 2005). In 1997, the IDEA was amended in recognition of its success in achieving its main goal (Annino, 1999). It was amended to put more importance on improving the performance of students, giving them quality education and enhancing parent empowerment (Quinn, 1999). It also required development of Individualized Educational Program (IEP) agenda and improvement in the school management and administration (Quinn, 1999). This ensures services for utmost educational benefits. The law protects children with disabilities that meet the enumeration in the list provided under IDEA regulations 34 C. F. R. Section 300.

The U. S. Department of Education (1998) claimed that 90% of the children under IDEA fall within four groups: specific learning disability, speech or language impairments, mental retardation, and emotional disturbance.[7] IDEA grants the child a right “ to a free appropriate public education (FAPE) in the least restrictive environment (LRE)” (Simon, 2005). The law establishes a special education team to be organized for each state to determine if the child is eligible. The team must also develop an IEP after a determination that the child falls within the definition of disability (Simon, 2005). IDEA is ‘ reauthorized’ by the legislature every five years. This involves funding considering that it has failed to fully fund the cost of special education (Simon, 2005). This still remains an unresolved issue while other revised provisions remained to be controversial.

In 1973 the Rehabilitation Act (RA) was enacted and more specifically important is Section 504[8] thereof which prohibits discrimination on the ground of disability. The Court in interpreting Section 504 ruled that the said <https://assignbuster.com/texas-dyslexia-law-essay-sample/>

provisions are prohibit not only direct discrimination but indirect, as well (Quinn, 1999). RA clearly has identifiable limitations as it is limited to public sector entities receiving federal financial support and by reason of this, the Department of Education issued its own guidelines and regulations in 1990 (Quinn, 1999).

The American with Disabilities Act of 1990 (ADA) was enacted to seek to address the fragmentation in laws by instituting a more comprehensive body of provisions more specifically under Title II thereof. Title II provides dual coverage under ADA and RA. It requires reasonable modification to ensure the delivery of public services, i. e. education to those with disabilities (Quinn, 1999). The similarities between both laws are: 1) both definitions for 'disability' are substantially similar. Both apply to " persons with physical and mental impairments that substantially limit one or more major life activity as well as persons with a record of such an impairment and those who are regarded by others as having such an impairment" (Quinn, 1999); 2) " persons covered must be ' otherwise qualified' to meet and perform the essential requirements of the program" (Quinn, 1999); and, 3) it is not necessary to provide ' reasonable accommodation' when it would change the program or would be unduly onerous (Quinn, 1999).

The Texas Laws on Dyslexia and Geraldine ' Tinsy' Miller

The following are the laws in Texas which primarily deal with students with dyslexia (ESC2, n. d.):

1) Texas Education Code (TEC) Section 38. 003-This provides for a definition of dyslexia and other disabilities. It also requires testing and placement

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under effective instructional intervention. Moreover, it also grants the State Board of Education (SBOE) the power to make rules and regulations for purposes of implementing the law. In compliance of this, the Texas State Board of Education has approved a set of guidelines, the Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders.

2) TEC Section 28. 006-This section provides for the procedure in identifying struggling readers and the implementation of accelerated reading intervention. When a student shows signs of dyslexia, the school must make the proper referral for dyslexia assessment.

3) Texas Administrative Code (TAC) Section 74. 28-The main duties and responsibilities of district and charter schools are outlined in Chapter 19.

4) Section 504 of the Rehabilitation Act of 1973-In addition to the above discussion, this section prescribes standards and procedures for evaluating students and after a determination that “ dyslexia substantially limits learning,” these guidelines are required to be observed (ESC2, n. d.).

According to the Academic Language Therapy Association, the Texas State Dyslexia Law was originally written in 1985 but the 74<sup>th</sup> Legislature amended the TEC in 1995 to include it (ALTA, n. d.).

The proponent of the Texas State Dyslexia Law is Geraldine ‘ Tinsy’ Miller. She is the chairwoman of the State Board of Education since 1984. She has earned a certification as an academic language therapist and an expert in reading disabilities. Miller’s son, Vance Jr. was a slow learner and could not read at the age of 13 (Radcliffe, 2004). He dropped out of school and did

drugs. His teachers failed in understanding what was wrong with him until in 1970 when Miller confided with a co-worker who suggested that his son be screened for dyslexia. The results of the tests showed that her son had dysgraphia but he had an IQ of a genius. Vance Jr. earned a degree at the Southern Methodist University. He worked in the real estate business owned by his family until his death due to a car accident in 1997 (Radcliffe, 2004). Miller even worked and fought harder and was named the ‘dyslexia lady’ for having pushed for the enactment of the Texas Dyslexia Law (Radcliffe, 2004).

The Texas Education Agency and area districts list the percentage of dyslexia students under the programs for school year 2002-2003 as follows: Arlington 0.1%; Birdville 1.7%; Carroll 1.8%; Eagle-Mountain Saginaw 1.0%; Fort Worth 0.4% Frisco 2.5%; Grapevine-Colleyville 0.1%; Greenville 7.7%; Hurst-Euless-Bedford 0.2%; Keller 0.3%; Lewisville 2.4%; Mansfield 0.4%; Northwest 0.2%; Plano 0.8%; Richardson 0.1%; and, Wylie 2.5% 13 (Radcliffe, 2004). Experts in the field say that there must be not lower than 2% that should be availing of the programs on a per district basis (Radcliffe, 2004).

### Assessment of its Implementation

It is clear that the law is not being complied with by districts. According to Miller, this can be attributed to the fact that “educators are reluctant in understanding dyslexia and its symptoms” (Radcliffe, 2004). To make matters worse, the law lacks specificity in details and provisions for accountability in cases of non-observance. For instance other districts



require only a few hours of training for dyslexia for teachers while others require several hundreds of hours. Districts fail to diagnose dyslexia because of lack of sufficient knowledge while others refuse to label a child with dyslexia at an early age since the label according to them is lifelong (Radcliffe, 2004). Moreover, different approaches are being employed by school district. Some dyslexic students are combined in a regular classroom while others are placed with a small group for phonics tutoring (Radcliffe, 2004).

According to TEA spokeswoman Debbie Graves Ratcliffe, the state required compliance reports as remedial measure from schools which did not comply with the guidelines. It should be mentioned that before, state teams regularly conduct visits to monitor compliance by districts with the guidelines both for federal funded and state funded programs which includes dyslexia program albeit, these are not state funded (Radcliffe, 2004). Moreover, Ratcliffe claimed that the responsibility rest upon the parents to exact compliance from the school boards and principals.

Texas is renegeing on its responsibility to dyslexic students despite the fact that education is made the responsibility of the Legislature under the Texas Constitution. Moreover, the Texas Education Code mandates that schools must ensure every child's access to education so that the child can fully realize his potentials (Ohanian, 2004).

Albeit the Texas State Dyslexia Law was enacted through the efforts of Geraldine Miller, it remains to be unfunded. According to Miller, she was not able to convince the state officials to allocate public funding for a per-

student basis. Furthermore, some district officials refuse to make financial commitments to support dyslexia programs under the law (Radcliffe, 2004). Expenses are to be incurred to set the programs into motion specifically for training and supplies. Miller plans to put in place enforcement provisions back in the law which the legislature deleted.

All this may be attributed to the fact that the political and social milieu was such that during the enactment of the state law, the elected representative in education including the State Board of Education were subject to attack and were criticized for an absolute power in their exercise of their prerogatives in decisions affecting education. In fact, the 77<sup>th</sup> Legislature was to enact a law that is supposed to limit, restrict and curb the power of the locally elected school boards (Patterson, 2000).

In 2002, President Bush signed into law the ' No Child Left Behind Act' in pursuance of the education agenda. This federal education reform provides an " unprecedented new flexibility for all 50 states and every local school district in America in the use of federal education funds" (OPS, 2002). This law " implements President Bush's Reading First initiative by increasing federal funding for reading programs from \$300 million in FY 2001 to more than \$900 million in FY 2002, and tying federal funding to the use of scientifically-proven methods of reading instruction It also assures accountability which among others require " Statewide reports will show progress for all student groups in closing achievement gaps between disadvantaged students and other groups of students" (OPS, 2002). Hopefully, with this thrust in the federal government's education agenda,

much needed funds can trickle down to students with dyslexia so that the state law in Texas would not be existing in a mere vacuum.

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[1] J. Schumacher, H. Anthoni,, F. Dahdou & I. Konig, (January 2006), “ Strong genetic evidence of DCDC2 as a susceptibility gene for dyslexia”. *American Journal of Human Genetics* 78(1), pp. 52-65.

[2] 347 U. S. 483 (1954).

[3] 334 F. Supp. 1257 (1971).

[4] 348 F. Supp. 866 (1972).

[5] Section 5 of the 14<sup>th</sup> Amendment provides, “ The Congress shall have the power to enforce, by appropriate legislation, the provision of this article.”

[6] Jo Anne Simon, (2005) “ The rights of individuals with dyslexia and other disabilities under the law” *Multisensory Teaching of Basic Language Skill*, 2<sup>nd</sup> ed. Brookes Publishing Co., Inc, Chapter 22.

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[8] Section 504 of the Rehabilitation Act of 1973 provides, “ No otherwise handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied of the benefits of, or be subjected to

discrimination under any program or activity receiving federal financial assistance.”