

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 1438

INTRODUCER: Senators Harrell and Perry

SUBJECT: Dyslexia

DATE: February 3, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dew	Sikes	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1438 establishes dyslexia diagnostic assessment screening requirements for students in kindergarten through grade 3 and intensive remedial intervention requirements for every student in those grades who exhibits a substantial reading deficiency.

The bill also:

- Establishes the Dyslexia Task Force to develop a dyslexia handbook with required recommendations concerning dyslexia, dysgraphia, and dyscalculia.
- Removes requirements for a district school superintendent related to a student identified as exhibiting a pattern of nonattendance who enrolls in a home education program.

The fiscal impact is discussed in section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Student Progression

Each district school board is required by law to establish a comprehensive plan for student progression,¹ which must provide for a student's progression from one grade to another based on the student's mastery of standards,² including those in English Language Arts (ELA).³ The plan must:⁴

- Include criteria emphasizing student reading proficiency in kindergarten through grade 3 and provide targeted instructional support for students with identified deficiencies in ELA. The results of evaluations used to monitor a student's progress in grades K-12 must be provided in a timely manner to the student's teacher and, thereafter, to the student's parent.
- List the student eligibility and procedural requirements established by the school district for whole-grade promotion, midyear promotion, and subject-matter acceleration that would result in a student attending a different school.⁵
- Notify parents and students of the school district's process by which a parent may request student participation in promotion or acceleration that would result in a student attending a different school.⁶
- Advise parents and students that additional options may be available at the student's school.⁷

Student English Language Arts Assessment

Students in grade 3 through grade 10 are required by law to participate in the statewide, standardized assessment program.⁸ Each student who does not achieve a Level 3 or above on the statewide, standardized ELA assessment must be evaluated to determine the nature of the student's difficulty, the areas of academic need, and strategies for providing academic supports to improve the student's performance.⁹

A student not meeting the school district or state requirements for satisfactory performance must be covered by one of the following plans:¹⁰

- A federally required student plan such as an individual education plan (IEP);
- A schoolwide system of progress monitoring for all students; or
- An individualized progress monitoring plan.

Reading Deficiencies and Parental Notification

District school boards must provide intensive, explicit, systematic, and multisensory reading interventions to students in kindergarten through grade 3 with a demonstrated deficiency in

¹ Section 1008.25(1), F.S.

² *See* s. 1003.41, F.S.

³ Section 1008.25(2), F.S.

⁴ *Id.*

⁵ *See* s. 1002.3105(2)(b), F.S.

⁶ *See* s. 1002.3105(4)(b)2, F.S.

⁷ *See* s. 1002.3105, F.S.

⁸ *See* s. 1008.22, F.S.

⁹ Section 1008.25(4)(a), F.S.

¹⁰ Section 1008.25(4)(b), F.S.

reading.¹¹ A school may not wait until the end of a grading period to identify a student as having a substantial reading deficiency and begin intensive reading interventions.¹² The student's reading proficiency must be monitored, and the intensive interventions must continue, until the student demonstrates grade level proficiency in a manner determined by the district.¹³

The parent of any student who exhibits a substantial deficiency in reading must be notified in writing of the following:¹⁴

- That his or her child has been identified as having a substantial deficiency in reading, including a description and explanation of the student's difficulty.
- A description of the current services provided to the child.
- A description of the proposed intensive interventions and supports to be provided to the child to remediate the identified area of reading deficiency.
- That if the child's reading deficiency is not remediated by the end of grade 3, the child must be retained unless he or she is exempt from mandatory retention for good cause.
- Strategies, including multisensory strategies, through a read-at-home plan the parent can use in helping his or her child succeed in reading.
- That the statewide, standardized ELA assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to the child to assist parents and the school district in knowing when a child is reading at or above grade level and ready for grade promotion.
- The district's specific criteria and policies for a portfolio and the evidence required for a student to demonstrate mastery of standards for ELA.
- The district's specific criteria and policies for midyear promotion.¹⁵

In addition, each district school board must annually report to the parent of each student the progress of the student toward achieving state and district expectations for proficiency of specified subjects, including ELA. The district school board must report to the parent the student's results on each statewide, standardized assessment.¹⁶

If a student's reading deficiency is not remedied by the end of grade 3, as demonstrated by scoring Level 2 or higher on the statewide, standardized assessment required by law¹⁷ for grade 3, the student must be retained.¹⁸

¹¹ Section 1008.25(3)(a), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 1008.25(5)(c), F.S.

¹⁵ Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level. *Id.*

¹⁶ Section 1008.25(8)(a), F.S.

¹⁷ *See* s. 1008.22, F.S.

¹⁸ Section 1008.25(b), F.S. The district school board may only exempt students from mandatory retention for a good cause, limited to the following: students with limited English proficiency who have had less than 2 years of instruction in an English for Speakers of Other Languages program based on the initial date of entry into a school in the United States; students whose IEP indicates that participation in the statewide assessment program is not appropriate; students who demonstrate an acceptable level of performance on an alternative standardized SBE-approved reading or ELA assessment; students who demonstrate through a student portfolio active performance at least at Level 2 on the statewide, standardized ELA assessment; students who take the statewide, standardized ELA assessment and who have an IEP or a Section 504 plan that reflects that the student has received intensive instruction in reading or ELA for more than 2 years but still demonstrates a

Specific Learning Disabilities

According to the Individuals with Disabilities Education Act (IDEA), conditions such as dyslexia classify as specific learning disabilities.¹⁹ State Board of Education (SBE) rule²⁰ defines a specific learning disability as a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. SBE rule references dyslexia as a condition associated with a specific learning disability.

SBE rule also requires a school district to request, prior to conducting an evaluation for a specific learning disability, parental or legal guardian consent to conduct an evaluation to determine if a student needs specially designed instruction in circumstances in which the student does not make adequate progress, including:²¹

- Prior to a referral, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or
- Prior to referral, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of specially designed instruction and related services.

Enforcement of School Attendance

School districts take an active role in promoting and enforcing attendance as a means of improving student performance.²² The school principal or designee must contact a student's parent to determine the reason for each unexcused absence or absence for which the reason is unknown.²³ If the absence is excused, the school must provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.²⁴

If the parent of a child who has been identified as exhibiting a pattern of nonattendance enrolls the child in a home education program pursuant to chapter 1002, the district school superintendent must:

- Provide the parent a copy of specified accountability requirements.²⁵
- Refer the parent to a home education review committee composed of the district contact for home education programs and at least two home educators selected by the parent as specified in law.

deficiency and was previously retained in a relevant grade; or students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in a relevant grade for a total of 2 years. Section 1008.25(6)(b), F.S.

¹⁹ 20 U.S.C. s. 1401(30)(B).

²⁰ Rule 6A-6.03018(1), F.A.C. A specific learning disability is a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. *Id.*

²¹ Rule 6A-6.03018(3)(a), F.A.C.

²² Section 1003.26, F.S.

²³ Section 1003.26(1)(a), F.S.

²⁴ *Id.*

²⁵ See ss. 1002.41 and 1003.26(1)(f), F.S.

- The home education review committee must review the portfolio of such student²⁶ every 30 days during the district's regular school terms until the committee is satisfied that the home education program is in compliance,²⁷ and the first portfolio review must occur within the first 30 calendar days of the establishment of the program.²⁸
- The committee must notify the district school superintendent if the parent fails to provide a portfolio to the committee. The district school superintendent must then terminate the home education program and require the parent to enroll the child in a specified school attendance option²⁹ within 3 days.

Home Education Programs

Home education programs provide sequentially progressive instruction directed by each student's parent in order to satisfy attendance requirements³⁰ and are not school district programs.³¹ Parents who establish and maintain home education programs must notify in writing the district school superintendent of the county in which the parent resides of the parent's intent to establish and maintain a home education program.³² The district school superintendent is required to accept the notice and immediately register the home education program upon receipt of the notice.³³ The district may not require any additional information or verification from the parent unless the student chooses to participate in a school district program or service.³⁴

III. Effect of Proposed Changes:

The bill establishes dyslexia diagnostic assessment screening requirements for students in kindergarten through grade 3 and intensive remedial intervention requirements for every student in those grades who exhibits a substantial reading deficiency.

The bill also:

- Establishes the Dyslexia Task Force to develop a dyslexia handbook with required recommendations concerning dyslexia, dysgraphia, and dyscalculia.
- Removes requirements for a district school superintendent related to a student identified as exhibiting a pattern of nonattendance who enrolls in a home education program.

Dyslexia Diagnostic Assessment

The bill requires the State Board of Education (SBE) to approve and develop a dyslexia diagnostic assessment screener (screener). Each public school must screen each student in kindergarten through grade 3 for dyslexia using the approved screener within the first 30 days of the school year. Each public school student kindergarten through grade 3 who exhibits a

²⁶ See s. 1002.41, F.S.

²⁷ See s. 1002.41(1)(d), F.S.

²⁸ Section 1003.26(1)(f)1., F.S.

²⁹ See "regular school attendance" under s. 1003.01(13)(a), (b), (c), or (e), F.S.

³⁰ Section 1002.01(1), F.S.

³¹ Section 1002.41(1), F.S.

³² Section 1002.41(1)(a), F.S.

³³ Section 1002.41(1)(b), F.S.

³⁴ *Id.*

substantial deficiency in reading at any time, as demonstrated through performance on an approved screener, must be placed in an intensive remedial intervention program.

Parental Notification

The parent of any student kindergarten through grade 3 who exhibits dyslexia must be:

- Immediately notified by the student's school of the student's deficiency.³⁵
- Provided a progress report issued at two week intervals while the child continues to exhibit dyslexia. The parent must be notified in writing by the school of the process to request a special education evaluation.

Repeated Assessment and Remedial Intervention

The screener may be repeated at midyear and at the end of the school year to determine student progression in reading. The student must be provided with continued intensive remedial intervention by the school district if it is determined the student continues to exhibit a reading deficiency.

Additional Requirements

The bill establishes requirements for district school boards to assist students with dyslexia. Specifically, the bill requires:

- Every public school to employ one or more full-time personnel certified through a nationally recognized organization specializing in reading instruction for students with dyslexia to provide structured literacy, speech to print, or structured word inquiry intervention.
- Each school district to have an intensive remedial intervention program, which must:
 - Include interventions that are evidence-based³⁶ and specifically designed for dyslexia utilizing structured literacy, speech to print, or structured word inquiry approach to assist the student in becoming a successful reader able to read at or above grade level and ready for promotion to next grade.
 - Be continued until the student can maintain grade level performance, without continued supportive intervention and services, in decoding, encoding, reading fluency, and reading comprehension.

The SBE is required adopt rules that require students to be evaluated for phonological awareness to determine whether the students has a specific learning disability.

Specific Learning Disabilities

The bill defines dyscalculia, dysgraphia, and dyslexia as specific learning disabilities that are neurological in origin and often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Dyscalculia, dysgraphia, and dyslexia are further defined as follows:

³⁵ See s. 1008.25(5), F.S.

³⁶ "Evidence-based" when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on evidence from at least one well-designed and well-implemented study. 20 U.S.C. s. 8101(21)(A).

- Dyscalculia is characterized by difficulties with learning and comprehending arithmetic, understanding numbers, performing mathematical calculations, and learning mathematics.
- Dysgraphia is characterized by difficulties with accurate writing abilities, spelling, handwriting, and putting thoughts on paper.
- Dyslexia is characterized by difficulties with accurate and fluent word recognition, spelling, and decoding, which typically result from a deficit in the phonological component of language. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

The Dyslexia Task Force

The bill establishes the Dyslexia Task Force, within the Department of Education, to develop a dyslexia handbook. The dyslexia handbook must include, but is not limited to, recommendations concerning:

- How to identify dyslexia, dysgraphia, and dyscalculia;
- Appropriate goal writing for individual education plans (IEPs) for students with dyslexia, dysgraphia, or dyscalculia;
- Interventions for dyslexia, dysgraphia, and dyscalculia;
- Provision of assistive technology guidelines; and
- The creation of a parent handbook regarding dyslexia, dysgraphia, and dyscalculia.

The bill requires the task force to recommend amendments to uniform IEP documents, such that they require a drop down menu under specific learning disabilities that allows child study teams to check all learning disabilities that are exhibited by the student, including dyslexia, dysgraphia, and dyscalculia.

The task force must consist of the following nine members appointed by the Commissioner of Education:

- Three members of organizations or nonprofits focused on dyslexia and other specific learning disabilities.
- A faculty member or researcher from a university with a program or department devoted to dyslexia and reading disorders.
- A neuropsychologist or clinical psychologist that specializes in dyslexia evaluation and identification.
- A speech language pathologist with expertise in dyslexia, phonological deficits, and language disorders.
- A parent of a child with dyslexia.
- A public school teacher.
- A public school principal.

Within 90 days after the bill becoming law, a majority of the members of the task force must be appointed, and the task force must have its first meeting. The task force is required to elect one of its members to serve as chair, and members of the task force serve for the duration of the existence of the task force. Any vacancy that occurs must be filled in the same manner as the

original appointment. Task force members are to serve without compensation, but are entitled to reimbursement for per diem and travel expenses.³⁷

Enforcement of School Attendance

The bill removes the requirement for district school superintendents to refer a parent of a child who has been identified as exhibiting a pattern of nonattendance and has been enrolled in a home education program to a home education review committee. The bill also removes the authority for the superintendent to terminate the home education program for a parent failing to provide a portfolio³⁸ for compliance to the home education review committee.

The bill conforms cross-references in numerous statutes based on the addition of definitions for dyslexia, dysgraphia, and dyscalculia to s. 1003.01, F.S.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³⁷ See s. 112.061, F.S.

³⁸ See s. 1002.41, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the state. The cost for the State Board of Education to develop and approve a dyslexia diagnostic assessment screener, as well as the cost of administering the screener to every public school student in kindergarten through grade 3, is not known.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1003.01, 11.45, 39.0016, 414.1251, 1002.01, 1002.20, 1002.3105, 1002.33, 1002.385, 1002.42, 1002.43, 1003.03, 1003.21, 1003.26, 1003.4282, 1003.52, 1003.575, 1006.07, 1008.24, and 1012.2315.

This bill creates section 1001.2151 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on February 3, 2020:

The committee substitute specifies components of remedial interventions, personnel training requirements, and the Dyslexia Task Force, and removes a requirement monitoring and penalizing certain parents, through:

- Requiring intensive remedial intervention programs to include interventions that are evidence-based and specifically designed for dyslexia utilizing structured literacy, speech to print, or structured word inquiry approach.
- Requiring every public school to employ one or more full-time personnel certified through a nationally recognized organization specializing in reading instruction for students with dyslexia to provide structured literacy, speech to print, or structured word inquiry intervention.
- Requiring the Dyslexia Task Force appointed by the Commissioner of Education to consist of nine members, with the addition of the following:
 - Three members of organizations or nonprofits focused on dyslexia and other specific learning disabilities;
 - A faculty member or researcher from a university with a program or department devoted to dyslexia and reading disorders;

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- A neuropsychologist or clinical psychologist that specializes in dyslexia evaluation and identification;
 - A speech language pathologist with expertise in dyslexia, phonological deficits, and language disorders; and
 - A parent of a child with dyslexia.
 - Removing the requirement for district school superintendents to refer a parent of a child who has been identified as exhibiting a pattern of nonattendance and has been enrolled in a home education program to a home education review committee and a penalty for parents failing to provide a portfolio for compliance to such committee.

B. Amendments:

None.