

SECTION 5

Response To Intervention (RTI)

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What is RTI?

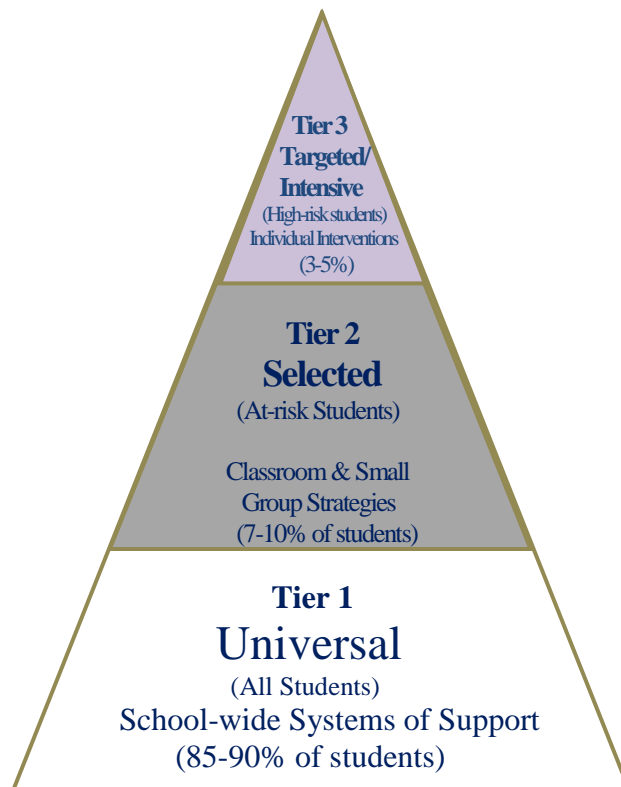
RTI is a tiered process of instruction that allows schools to identify struggling students early and provide appropriate instructional interventions. Early intervention means more chances for success and less need for special education services. RTI would also address the needs of children who previously did not qualify for special education.

RTI as a School Wide Model

Each school's model may look different. All children should receive research based reading instruction in the general education classroom. School Wide screening may occur at these sites. Schools may screen all children early to determine if they are "at risk." Schools will monitor the progress of all "at risk" children to determine if they are benefiting from instruction. Any program or curriculum that is utilized in this process must be implemented with fidelity.

Tiers in RTI

RTI is delivered to students in tiers. The three-tiered model is the most common. This means there are different levels of intervention, based on the needs of the student. The level of intervention increases in intensity if a child does not respond to instruction.



How long a child must remain in one tier before moving to the next level is determined by the local educational agency (LEA).

What IDEA Says about RTI and SLD

States must adopt criteria for determining whether a child has a specific learning disability. States *must not require* the use of a severe discrepancy between intellectual ability and achievement model. States *must permit* the use of a process based on the child's response to scientific, research-based intervention. Thus, a student may be determined to have an SLD if there is a severe discrepancy between ability and achievement or if achievement is determined to be inadequate pursuant to an RTI or pattern of strengths and weaknesses analysis.

When IDEA was reauthorized in 2004, RTI was added in an attempt to bring IDEA in line with NCLB and [Reading First](#). The US Department of Education acknowledged that identification *“models that incorporate RTI represent a shift in special education toward goals of better achievement and improved behavioral outcomes for children with specific learning disability (SLD).”*

Concerns about the RTI Process

In a memorandum dated 1/21/2011, to State Directors of Special Education, from Melody Musgrove, Ed., Director, Office of Special Education Programs, a Response to Intervention (RTI) Process cannot be used to delay/deny an evaluation for eligibility under the Individuals with Disabilities Education Act (IDEA). The memo states the following:

“The provisions related to child find in section 612(a)(3) of the Individuals with Disabilities Education Act (IDEA), require that a State have in effect policies and procedures to ensure that the State identifies, locates and evaluates all children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services. It is critical that this identification occurs in a timely manner and that no procedures or practices result in delaying or denying this identification. It has come to the attention of the Office of Special Education Programs (OSEP) that, in some instances, local educational agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation for children suspected of having a disability. States and LEAs have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.

A multi-tiered instructional framework, often referred to as RTI, is a school wide approach that addresses the needs of all students, including struggling learners and students with disabilities, and integrates assessment and intervention within a multi-level instructional and behavioral system to maximize student achievement and reduce problem behaviors. With a multi-tiered instructional framework, schools identify students at-risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending on a student's responsiveness.

While the Department of Education does not subscribe to a particular RTI framework, the core characteristics that underpin all RTI models are:

- (1) students receive high quality research-based instruction in their general education setting
- (2) continuous monitoring of student performance
- (3) ALL students are screened for academic and behavioral problems
- (4) multiple levels (tiers) of instruction that are progressively more intense, based on the student's response to instruction

OSEP supports state and local implementation of RTI strategies to ensure that children who are struggling academically and behaviorally are identified early and provided needed interventions in a timely and effective manner. Many LEAs have implemented successful RTI strategies, thus ensuring that children who do not respond to interventions and are potentially eligible for special education and related services are referred for evaluation; and those children who simply need intense short-term interventions are provided those interventions.

The regulations implementing the 2004 Amendments to the IDEA include a provision mandating that States allow, as part of their criteria for determining whether a child has a specific learning disability (SLD), the use of a process based on the child's response to scientific, research-based intervention. See 34 CFR §300.307(a)(2). OSEP continues to receive questions regarding the relationship of RTI to the evaluation provisions of the regulations. In particular, OSEP has heard that some LEAs may be using RTI to delay or deny a timely initial evaluation to determine if a child is a child with a disability and, therefore, eligible for special education and related services pursuant to an individualized education program.

Under 34 CFR §300.307, a State must adopt, consistent with 34 CFR §300.309, criteria for determining whether a child has a specific learning disability as defined in 34 CFR §300.8(c)(10). In addition, the criteria adopted by the State:

- (1) must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has an SLD;
- (2) must permit the use of a process based on the child's response to scientific, research-based intervention; and
- (3) may permit the use of other alternative research-based procedures for determining whether a child has an SLD.

Although the regulations specifically address using the process based on the child's response to scientific, research-based interventions (i.e., RTI) for determining if a child has an SLD, information obtained through RTI strategies may also be used as a component of evaluations for children suspected of having other disabilities, if appropriate.

The regulations at 34 CFR §300.301(b) allow a parent to request an initial evaluation at any time to determine if a child is a child with a disability. The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§300.304-300.311, to a child suspected of having a disability under 34 CFR §300.8. If the LEA agrees with a parent who refers their child for evaluation that the child may be a child who is eligible for special education and related services, the LEA must evaluate the child.

The LEA must provide the parent with notice under 34 CFR §§300.503 and 300.504 and obtain informed parental consent, consistent with 34 CFR §300.9, before conducting the evaluation.

Although the IDEA and its implementing regulations do not prescribe a specific timeframe from referral for evaluation to parental consent, it has been the Department's longstanding policy that the LEA must seek parental consent within a reasonable period of time after the referral for evaluation, if the LEA agrees that an initial evaluation is needed. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg., 46540, 46637 (August 14, 2006). An LEA must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within the time frame. 34 CFR §300.301(c).

If, however, the LEA does not suspect that the child has a disability, and denies the request for an initial evaluation, the LEA must provide written notice to parents explaining why the public agency refuses to conduct an initial evaluation and the information that was used as the basis for his decision. 34 CFR §300.503(a) and (b). The parent can challenge this decision by requesting a due process hearing under 34 CFR §300.507 or filing a State complaint under 34 CFR §300.153 to resolve the dispute regarding the child's need for an evaluation. It would be inconsistent with the evaluation provisions at 34 CFR §§300.301 through 300.111 for an LEA to reject a referral and delay provision of an initial evaluation on the basis that a child has not participated in an RTI framework.

We hope this information is helpful in clarifying the relationship between RTI and evaluations pursuant to the IDEA. Please examine the procedures and practices in your State to ensure that any LEA implementing RTI strategies is appropriately using RTI, and that the use of RTI is not delaying or denying timely initial evaluations to children suspected of having a disability. If you have further questions, please do not hesitate to contact me or Ruth Ryder at 202-245-7513."

In a Commentary to the federal special education regulations, people expressed concerns. Because of these comments, and to ensure that parents are notified of their right to request an evaluation at any time for a child suspected of having a specific learning disability, the documentation of the determination of eligibility, must contain a statement of:

- The child's participation in a process that assesses the child's response to scientific, research-based intervention
- The instructional strategies used and the student-centered data collected
- The documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided
- Strategies for increasing the child's rate of learning
- The parents' right to request an evaluation

Each group member must certify in writing whether the evaluation report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

What Does RTI Mean?

States have in place criteria for determining whether or not a child has a Specific Learning Disability (SLD).

All children should receive appropriate and adequate instruction in the regular education classroom **before** being referred to special education.

The RTI process **does not** replace the need for a comprehensive evaluation.

When a child is participating in an RTI model, parents are notified of the instructional strategies used, performance data collected, and the general education services that will be provided.

Parents have the right to request a comprehensive evaluation at any time during the RTI process.

Schools must promptly request parental consent to evaluate when a child suspected of having an SLD has not made progress when provided with appropriate instruction.

When should a district notify parents of their right to request an evaluation?

In general, when the child moves from a tier 1 general education (class wide intervention) to a tier 2 (more targeted small group interventions), parents are informed about what is happening.

Questions you should be able to answer about your RTI system

- How many tiers are included the RTI model?
- How long will a child remain in a tier before moving to the next tier?
- What scientifically research based form(s) of instruction will the teacher use?
- What documentation demonstrates the effectiveness of the program(s)?
- What education journal documents this form of instruction as "peer reviewed"?
- Does the reading program include the elements defined as "essential components of an effective reading program" set forth by the National Reading Panel?
- How often will the school monitor each student's progress?
- What type of progress monitoring is being used by the school?
- When will the school report the progress monitoring results to the parents and teachers?
- At what point will the school refer students for a special education evaluation due to lack of response to instruction?