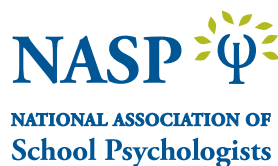




Principles for SLD Eligibility: Practice & Policy Considerations for States and School Districts

*Effective Use of Instructional Response Data in
Evaluation for Special Education Due to a
Specific Learning Disability*



This document describes school-level practices and policy considerations for states and school districts to monitor and support the effective use of instructional response data in evaluations for special education for children suspected to have a specific learning disability.

All children, regardless of their disability status, benefit from access to high-quality, evidence-based core instruction and intervention. Instructional data is at the center of high-quality instruction. In its simplest form, teachers monitor academic performance and behavior and change course or intensify interventions to close the achievement gap if a child does not progress toward grade-level standards.

Under the Individuals with Disabilities Education Act (IDEA), all evaluations for children suspected to have a specific learning disability (SLD) must consider some type of instructional response data.¹ In addition, teams of education professionals may also use one of three primary methods—one of which is a process based on the child’s response to scientific, research-based intervention²—to determine eligibility for children suspected to have an SLD.

There are different methods or frameworks used to collect instructional response data. Perhaps the most encompassing approach is a multi-tier system of supports (MTSS). Response to intervention (RTI) is one type of MTSS approach. However, all approaches have several essential components:

- Evidence-based core curriculum that includes intervention programs that are implemented with fidelity
- Universal screening and ongoing assessment
- Multiple tiers of support
- Evidence-based intervention
- Parent involvement³

Research shows that evidence-based, tiered interventions can address learning challenges early, improve academic outcomes for reading and math, and reduce the number of children referred to special education.⁴ As a result, both the reauthorization of IDEA in 2004 and the Every Student Succeeds

1 Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 34 CFR § 300.309, which states: “Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.”

2 Individuals with Disabilities Education Act, 20 U.S.C. § 1414 (2004)

3 Kincaid, D., & Batsche, G. (2016). Florida’s multi-tiered support system for academics and behavior. In K. McIntosh & S. Goodman (Eds.), *Integrated multi-tiered systems of support: Blending RTI and PBIS*. Guilford Press; RTI Action Network, Toolkit, available at <http://www.rtinetwork.org/toolkit>

4 Lyon, G., & Fletcher, J. M. (2001). Early warning system: How to prevent reading disabilities. *Education Matters*, 1(2), 23–29; Simmons, D. C., Coyne, M. D., Kwok, O. M., McDonagh, S., Harn, B. A., & Kame’enui, E. J. (2008). Indexing response to intervention: A longitudinal study of reading risk from kindergarten through third grade. *Journal of Learning Disabilities*, 41(2), 158–173; VanDerHeyden, A. M., Witt, J. C., & Gilbertson, D. (2007). A multi-year evaluation of the effects of a response to intervention (RTI) model on identification of children for special education. *Journal of School Psychology*, 45(2), 225–256.

Act in 2015 included provisions that would encourage the implementation of RTI and/or MTSS.⁵

But RTI, MTSS, and other similar approaches are not without problems. In 2015, in the only large-scale evaluation of RTI, the National Center for Education Evaluation and Regional Assistance found that 100 of 146 schools across 13 states did not implement RTI with fidelity. As a result, RTI did not have a positive influence on achievement.⁶ Schools do not necessarily have the capacity or expertise to screen, administer evidence-based interventions, and monitor children’s progress with fidelity, thus weakening the value of the RTI approach as a whole.

In addition, an RTI-like approach is sometimes used to delay or deny a referral for special education. While this is explicitly prohibited by guidance from the U.S. Department of Education,⁷ some state, school district, and/or school policies may require a child to advance to a set tiered level of intervention before education professionals can consider a referral for special education.

Given this context, Principle 8 below illustrates how to effectively use instructional response data in an evaluation for special education for a child suspected to have an SLD.

Principle 8:

Teams of education professionals should use the data collected on how a student responds to evidence-based interventions as an essential part of the evaluation. School personnel must not use response to intervention procedures to delay a comprehensive evaluation and the determination of eligibility for special education services. When it is suspected that the child has a disability, RTI procedures should be sufficiently flexible to allow for fidelity of intervention implementation and for evaluation of a specific learning disability when suspected.*

* For the full statement of principles, see: *Eligibility for Special Education Under a Specific Learning Disability Classification*. (2019). Available at: <https://www.nclد.org/archives/reports-and-studies/sld-eligibility-under-idea-resources-to-improve-practice-policy>

5 Fuchs, D., Fuchs, L., & Stecker, P. (2010). The “blurring” of special education in a new continuum of general education placements and services. *Exceptional Children*, 76(3), 301–323.

6 Balu, R., Zhu, P., Doolittle, F., Schiller, E., Jenkins, J., & Gersten, R. (2015). *Evaluation of response to intervention practices for elementary school reading* (NCEE 2016-4000). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

7 U.S. Department of Education, Office of Special Education and Rehabilitation Services. *A response to intervention (RTI) process cannot be used to delay-deny an evaluation for eligibility under the Individuals with Disabilities Education Act (IDEA)*, January 21, 2011.

For the purposes of this document, these are defined as follows:

- **Education professionals:** All individuals responsible for evaluating and monitoring children’s progress, administering or overseeing programs, and providing specialized instruction and/or specialized instructional support services.
- **Instructional response data:** Data on children’s response to instruction or intervention.
- **Parent:** A parent or guardian.
- **Response to intervention:** A data-based approach in which children are screened for academic and behavior challenges. Education professionals monitor children who do not make adequate progress when compared to their peers and change course to intensify academic support for children who are not making sufficient progress.
- **Team of education professionals:** The group of education professionals who review data and consider eligibility for special education and specialized instructional support services. This may include many types of individuals responsible for evaluating and monitoring progress, administering or overseeing programs, and providing specialized instructional support services. This may or may not be the same team that develops an Individualized Education Program if a child qualifies for special education.
- **Screening:** Brief informal assessment of all students at a given grade level to identify students who are at risk academically. This type of screening is often referred to as “universal screening.” For students who fall below some criterion on these universal screening instruments, additional testing or short-term progress monitoring often follows to better understand a child’s academic needs.

The sections below describe practices related to each principle that teams of education professionals at the school level may use to monitor and support the effective use of instructional response data in evaluations for special education for children suspected to have an SLD. It also outlines policy considerations for states and school districts to consider that will set a strong systemic foundation for the school-level practices.

School-Level Practice Considerations

Request parental consent for an evaluation when a disability is suspected. Education professionals should not wait until a child advances through specific tiers of intervention before referring for an evaluation. A referral should instead be based on a child’s response or lack of response to an intervention. At any point in the intervention process when a disability is suspected, education professionals should request parental consent to begin an evaluation for special education.

Use high-quality, comprehensive screening instruments. Valid and reliable measures to universally screen children and determine which are at risk will help identify which children may require more intensive supports and reveal specific areas of need. Educators may use this information as well as other diagnostic testing to select interventions specific to a child’s demonstrated need.

Select evidence-based interventions and implement them with fidelity. Interventions work best when they match the specific needs of the child. Interventions must be administered—in addition to high-quality core instruction that is implemented with fidelity—according to the research-recommended procedures, intensity, and duration. Implementing core instruction and interventions with fidelity will require adequate professional development and resources for general educators to adapt and meet the needs of each student. In addition, it will require the ongoing, systemic monitoring of student outcomes by a school or school district to verify effectiveness of instruction.

Conduct ongoing, high-quality progress monitoring. For those children who are at risk and are receiving additional interventions, it is important for education professionals to closely monitor academic progress and collect data from multiple sources throughout the course of the intervention. If the child is not making adequate progress, as defined by the state or school district, education professionals should use available data to increase the intensity of the intervention, further evaluate the student, or select a different intervention.

Provide intensive initial and ongoing professional development. Education professionals need knowledge and training to provide high-quality core instruction, effectively screen children, administer evidence-based interventions, and conduct progress monitoring with fidelity. Education professionals who receive training—including real-time support, coaching, or mentoring—and feedback at the start of and throughout implementation of RTI will have more success in implementing the approach with fidelity.

Engage and collaborate with parents as a way of supporting parental involvement when a child is receiving supplemental instruction or intervention. To ensure that parents are aware of the child’s progress and the services he or she is receiving, education professionals should notify parents as soon as the child is receiving supplemental instruction or intervention. This may occur after administering a universal screening and determining that a child is at risk. This is different from the request for parental consent to evaluate a child for special education when the child is suspected to have a disability. The goal is to ensure open lines of communication with parents and make the RTI process transparent, including the type, intensity, and duration of interventions being provided.

Policy Considerations

States and school districts play important and differentiated roles in helping teams of education professionals implement school-level practices for special education for children with SLDs. State regulations are important because they set consistent requirements and can help prevent discrepancies in eligibility determinations between schools and school districts within the same state. In addition, states can create infrastructure, develop guidance, and provide technical assistance to help schools implement these practices with fidelity. However, because many states allow school districts the freedom to develop their own policies and procedures for the evaluation of children suspected to have an SLD, many of the considerations in this document may also be useful for school districts to consider and apply.

We recommend that states and school districts take the following actions to encourage education professionals to follow Principle 8. These policy considerations are divided into three categories: supporting district- and school-level administration; implementing evidence-based interventions, resources, and training; and effective notification and communication. Some of these considerations may be more appropriate at the state level and others within school districts.

Supporting district- and school-level administration

- **Encourage a gradual phase-in of RTI approaches to ensure that education professionals are prepared to implement with fidelity the process of supporting struggling children and using data to inform special education evaluations for children suspected to have an SLD.** Training education professionals and enacting policies to effectively implement an RTI approach both take time—and likely require shifts in other related policies, like budgeting, scheduling, and staffing.
- **Define responsiveness.** A common understanding of “responsiveness” is at the heart of effective implementation of an RTI approach. The purpose of RTI is to close the achievement gap when a student is not meeting grade-level standards. Problem-solving teams must have clarity on what constitutes “sufficient progress” and “responsiveness” when implementing interventions for a child.
- **To help parents and educators understand the process, publish a handbook to clarify an RTI approach’s procedures and how it aligns with other ongoing initiatives.** This may include:
 - How instructional response data will be used in an evaluation
 - How RTI fits within the federally mandated 60-day timeline for evaluations (if it’s the primary method for determining eligibility for children suspected to have an SLD)
 - What kind of communication parents should expect

It is important that this process not become a significant barrier to implementation. States and districts should supplement the handbook with professional development.

- **Hire sufficient staff, and adjust staffing and scheduling models to support an RTI approach.** Effective implementation of RTI is a team effort shared across many specialized instructional support personnel (general educators, special educators, school psychologists, speech-language pathologists, reading specialists, interventionists, etc.). Design staffing plans and student schedules to provide education professionals with sufficient capacity and children with additional time for supplemental interventions. Planning can also ensure that education professionals who have content expertise and are trained to use certain interventions have time to work with struggling children.

- **Collect and review data on supplemental instruction.** States and school districts can collect data on when schools provide supplemental instruction to ensure that struggling children continue to receive core instruction in addition to targeted instructional interventions.

Any additional intervention provided must supplement core instruction, not replace it. Unfortunately, there is little evidence that schools administer interventions outside of and in addition to core instruction. Instead, many schools replace core instruction with other strategies or interventions. In fact, in the only national study to evaluate RTI, researchers found that 60 percent of the schools in the study administered interventions during core instruction.⁸

- **Provide technical assistance on adequate “intensity” of instruction in each tier.** Technical assistance or requirements for the intensity of instruction and intervention at each tier of an RTI approach will reduce inconsistencies in the implementation across schools and school districts.
- **Provide guidance to help districts meet the IDEA requirement to complete evaluations for special education within 60 days of initial parental notification.**⁹ Instructional strategies should be determined early in the process to ensure the team has sufficient data and to avoid delay of the timeline. Extensions for evaluations should be granted sparingly, and the need for more instructional data should not warrant an extension.

Implementing evidence-based interventions, resources, and training

- **Develop an inventory of evidence-based instructional materials.** Include information on each intervention or instructional strategy, the specific skills covered by the intervention or strategy (phonemic awareness, vocabulary, etc.), when those interventions or strategies can best support a struggling child, and any specific notes on how to implement them effectively.
- **Provide guidance to describe how to evaluate the quality of instructional materials and determine which are evidence-based.** A national study to evaluate RTI conducted by the National Center for Education Evaluation and Regional Assistance in 2015 found that most schools in the sample did not implement comprehensive screening instruments and did not provide children at

⁸ Balu, Zhu, Doolittle, Schiller, Jenkins, & Gersten. (2015).

⁹ Individuals with Disabilities Education Act, 20 U.S.C. § 1414 (2004)

each tier with interventions specific to their needs.¹⁰ Guidance and training can help education professionals select high-quality interventions and implement them with fidelity.

- **Fund and/or make available valid and reliable instruments and research-based interventions.** Sufficient resources and funding are needed to select and administer valid and reliable screening instruments and progress monitoring tools as well as research-based interventions.
- **Fund and/or provide high-quality, intensive professional development.** Education professionals need professional development to implement a data-based approach. Ideally, they should also have access to coaches or experts to support the ongoing implementation of an RTI approach.

Effective notification and communication

- **Provide model language and guidelines to communicate the progress of an RTI approach with parents.** These resources can help teachers communicate when a child is identified to be at risk, when he or she will begin receiving supplemental interventions, the types of interventions received, and how the child is progressing. Parent engagement is critical during informal progress monitoring and should be ongoing until the student is achieving proficiency or referred for special education services.
- **Issue guidance to clarify when a school should request formal consent to evaluate a child for special education if the state or school district requires the use of an RTI approach as the primary means to evaluate a child suspected to have an SLD.** Because RTI approaches are fluid and the timeline varies for every child, guidance will help schools determine what type of instructional response data should raise the suspicion of a disability and necessitate initiation of an evaluation.

¹⁰ Balu, Zhu, Doolittle, Schiller, Jenkins, & Gersten. (2015).

State and School District Examples

Below are examples of policies from states and school districts that align to the ideas described in this document.

Tennessee: Gradual phase-in of RTI

The Tennessee Department of Education (TNDOE) launched Response to Instruction and Intervention (RTI²) in the 2014–15 school year as a means to personalize learning, support struggling learners, and determine eligibility for special education due to an SLD. TNDOE gradually transitioned to the new policy, implementing the initiative in elementary schools in the 2014–15 school year, middle schools in the 2015–16 school year, and high schools in the 2016–17 school year. Over the transition, TNDOE provided ample guidance and training to support schools.

For more information on their methods, see [here](#) and [here](#).

Maryland: Collection of instructional data

Maryland requires each school district to report data related to specialized intervention annually, specifically the number of students receiving specialized intervention services, the grades in which specialized intervention services were provided, and budget information. For more information on the policy, see [here](#). See reports [here](#).

Colorado: Handbook to guide SLD eligibility and use of RTI

Colorado issued guidelines related to the evaluation of students who may have SLD. Among many other policies and procedures, the guidelines describe:

- How to evaluate the effectiveness of instruction and intervention
- How to determine if a student is demonstrating insufficient progress
- How and when to communicate with parents
- How the problem-solving team (those responsible for progress monitoring in the RTI system and selecting and administering interventions) should interact with the multidisciplinary evaluation team (who conduct the special education evaluation)

The full handbook is available [here](#).

Resources

Boston Children's Hospital (2019). Inventory of evidence-based assessments. Available at: https://docs.google.com/spreadsheets/d/16m40o49LZ_9wZI9VPAXhHFIATvhSM1mm-0oGr48jFfo/edit#gid=1417461635

Center on Response to Intervention (n.d.). *Developing an RTI professional development plan: Things to consider*. Available at: <https://rti4success.org/resource/developing-rti-professional-development-plan-things-consider>

Center on Response to Intervention (n.d.) *Special education resources*. Available at: <https://www.rti4success.org/related-rti-topics/special-education>

Center on Response to Intervention (2010). *Tips for creating an RTI guidance document*. Available at: https://rti4success.org/sites/default/files/NCRTIGuidance_031715.pdf

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Lemons, C., Riley-Tillman, C., & Kuchle, L. (2015). Results driven accountability and intensive intervention: Using MTSS to improve outcomes for students with disabilities [Webinar]. National Center for Systemic Improvement. Available at: <https://ncsi-library.wested.org/resources/17>

National Center on Intensive Intervention (n.d.). Getting ready to implement intensive intervention: Infrastructure for data-based individualization. Available at: <https://intensiveintervention.org/resource/getting-ready-implement-intensive-intervention-infrastructure-data-based-individualization>

National Center on Intensive Intervention (n.d.). State and local leaders. Available at <https://intensiveintervention.org/audience/state-local-leaders>

National Center on Intensive Intervention (n.d.). Why administrators should support data-based individualization (DBI). Available at: <https://intensiveintervention.org/sites/default/files/Admin-DBI-508.pdf>

National Center for Learning Disabilities (2014). RTI Action Network. SLD Identification Toolkit. Available at: <http://www.rtinetwork.org/toolkit>

Nelson, G., Bailey, T., Weingarten, Z., & Ruedel, K. (2018). Using MTSS data to improve graduation rates. National Center for Systemic Improvement. Available at: <https://ncsi-library.wested.org/resources/231>

U.S. Department of Education, Office of Special Education and Rehabilitation Services. *A response to intervention (RTI) process cannot be used to delay/deny an evaluation for eligibility under the Individuals with Disabilities Education Act (IDEA), January 21, 2011*. https://rti4success.org/sites/default/files/RTI%20Memo_1-21-11r.pdf