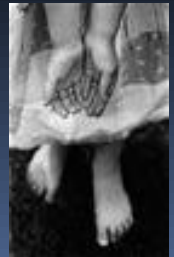


THE LEGAL FRAMEWORK FOR ADVOCATING FOR RTI AT YOUR SCHOOL AND DISTRICT

School Leadership for Response to Intervention
Learning Forward Summer Conference
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Changes in Determining Eligibility for SLD under IDEA

- **Discrepancy approach**
 - **Prior to IDEA 2004, discrepancy model was the primary way to identify students with SLD**
 - **Critics : “wait to fail” b/c must fail for long periods before showed sufficiently large deficits in achievement**
 - **Dramatic rise of SLD students during 1990s .**
 - **Landmark paper *Rethinking Learning Disabilities (2001)* suggested SLD “catch-all” for low-achieving students and served as a “sociological sponge that attempts to wipe up general education’s spills and cleanse its ills.”**

IDEA 2004 – A Revolution for SLD

- **IDEA 2004**

- States may no longer **require** school districts to use only a discrepancy model
- States must **allow** RTI.
- States **may also allow** the *other* research-based procedures.
- 5 states mandate RTI as the first approach to SLD identification (CO, FL IL, IA, CT). Most states offer option to LEA of either RTI or a discrepancy model.

Parental Rights under the IDEA *Rtl and CHILD FIND*

- Must “find” all children who may have a disability and need special ed.
- Cannot rely on parents or private psychologists — schools must affirmatively *look for*.
- Prior to 2004, only way - a psycho-ed evaluation



Parental Rights under IDEA cont.

Parent has right to **request *initial evaluation*** at any time, even if Rtl is proceeding.

If LEA "**suspects**" may have disability and need special ed, **must evaluate** under Child Find.

Parent entitled to Prior Written Notice giving explanation of refusal

Parent can file due process or a state complaint

OSEP Memo 1/21/2011 – Advocacy tool for parents, teachers, administrators

- U.S. Dept of Ed Office Special Ed Programs (OSEP)
(OSEP 11-07 Response to Intervention (RTI) Memo, Jan. 21, 2011.
 - Definition of Rtl
 - **Schoolwide approach**
 - Addresses the needs of all students, including struggling learners and students with disabilities
 - Instructional and behavioral system to maximize student achievement and reduce problem behaviors.
 - Must “adjust the intensity and nature of those interventions depending upon a student’s responsiveness.”

OSEP Memo to Sch. Dists. Cont.

Core Characteristics of RTI

All students screened – academic and behavior. RTI is “High quality research-based instruction” in gen. ed.

“Continuous” monitoring of student performance (systematically collected and analyzed)

Multiple levels of instruction - “progressively more intense,” based on the students response to instruction

What Does the OSEP Memo Mean to Schools?

IF YOU'RE NOT DOING
"RTI" ACCORDING TO
THE FEDS, YOUR
SCHOOL /DISTRICT IS
IN DANGER OF BEING
SUED!



One Key to Protect Parent's Rights (and protect your school district):
Give Parents a Written RTI Intervention Plan. See sample plan on page
19 of this National Center for Learning Disabilities guide.

<http://www.ncl.org/checklists-a-more/parent-advocacy-guides/a-parent-guide-to-rti>

Case in Point: *El Paso Indpt .Schl. Dist.* (2008)

- Violated Child Find - **repeatedly referring a student with ADHD for “interventions” for 3 yrs but no academic improvement.**
- Should have evaluated student, **who failed state test 3 times.**



Child Find triggered when LEA has reason to suspect

- 1) the student has a disability and
- 2) a resulting need for special education services.

Case in Point: *Cobb County Sch. Dist. (2012)*

- Not violate Child Find, even though child started showing reading delays in K and later identified SLD.
- Passed state exam in 1st and 2nd grades w/o accommodations and “consistent progress”



When a child passes state standardized exam, courts weigh heavily in a school district's favor.

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