



# Parent Rights in the Era of RTI

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**National Center for Learning Disabilities**  
*The power to hope, to learn, and to succeed.*

## A Parent's Guide to Response to Intervention (RTI)



**M**illions of school-age children experience difficulties with learning. Their struggles in school may be due to factors such as cultural or language differences, poor attendance or a lack of appropriate instruction. In some cases, a disability such as a learning disability can make learning difficult for a child.

For years schools have attempted to provide help to these students using a variety of approaches—including programs such as special education and Title I. In recent years, Congress has added new provisions to our nation's federal education laws—the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA 2004)—that are designed to encourage school districts to provide additional support for struggling students within general education. This support should be provided as early as possible—when students show the earliest signs of difficulty.


When students are allowed to fall, they often get further and further behind, making it more and more difficult to get them back on grade level. By helping students early, schools can keep every student on grade level and on track to graduate. While schools have attempted many ways to help struggling students, including those with disabilities, the current focus is on an improved, research-based process known as **Response to Intervention (RTI)**. RTI is not a special kind of program or book. It is a way to help all students succeed, including struggling learners. Ultimately, the goal of RTI is to prevent failure and make all students successful learners.

The RTI process might also be called Responsiveness to Intervention or Multi-Tier System of Support (MTSS) depending on the state or school district. Whatever the name, parents play a critical role in RTI, just like any other successful school initiative.




The National Center for Learning Disabilities' RTI Action Network has developed this guide for parents and schools involved in implementing RTI in the elementary grades. As schools work to implement this new approach, some confusion may arise, so parents should feel free to ask questions and raise concerns along the way. Possible questions to ask appear on page 18.

**IMPORTANT!** The manner in which states and school districts might implement RTI varies greatly, so be sure to check with your state or local school district for additional information about RTI in your child's school.

1 *A Parent's Guide to Response to Intervention (RTI)*  
 National Center for Learning Disabilities • www.ncl.org




## Parent Rights in the Era of RTI






## The State of Learning Disabilities

Third Edition, 2014



# RTI-Based SLD Identification TOOLKIT



## Online Guide to RTI-Based Identification

[rtinetwork.org](http://rtinetwork.org)

## *IDEA 2004 Changed Everything ...*

- States could no longer **require** school districts to use a discrepancy model (a comparison of a student's academic achievement and intellectual ability) when determining eligibility for SLD.
- States must **allow** (but not require) the use of “a process based on the child's response to scientific, research based intervention” or RTI.
- States **may also allow** the use of *other alternative* research-based procedures for determining whether a child has SLD.
- IDEA federal regulations issued in 2006 required every state to develop criteria for SLD identification that comply with the requirements above. These state-developed eligibility criteria vary significantly across states.

# POLL

Question: Has your child's school told you or other parents that there was a big change in the last many years vis a vis how kids qualify for special education services?

Responses:

Yes

No

Not sure

**What's  
happening  
with SLD  
identification  
rates since  
2004?**

Year	All Disabilities	SLD	% SLD	% SLD chg.
2005	6,109,569	2,780,218	45.5	-2.1
2006	6,081,890	2,710,476	44.6	-2.5
2007	6,007,832	2,620,240	43.6	-3.3
2008	5,884,739	2,522,735	42.9	-3.7
2009	5,882,157	2,486,419	42.3	-1.4
2010	5,822,808	2,415,564	41.4	-2.8
2011	5,789,884	2,357,533	40.7	-2.4
2012	5,823,844	2,338,273	40.1	-0.8

**Table 1: State-by-State Change in LD Identification Rates, 2006–2011**

- State had an increase in students with SLD between 2006 and 2011.
- State had larger decline in students with SLD between 2006 and 2011 than nationwide decline.
- State has higher SLD percentage of total student enrollment than nationwide percentage.
- State has higher SLD percentage of total special education than nationwide percentage.

State	Number of SLD students		Percent of change in number identified as SLD 2006-2011	SLD percent of state's total student enrollment 2011	SLD percent of state's total special ed (ages 6-21) 2011	State's percent of all students with SLD 2011
	2006-2007	2011-2012				
Alabama	40,509	33,618				
Alaska	7,545	7,407				
Arizona	59,076	52,790	-1.8%	4.9%	48.1%	1.4%
Arkansas	22,568	18,377	-7.9%	6.2%	49.7%	0.3%
California	303,042	277,827	-8.3%	5.4%	48.2%	2.2%
Colorado	29,096	32,081	9.9%	4.3%	45.0%	0.8%
Connecticut	22,060	21,023	-4.7%	4.8%	44.0%	11.8%
Delaware	9,297	8,764	-5.7%	4.4%	44.0%	1.4%
Florida	4,987	4,522	-9.3%	7.4%	34.9%	0.9%
Georgia	176,939	140,880	-20.4%	8.1%	53.6%	0.4%
Hawaii	54,387	55,481	2.0%	5.0%	42.0%	0.2%
Idaho	9,061	8,509	-6.1%	3.7%	43.8%	6.0%
Illinois	10,447	6,960	-33.8%	5.3%	52.0%	2.4%
Indiana	140,798	108,297	-23.1%	5.8%	31.8%	0.3%
Iowa	62,187	52,681	-15.3%	5.5%	44.3%	4.6%
Kansas	36,972	36,546	-1.2%	8.5%	36.1%	2.2%
Kentucky	23,785	22,022	-7.4%	5.3%	45.5%	1.6%
Louisiana	14,408	13,044	-9.4%	2.3%	18.6%	1.0%
Maine	27,919	9,223	-67.0%	3.8%	35.7%	0.6%
Maryland	10,642	23,386	120.8%	5.4%	32.7%	0.4%
Massachusetts	34,845	31,002	-11.0%	4.2%	36.2%	1.4%
Michigan	63,974	48,355	-24.4%	5.6%	34.8%	2.1%
Minnesota	92,466	72,979	-21.1%	5.1%	39.0%	3.1%
Mississippi	32,385	30,220	-6.7%	4.0%	28.6%	1.3%
Missouri	27,704	15,205	-45.1%	3.4%	30.4%	0.6%
Montana	48,041	32,334	-32.7%	3.9%	29.8%	1.4%
Nebraska	8,368	4,845	-42.1%	3.8%	33.8%	0.2%
Nevada	14,291	14,021	-1.9%	5.3%	36.6%	0.6%
New Hampshire	25,203	22,105	-12.3%	5.5%	53.2%	0.9%
New Jersey	12,096	10,743	-10.3%	6.0%	43.2%	0.5%
New Mexico	100,022	79,454	-20.6%	6.3%	46.6%	3.4%
New York	20,253	18,098	-10.7%	6.0%	39.8%	0.8%
North Carolina	170,959	154,533	-9.6%	6.2%	41.2%	2.9%
North Dakota	63,006	67,177	6.5%	4.6%	38.0%	0.2%
Ohio	4,377	4,019	-8.2%	3.8%	42.1%	4.2%
Oklahoma	102,837	98,904	-3.8%	5.2%	50.9%	1.7%
Oregon	45,371	40,526	-10.7%	7.6%	47.9%	0.9%
Pennsylvania	28,992	27,087	-6.6%	13.8%	53.2%	2.6%
Puerto Rico	143,318	125,624	-12.4%	7.2%	41.7%	0.4%
Rhode Island	52,295	60,929	16.5%	4.0%	40.4%	1.8%
South Carolina	11,835	8,605	-27.3%	5.1%	42.3%	1.9%
South Dakota	46,872	41,081	-12.4%	6.5%	50.1%	7.3%
Tennessee	6,560	6,246	-4.8%	4.7%	35.4%	0.2%
Texas	45,866	44,914	-2.1%	4.8%	30.3%	0.5%
Utah	231,900	172,148	-25.8%	10.2%	32.2%	1.5%
Vermont	27,601	3,069	-89.0%	5.8%	37.3%	0.2%
Virginia	4,097	30,407	644.2%	4.0%	43.2%	5.0%
Washington	63,202	55,517	-12.2%	5.0%	50.1%	1.3%
West Virginia	44,852	44,949	0%	4.9%	38.9%	2.4%
Wisconsin	14,036	11,753	-16.2%	4.7%	41.9%	1.9%
Wyoming	42,850	34,721	-19.0%	4.6%	30.3%	0.5%
50 States, DC & PR	2,704,505	2,354,790	-12.9%	5.2%	41.5%	0.2%

Source: IDEAdata.org, State Data Displays

Changes in SLD identification rates vary dramatically across states....

The State of Learning Disabilities  
Third Edition, 2014  
National Center for Learning Disabilities  
The power to help, to learn, and to succeed

# National Center on Response to Intervention

*“There is a lack of understanding in and between states regarding SLD identification criteria, in part because of the lack of clarity and specificity in the federal regulations. This ambiguity has led to states defining SLD in ways that vary even more than they did under the discrepancy approach. Questions arise about SLD and what it really means when it is defined differently by each state.”*

*- The Complex Ecology of Response to Intervention, April 2011*





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Contact Persons:

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OSEP 11-07

JAN 21, 2011

**MEMORANDUM**

TO: State Directors of Special Education

FROM: Melody Misgrove, Ed.D.  
Director  
Office of Special Education Programs

SUBJECT: A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)

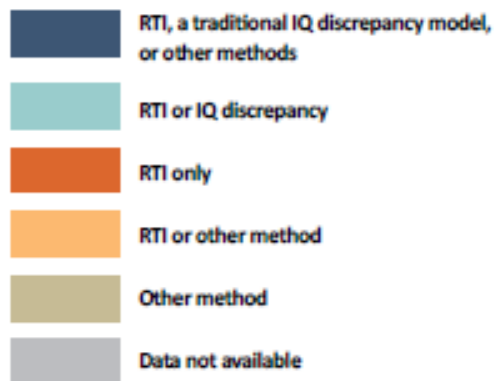
The provisions related to child find in section 612(a)(3) of the Individuals with Disabilities Education Act (IDEA), require that a State have in effect policies and procedures to ensure that the State identifies, locates and evaluates all children with disabilities residing in the State, including children 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 occur 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.

Office of Special  
Education  
Programs (OSEP)  
memorandum to  
state directors of  
special education  
January 2011

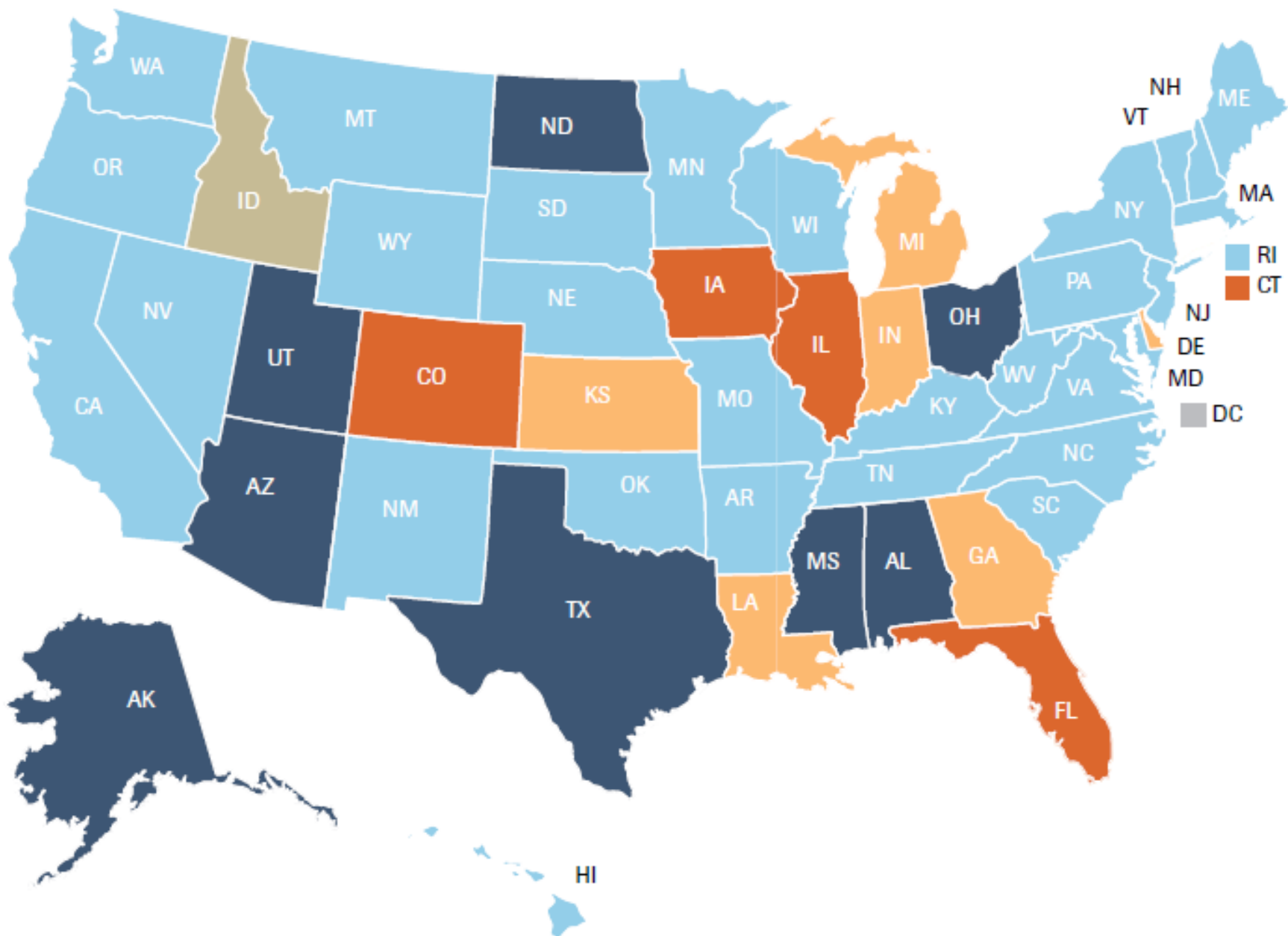


## NATIONWIDE LOOK: Identifying Students With Learning Disabilities

Seven years after response to intervention was incorporated into federal special education law, most states now allow RTI or IQ discrepancy to be used to identify students with learning disabilities.



SOURCE:  
National Center on Response  
to Intervention



POLL

Question: Do you know the SLD identification currently in use in your state?

Responses:

Yes

No

Don't know

# School obligation under IDEA

- **Child Find** – all public schools must “identify, locate and evaluate” children who may need special education including children attending public schools, homeless or wards of the state. (IDEA 34 CFR §300.111)

**Remember:** Child Find obligation rests with the state and the district (LEA)



# Parent Rights under IDEA

## Right to Request an Evaluation

- Request at any time, **but**...do some homework before making a formal request.
- Upon receipt of request for an evaluation, school **must either** obtain parental written consent to conduct an evaluation or provide an explanation why it will not evaluate, called Prior Written Notice.
- Stating that your child has not yet participated in or completed a school's RTI process is **not a legally sound reason** for a school to deny an evaluation.



POLL

Question: Have you experienced RTI being used to delay or deny an evaluation for SLD?

Responses:

Yes

No

Not sure

# Strategies for Addressing Identification Issues Within an RTI Framework

## Informal Strategies

- Ask questions about RTI
- Request a written intervention plan
- Identify RTI implementation issues

*“The most common reason for a lack of response to an evidence-based intervention well matched to a student and skill area is the failure to implement the intervention as designed” (VanDerHeyden & Tilly, 2010).*

- Keep records
- Share OSEP 2011 Memorandum



# Strategies for Addressing Identification Issues Within an RTI Framework

## Informal Strategies cont.

- **Ask for data on your child's reading or math performance and track it over time**
  - Schools often required to give brief standardized reading assessments, such as the DIBELS, iReady, STAR etc.
  - If performance stagnant or decreases, ask for an intervention given multiple times per week in their area(s) of weakness. If intervention fails, ask for a more intensive one. Can ask for a psycho-ed eval at any time.



# Strategies for Addressing Identification Issues Within an RTI Framework

## Formal Strategies

- **File IDEA state complaint (see [www.ISCRC.org](http://www.ISCRC.org))**
  - **Can be filed by parent, organization, other party. Need not be in the state. Can use for systemic violations.**
- **Due Process Complaint**
  - **Must be filed by parent or school district. If Rtl process is unreasonably long or inadequate = violation of Child Find.**





# QUESTIONS