

The Use of Response to Intervention to Inform Special Education Eligibility Decisions for Students with Specific Learning Disabilities

Response to intervention (RTI) is a critical component of a multi-tiered service delivery system. This National Joint Committee on Learning Disabilities (NJCLD) paper presents concerns related to the implementation of RTI and its use as the sole method of evaluation to determine identification and eligibility for special education as a student with a Specific Learning Disability (SLD) and implications for transition.

Background

A multi-tiered system of supports (MTSS) is widely considered to be an umbrella framework for a continuum of programs and services intended to help all students succeed. Components include positive behavior intervention and supports (PBIS) and response to intervention (RTI) (NJCLD, 2005).

In the past few decades, RTI has taken on a specific connotation by many in the field, especially in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), as a means to provide progressively intensive intervention that also generates data to inform instruction and to identify students who may require special education and related services.

In 2001, the Office of Special Education Programs (OSEP) convened a group of learning disability advocacy groups, including members of NJCLD, to discuss possible changes to IDEA. According to consensus statements from these meetings, a problem-solving approach was discussed as a promising process for the field to consider and study in a variety of settings (OSEP, 2005). The groups referred to the idea as *response to intervention* (RTI). Teachers would use data to identify student needs, implement evidence-based interventions, monitor progress of students receiving those interventions, and inform next steps. Typical RTI models have three tiers:

- Tier 1 includes evidence-based general instruction delivered to all students.
- Tier 2 includes general instruction plus more intensive supports designed for some students.
- Tier 3 includes general instruction, plus high-dosage, high-intensity intervention (often 1:1) designed for only a few students.

The final tier of RTI should not be equated to or conflated with special education (NJCLD, 2005).

The RTI approach is designed for general education; however, the data collected can assist with special education eligibility decisions. The data that teachers collect can inform the choice of instructional strategies, the need to continue or change an intervention, the need to provide more intensive instruction, or the need to evaluate for eligibility for special education services. In other words, a child's consistent failure to make adequate progress in comparison with peers as that child receives progressively more intensive interventions may suggest a learning disability.

The reauthorization of IDEA in 2004 provides that districts “may use a process that determines if the child responds to scientific, research-based interventions as part of the evaluation procedures” for eligibility for special education under SLD (Individuals with Disabilities Education Improvement Act of 2004, (Section 1414 (b) (6) (B), p. 118). A district or school could use an RTI framework to collect data and analyze intervention outcomes. Today, a few states require districts to consider RTI in the evaluation of special education under an SLD classification.

History of Federal Requirements for Determining Eligibility for Special Education Due to SLD

Prior to 2004, federal law required that schools determine eligibility for special education under the classification of SLD using the ability–achievement discrepancy criterion. Numerous developments in the early 2000s encouraged advocacy groups, researchers, and policy makers to consider different approaches to ensure timely, effective identification for special education. Still, some state or local education agencies (LEAs) require students to demonstrate that they are at least 2 years behind grade level before the school provides special education services.

In 2001, the OSEP convened a group of learning disability (LD) advocacy groups (i.e., the LD Summit), including members of NJCLD, to discuss possible changes to IDEA. Given the challenges with the ability–achievement discrepancy method, one key area of focus was changing eligibility requirements for IDEA under an SLD classification. At the LD Summit, several researchers proposed RTI as an alternative (see, e.g., Gresham, 2002; Marston, 2001).

There was increasing interest in RTI for various reasons. For instance, the 1990s was the beginning of a growing body of research on reading difficulties. In particular, studies from the National Institute of Child Health and Human Development (NICHD) demonstrated that well-designed instructional programs or approaches result in significant improvements for the majority of students with early reading problems. In summarizing this research, Lyon and colleagues (2001) argued that early identification and prevention programs could reduce the number of students with reading problems by up to 70%. These findings make a strong case for systematically providing early intervention in basic reading skills in primary grade general education classrooms.

Researchers and practitioners believed that RTI would help prevent overidentification of students with specific learning disabilities and help tailor future instruction for all students. In instances where a school determines that a child is eligible for special education, educators can use the data from RTI

to develop an individualized education program (IEP). In essence, by focusing an evaluation on a child's response to intervention, you shift the focus from eligibility to providing the necessary supports that a child needs to succeed.

The 2004 reauthorization of IDEA encourages states to move away from a single point of data to determine eligibility. Congress provided states with greater flexibility in the way that LEAs can determine eligibility for special education under the SLD classification. States were required to permit LEAs to use RTI and could no longer require ability–achievement discrepancy. Congress also authorized the use "of other alternative research-based procedures for determining whether a child has a specific learning disability." (§ 300.307[a][3]) The nature of RTI, with its response-based problem-solving process, makes it an important component in the comprehensive assessment and evaluation process (NJCLD, 2010). Since the 2004 reauthorization, however, some states have used RTI as the primary means of assessment to determine the presence of a learning disability.

Essential Components of RTI

As indicated earlier, RTI is an example of a multi-tiered problem-solving framework to support students' learning and behavioral needs. Four models of RTI implementation have emerged from the research: problem-solving, functional assessments, standard protocols, and hybrid or blended models. Research has found that all of these models produce positive effects on academic gains and, thus, there is no one "right" model. Fidelity of implementation and decision making are the keys to successful implementation. VanDerHeyden (n.d.) outlines the critical factors for successful RTI approaches:

1. Correctly identify students who need intervention.
2. Deliver intervention that effectively resolves the learning problem for the majority of students exposed to the intervention.
3. Monitor the effects of intervention, and troubleshoot to ensure intervention integrity and positive effects on learning.
4. Make decisions about the need for more intensive or less intensive intervention (e.g., progressing to higher or lower tiers, discontinuing intervention).
5. Link resulting RTI data to referral and eligibility decisions in special education.
6. Link resulting RTI data to system programming changes (e.g., resource allocation, professional development, program evaluation).

Three-tiered models seem to be the most prevalent in practice. In Tier 1, students receive evidence-based core instruction, and universal screening of all students is in place to identify those who may need more intensive instruction or intervention. Tier 2 is designed to provide those students who are identified through universal screening (and, sometimes, other diagnostics) with supplemental intervention that is designed to target identified needs. These students are regularly monitored to ensure that they are making meaningful progress. Students who are not making

meaningful progress move to Tier 3 intervention. In Tier 3, more frequent student progress monitoring, and specialized intervention are applied (Fletcher & Vaughn, 2009). Across all tiers, effective implementation of RTI requires that teachers use evidence-based instruction and intervention designed to meet specific needs to teach students. Also, teachers must diligently and accurately monitor student progress (Fuchs & Vaughn, 2012).

RTI is an important component of any high-quality general education; however, some states and districts use data from RTI and other problem-solving approaches as the sole criteria for determining eligibility for special education.

RTI and Eligibility

In 2004, RTI was added to IDEA as a method of evaluation for SLD:

(B) Additional Authority. In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures described in paragraphs (2) and (3). (IDEA 2004 is in Title 20 of Section 1414, subsection b(6), [cited as 20 USC 1414(b)(6)])

This addition to IDEA has been interpreted to mean that when LEAs are evaluating students for SLD, they can determine eligibility solely by the student's lack of response to intervention. However, the research or practice guides available to LEAs offer little specific guidance that would help them determine exactly how to document this lack of response. Kovaleski and colleagues (2013) advocate for calculation of a Rate of Improvement coefficient using an ordinary least squares regression model. Other researchers advocate for less formal comparisons between the target student's progress and that of more typically developing peers.

A review of the available research and state-level guidance suggests that protocols for documenting the lack of response to scientific, research-based interventions are developed through state policy and often vary not only from state to state and from LEA to LEA, but also among decision makers themselves. States differ on what, if any, other criteria they need for identification after they determine lack of response to intervention. Some states require additional testing or allow school districts to determine which additional measures they will use for LD identification (Allsopp, n.d.).

Feifer (2008) cautions educators to consider which information an RTI process provides and how this relates to the current definition of *learning disabilities* in federal law and regulation. Specifically, the term *learning disabilities* is defined as being neurobiological in origin and involves "psychological processing" deficits. An RTI model that is implemented as designed should be able to identify students who are not making adequate progress, even with intensive evidenced-based intervention.

But it will not identify the processing deficits that are contributing to the student's failure to learn (Hale et al., 2004).

IDEA regulations (Individuals with Disabilities Education Improvement Act, Section 300.304) specify, in part, that "in conducting the evaluation, the public agency must—

- (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent [. . . .];
- (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
- (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors."

Although RTI data can be used as a component of the SLD eligibility determination process, it should not be used as the only basis for determining a student's eligibility (Hendricks & Fuchs, 2020). An RTI process does not supplant the need for a comprehensive evaluation (NJCLD, 2010). Although research supports using an RTI process to identify and help students who fall behind academically, a comprehensive evaluation (Individuals with Disabilities Education Improvement Act, Section 300.304) is warranted after a number of rounds of well-executed interventions have failed (Reschly, 2014; Schneider & Kaufman, 2017).

RTI Research and Limitations

Effectiveness of RTI Models

The quality of RTI depends on the effectiveness of interventions and the ability of educators to (a) deliver effective, evidence-based interventions with fidelity and (b) administer and interpret screening and progress-monitoring tools to accurately track progress. And yet, too often—through no fault of their own—teachers lack the knowledge and skills to do so. As a result, it is difficult to measure the effectiveness of RTI given the implementation challenges across the country.

There is a paucity of studies that research the effectiveness of RTI in classrooms. In 2010, the National Center for Education Statistics commissioned one national study on RTI and released it in 2015. The evaluation studied whether the use of universal screening, including a cut-point for designating students for more intensive Tier 2 and Tier 3 interventions, increase(s) children's performance on a comprehensive reading measure (Balu et al., 2015). Results showed that students who received interventions performed worse than students who did not. Perhaps the most important finding is that many schools were not implementing RTI for teaching reading with the fidelity required to elicit the types of outcomes found in the research.

The vast majority of research on RTI has focused on foundational reading skills. The research in this area confirms that evidence-based core curriculum (delivered by adequately trained teachers with fidelity) and early identification of risk and subsequent evidence-based intervention do improve reading outcomes and mitigate the impact of reading disorders long-term. However, as currently implemented in many schools, RTI has become another “wait-to-fail” model. Compton and colleagues (2012) have stressed the need for more effective diagnostic assessment of children for whom Tier 2 intervention is “another dose of reading failure” before receiving more intensive intervention and/or being identified as a student with SLD” (p. 205).

Although there are more studies that focus on RTI models for improving foundational reading skills and later reading outcomes, there are far fewer studies available that address the acquisition of math skills (Hinton et al., 2013; Reed et al., 2014). We need to develop a more robust research base in the application of RTI in the areas of mathematics, written expression, and even reading comprehension. Further, we also need research on specific populations, such as English language learners, to ensure that RTI is effective for all students. Until we develop the research base and until we improve implementation in schools, it is unreasonable for us to use RTI methods as the sole criteria for eligibility decisions.

Timelines

Given the individualized nature of learning challenges, every student should move through the RTI process based on their own needs rather than following a set timeline.

A parent, state education agency, or LEA has the right to initiate a request for an evaluation for special education eligibility at any time. IDEA also requires that the school take no more than 60 calendar days to complete an evaluation after parental consent. The U.S. Department of Education issued guidance in 2011 to clarify that schools may not delay or deny an evaluation on account of the RTI process (U.S. Department of Education, 2011). However, districts can seek approval for an exception to the 60-day timeline for an evaluation, and many do so when they need more time to collect RTI data to make the eligibility determination. The evaluation for special education must not be delayed or needlessly extended due to RTI. There is inconsistency with how RTI progress monitoring data are incorporated into a comprehensive evaluation.

In addition, many schools wait to refer a child for an evaluation until they undergo Tier 3 intervention for a specified length of time. Although a student may be receiving intervention during this time, delaying an evaluation when a parent/guardian or teacher suspects a disability may prevent a student from receiving the protections and additional services guaranteed under IDEA. Thus, more oversight is needed to prevent delays. LEAs and schools would also benefit from technical assistance to ensure that students can receive a comprehensive, timely evaluation in conjunction with an RTI process.

Transition From High School to College

The transition process from secondary to postsecondary education and employment can be challenging for many students, but for students with disabilities, the use of RTI as the sole method of evaluation in K–12 public schools can lead to additional challenges. Unlike preK–12 public schools, postsecondary institutions are not required to comply with IDEA, but are required to provide “reasonable” accommodations to “otherwise qualified” individuals with disabilities who receive services under the ADA Amendment Act of 2008 and under subpart E of Section 504 of the Rehabilitation Act of 1973, both of which are nondiscrimination laws. Different laws apply to K–12 students than to those in postsecondary education; therefore, students who were eligible for special education services in high school under IDEA (i.e., IEP) or Section 504 (i.e., 504 plan) are not automatically eligible for the same types of accommodations in postsecondary settings. Due to the differences in disability laws and regulations for K–12 education and postsecondary settings, the services for which an individual may be “eligible” to meet the demands of postsecondary settings may differ from services that the individual received at the secondary level.

It is unclear what documentation a student will need to provide to postsecondary institutions from states that mandate RTI as a method of evaluation. Students who are entering postsecondary settings from a high school that used RTI to make the IDEA eligibility determination may not have access to a comprehensive evaluation report that includes psychoeducational assessments, which is often necessary for services at the postsecondary level and for employment. Documentation at the secondary level often is focused on eligibility, instruction, and intervention in order to achieve the IEP goals, whereas documentation at the postsecondary level tends to be centered more on eligibility, access, and accommodations (NJCLD, 2007).

Postsecondary institutions may require that a student provide documentation using age-appropriate norms that demonstrate a specific diagnosis with a clearly established functional limitation in a major life activity. In addition, many postsecondary institutions also require that an evaluation include standardized, adult-normed measures of aptitude, achievement, and information processing (Gormley et al., 2005; NJCLD, 2007). A disconnect still exists between assessment data gathered in secondary school and requirements at the postsecondary level. To determine eligibility for services, the postsecondary institutions will request—from a qualified evaluator—documentation to determine the impact or functional limitations of the disability in the academic setting. Individuals are required to follow the policy and procedure of the institution that they are interested in attending.

Postsecondary institutions may set reasonable standards for documentation that are not burdensome. The documentation should provide enough information for the institution to determine reasonable accommodations. Students who transition to college from a school district that used only RTI as a method of determining eligibility for services in special education may be faced with questions regarding appropriate accommodations. If the documentation provided is

insufficient, it is the postsecondary institution's responsibility to provide guidance as to what constitutes appropriate documentation for that particular institution.

Conclusion

A data-based problem-solving approach to schooling is at the heart of all good instruction and intervention. Educators should continually monitor student performance and behavior and should adapt instruction and support to meet individualized student needs. Toward this end, we need more research and technical assistance to ensure that educators use evidence-based instruction and interventions with fidelity. Additional research is particularly important in determining the impact of RTI as an assessment method on the under- or over-identification of specific populations, such as English language learners and students of color, for special education services.

With regard to determining eligibility for special education under IDEA 2004, a single measure or assessment is not sufficient to determine the presence of a disability. Although RTI data provide valuable information, in isolation they are not equivalent to a comprehensive evaluation. Data from an RTI process should be part of the analysis, synthesis, and recommendations used for evaluation, identification, eligibility, and program planning (NJCLD, 2010). RTI data alone are insufficient for determining a student's eligibility for identification of a learning disability. LEAs should consider multiple sources of data and must ensure that the RTI process does not delay or extend provision of an evaluation for special education services. Furthermore, lack of a comprehensive assessment and evaluation may impact the student's eligibility for services as they transition to postsecondary education or employment.

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