



Rapid Response—Response to Intervention (RtI) Policy

Date	December 31, 2009
Number	000102 (supersedes rapid response number 00048)
Request	In 2007, a state department of education (SDE) served by the Southeast Comprehensive Center (SECC) requested information regarding state policies on RtI. This rapid response offers an update to the information previously provided in rapid response number 00048.
Summary	In updating this response, SECC staff consulted the scholarly literature on education policy in the United States in order to provide a backdrop for discussion of state policies focused on RtI. Staff also reviewed the resources identified in the previous rapid response on this issue and conducted searches of SDE Web sites for revised or additional information regarding formal RtI policy. Refer to another updated rapid response, RtI Implementation and Monitoring (No. 000101), for state guidelines and guidance documents constituting nonregulatory guidance for school and districts.

INTRODUCTION

Response to intervention has emerged as a potentially powerful instructional framework for effecting school improvement (Shores & Chester, 2009). Heralded as a vehicle to improve the academic achievement of all students through the efficient allocation of school resources and evidence-based interventions grounded in student assessment data (Burns & VanDerHeyden, 2006), RtI provides a structure supporting the use of data-driven, decision-making models aimed at improving student learning outcomes (Burns & Gibbons, 2008). Correlational and qualitative case study research on RtI suggests that it can result in improved student academic achievement, reductions in the frequency of negative student behaviors, and an increase in positive academic behaviors such as task completion and comprehension during classroom instruction (Burns, Appleton, & Stehouwer, 2005; Kovaleski, Gickling, Morrow, & Swank, 1999; Lau, Sieler, Muyskens, Canter, Vankeuren, & Marston, 2006).

Schools and districts employing an RtI framework may also realize systemwide benefits such as a reduction in the number of students referred for special education disability determination and a decrease in the percentage of students found eligible for special education services (Burns & Gibbons, 2008). Although most states offer nonregulatory guidance documents and tools to support RtI implementation, very few have specific, formal policies mandating that their school districts establish and use the framework with all students.

The No Child Left Behind Act of 2001 (NCLB) promotes states using the type of data needed to identify students having difficulty meeting standards and to document school progress in closing the achievement gaps over time. In an Education Commission of the States NCLB Policy Brief, authors Snow-Renner and Torrence (2002) discussed the implications of NCLB on the design and capacity of states' data systems. They explained that NCLB requires states to disaggregate data, separating, comparing, and reporting information with regard to various student groups. The authors also suggested that the use of disaggregated data allows educators and policymakers to examine achievement patterns by different groups, identify achievement gaps between different groups, and study schools that have succeeded in raising student achievement compared to schools with similar students.

Education Policy

Over the past 25 years, there has been a marked increase in federal involvement in public education. From the 1983 release of *A Nation at Risk* (National Commission on Excellence in Education, 1983) to enactment of NCLB, a shift in federal education policy has resulted in its convergence with educational practice through a clear, unprecedented connection to accountability for results and heightened expectations for the performance of both teachers and students (Elmore, 2004). Elmore noted that prior to 1983, and the standards-based accountability movement that followed, federal policy had generally run a course parallel to instructional practice, centered more on political discourse with little impact on the day-to-day interactions between teachers and students.

NCLB has called attention to groups of students who have been historically underserved in our public schools. The academic performance of some, especially children with disabilities, was often masked by not reporting their achievement as an independent subgroup. Worse still is the fact that in many cases the collective performance of students with disabilities went unmonitored as states summarily excluded their scores, if indeed they were assessed, from their accountability systems.

NCLB effectively ended these practices but offered little guidance regarding what educators could do to address the unique educational needs of students of color, of poverty, and with disabilities. Fortunately, on the heels of NCLB, the Individuals with Disabilities Education Act (IDEA) was reauthorized, providing one instructional approach for practitioners seeking to meet the needs of diverse learners—response to intervention.

RtI Policy

Although specifically mentioned in IDEA as a method for identifying children with specific learning disabilities (LD), the goal of RtI is not to improve special education evaluation methods or even the accuracy of LD determinations but to enhance learning experiences, opportunities, and outcomes for all children (Burns & Gibbons, 2008). While IDEA does not mandate that schools and districts adopt RtI as the sole method for determining whether a student could be identified as having a learning disability, it bars states from requiring the use of a severe discrepancy between intellectual ability and achievement in the LD determination process, a longstanding practice since 1977 when the federally recommended definition appeared (Fletcher, Coulter, Reschly, & Vaughn, 2004). Subsequently, states began modifying their own definitions to align more closely with IDEA requirements and adopted special education policies incorporating RtI terminology.

To date, the majority of states continue to allow the use of a severe discrepancy model, although 10 (Colorado, Delaware, Connecticut, Florida, Georgia, Indiana, Iowa, Louisiana, Rhode Island, and West Virginia) have either expressly prohibited or lessened its use by establishing or phasing in requirements that disability determinations be based on RtI.

Only a few states have adopted RtI or tiered interventions policies as a common practice serving all students. New Mexico and Mississippi require implementation of a three-tiered model for students presenting with academic or behavioral difficulties. Delaware, communicating through its administrative rules for special populations, offers a highly detailed and prescriptive policy directing that each local education agency (LEA) establish and implement RtI in reading and mathematics for all students. Despite the presence of only a few state policies calling for RtI as a component of instructional practice for all students, the adoption of special education rules promoting use of an RtI process in LD determinations may serve to influence instructional practices for all students without explicitly directing its implementation.

In order to appropriately and legally evaluate students for suspected learning disabilities, schools and districts required to use a process based on RtI must establish structures and systems to support this change in practice. These structures and systems, if properly created and supported, have the potential to fundamentally change the way in which educators work to address the needs of struggling learners (Bryant & Barrera, 2009).

Elmore (2004) would remind policymakers and educators, however, that policies necessitating a fundamental change in instructional practice often yield little improvement unless they come with specific guidance, support, and an investment in the knowledge and skills of practitioners. To this end, almost all states have developed and disseminated guidance for schools and districts on RtI implementation and monitoring (see rapid response number 000101 for a review of state guidelines for these processes), and are providing professional development and implementation support through the creation of local leadership positions or collaboration with independent contractors.

Limitations of Rapid Response Report

The goal of this report is to provide decision makers and other stakeholders with information on formal RtI policy that would enable them to compare their own regulations with those articulated in other states.

In researching the request, SECC staff reviewed resources contained within the previous rapid response on this issue, searched all 50 state department Web sites for RtI policies, conducted additional Web searches for more current resources, and reviewed recent research publications. Since no evidence-based studies were identified that provided information specific to formal RtI policies or policy development, information contained within this response was based on the opinions of experts in the area of education policy.

Decision makers should recognize that the selected information featured in this report is not inclusive of all available resources on the topic of RtI policy. Policies are also subject to review and revision on a periodic basis. Indeed, some of the state policies located were in the process of adoption and, based on public comment, may change once finalized.

Information Gathering Process

To promote the utility of findings, SECC staff researched formal RtI policies for all 50 states. Since IDEA mandates that states allow the use of RtI in the determination of special education eligibility under the classification of specific learning disability, state special education rules and regulations were reviewed first, followed by additional searches of SDE Web sites and education codes.

Of the 50 states that SECC researched, special education RtI policies were obtained for all 50 states (100 percent). Policies explicitly addressing RtI or tiered interventions outside of special education rules and regulations were found for only 2 of 50 states (4 percent). It should be noted that although Delaware's policy requires each local education agency to establish and implement RtI for all students in reading and mathematics, it is identified as a special education policy because it is promulgated in the state's administrative code for special populations.

Table 1. Formal Response to Intervention (RtI) Policies Based in General or Special Education State Administrative Rules/Regulations, located in the Appendix of this report, provides information on each state's special education policy and the use of RtI in disability determination. Web links to these policies, as well as the general policies for Mississippi and New Mexico, are also provided.

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Additional Resources

Harr-Robins, J. J., Shambaugh, L. S., & Parrish, T. (2009). *The status of state-level response to intervention policies and procedures in the West Region states and five other states* (Issues & Answers Report, REL 2009–No. 077). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory West. Retrieved November 4, 2009, from <http://ies.ed.gov/ncee/edlabs>

Sawyer, R., Holland, D., & Detgen, A. (2008). *State policies and procedures and selected local implementation practices in response to intervention in the six Southeast Region states* (Issues & Answers Report, REL 2008–No. 063). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Southeast. Retrieved November 4, 2009, from <http://ies.ed.gov/ncee/edlabs>

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Appendix

Table 1

Formal Response to Intervention (RtI) Policies Based in
General or Special Education State Administrative Rules/Regulations

Table 1. Formal RtI Policies Based in General or Special Education State Administrative Rules/Regulations

State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Alabama	***	***	Allows the use of RtI, a pattern of strengths and weaknesses, or severe discrepancy, in LD determination	https://docs.alsde.edu/documents/65/-0 AAC Chapter 290 8 9 (5-14-2009).pdf
Alaska	***	***	Allows the use of RtI, a pattern of strengths and weaknesses, or severe discrepancy, in LD determination	http://www.eed.state.ak.us/tls/sped/ Handbook.html
Arizona	***	***	Allows the use of RtI, a pattern of strengths and weaknesses, or severe discrepancy, in LD determination	http://www.ade.az.gov/Guidelines/Federal/EX-08.doc
Arkansas	***	***	Allows the use of RtI, a pattern of strengths and weaknesses, or severe discrepancy, in LD determination	http://arksped.k12.ar.us/rules_regs_08/3.%20SPED%20ELIGIBILITY%20CRITERIA%20AND%20PROGRAM%20GUIDELINES%20FOR%20CHILDREN/PART%20I%20ELIGIBILITY%20CRITERIA%20AGES%205-21/I.%20SPECIFIC%20LEARNING%20DISABILITY.pdf
California	***	***	Allows the use of RtI in LD determination and does not bar the use of severe discrepancy	http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=56001-57000&file=56333-56338
Colorado	***	***	As of August 15, 2009, required use of RtI in LD determination and eliminated the option to use severe discrepancy	http://www.cde.state.co.us/spedlaw/download/2009ECEARules.pdf
Connecticut	***	***	Requires RtI as part of LD determination and prohibits the use of severe discrepancy	http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/LDGuide.pdf

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Delaware	***	***	As of the 2008–2009 school year, requires RtI for reading LD determination for elementary age students. Requires RtI for older students and in mathematics for all students no later than the beginning of the 2009–2010 school year. Requires each LEA to establish and implement RtI in reading and mathematics. Prescribes instructional program selection, Tier 2 and Tier 3 interventions, universal screening frequency and type, decision points for Tier 2 and Tier 3, and RtI procedures for all students except students with disabilities participating in an alternate state assessment based on alternate achievement standards.	http://regulations.delaware.gov/Admin-Code/title14/900/925.pdf
Florida	***	***	Requires RtI either with or without documentation of a pattern of strengths and weaknesses	http://www.fldoe.org/ese/pdf/1b-stats.pdf
Georgia	***	***	Proposed rule would require RtI as a component of LD determination	http://www.gadoe.org/DMGetDocument.aspx/160-4-7-.05_eligibility_new.pdf?p=6CC6799F8C1371F6F972E81AFAB8FF8392DB92621871CFDADF7192C8980196C4&Type=D
Hawaii	***	***	Allows the use of severe discrepancy between ability and achievement with either RtI or a pattern of strengths and weaknesses	http://www.spinohawaii.org/sap/chapter%2060%20standard%201-2.pdf

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Idaho	***	***	Allows for RtI or discrepancy in LD determination	http://www.sde.idaho.gov/site/special_edu/docs/manual/Chapter4.pdf
Illinois	***	***	Requires RtI as part of LD determination beginning with the 2010–2011 school year	http://www.isbe.net/rules/archive/pdfs/226ark.pdf
Indiana	***	***	Allows the use of RtI or pattern of strengths and weaknesses but prohibits the use of severe discrepancy in LD determination	http://www.doe.in.gov/exceptional/speced/docs/2008-08-06-Article7.pdf
Iowa	***	***	Allows the use of RtI or pattern of strengths and weaknesses but prohibits the use of severe discrepancy in LD determination	http://www.iowa.gov/educate/index.php?option=com_docman&task=doc_download&gid=4464
Kansas	***	***	Allows the use of RtI or pattern of strengths and weaknesses, including discrepancy in LD determination	http://www.ksde.org/LinkClick.aspx?fileticket=Vsxcb3AWzrY%3d&tabid=3152&mid=8268&forcedownload=true
Kentucky	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD determination	http://www.education.ky.gov/NR/rdonlyres/A8059D6E-5247-4300-80B8-4889C19C089D/0/KentuckyAdministrativeRegulations.pdf
Louisiana	***	***	Requires RtI as part of LD determination	http://www.louisianaschools.net/lde/uploads/14241.doc

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Maine	***	***	Allows for RtI and severe discrepancy in LD determination. Full implementation of a pre-referral process (including a problem-solving process with curriculum-based measurement, interventions, and progress monitoring) must be in place in each school district by June 1, 2010.	http://www.maine.gov/education/legis/071c101emergency.pdf
Maryland	***	***	Allows RtI, pattern of strengths and weaknesses, or alternative research-based procedure to be used in LD determination	http://www.marylandpublicschools.org/NR/rdonlyres/D182E222-D84B-43D8-BB81-6F4C4F7E05F6/17125/Tiered_Instructional_ApproachRtI_June2008.pdf
Massachusetts	***	***	Allows for RtI or severe discrepancy in LD determination	http://www.doe.mass.edu/sped/iep/sld/SLD-TA1.pdf
Michigan	***	***	Draft LD criteria require use of RtI and analysis of patterns of strengths and weaknesses. Severe discrepancy, while still allowed in combination with processes other than RtI, is discouraged.	http://www.michigan.gov/documents/mde/SLD_Final_Criteria_11-2-09_299603_7.pdf
Minnesota	***	***	Allows for RtI or severe discrepancy in LD determination	https://www.revisor.mn.gov/rules/?id=3525.1341

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Mississippi	State Board Policy 4300 requires a three-tier instructional model.	http://www.mde.k12.ms.us/acad1/programs/tst/sb_policy.html	Allows for RtI, alternative research-based procedure, or severe discrepancy in LD determination, but a process based on RtI must be considered first	http://www.mde.k12.ms.us/special_education/policies/2009/Policy_06-17-09.pdf
Missouri	***	***	Allows for RtI or severe discrepancy in LD determination	http://www.dese.mo.gov/divspeced/Compliance/StandardsManual/documents/1400-SLD.pdf
Montana	***	***	Allows for RtI or severe discrepancy in LD determination	http://www.opi.state.mt.us/pdf/arm/16chapter.pdf
Nebraska	***	***	Allows the use of RtI in LD determination after SEA review of a school district's documentation of effective RtI processes	http://www.nde.state.ne.us/sped/regulations/Policies%20and%20Procedure4-16-09.pdf
Nevada	***	***	Permits RtI or severe discrepancy in identification of students with LD	http://www.leg.state.nv.us/NAC/NAC-388.html#NAC388Sec420
New Hampshire	***	***	Allows for RtI or severe discrepancy in LD determination	http://www.ed.state.nh.us/education/doe/organization/instruction/documents/NHRuleswAmendmentJune-102009June302008.pdf
New Jersey	***	***	Allows for RtI or severe discrepancy in LD determination	http://www.state.nj.us/education/special/reg/

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
New Mexico	Subsection D of 6.29.1.9 of the New Mexico Administrative Code requires schools and districts follow a three-tier model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior.	http://www.nmcpr.state.nm.us/nmac/parts/title06/06.029.0001.htm	Allows for RtI or severe discrepancy in LD determination	http://www.nmcpr.state.nm.us/nmac/parts/title06/06.031.0002.htm
New York	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD determination. On July 1, 2012, will prohibit use of severe discrepancy criteria in reading for students in grades K–4.	http://www.vesid.nysed.gov/specialed/publications/lawsandregs/sect2004.htm
North Carolina	***	***	Allows RtI or severe discrepancy in LD determination. Selection of RtI mandates use of a four-tier system	http://www.ncpublicschools.org/docs/ec/policy/policies/2007policies.pdf
North Dakota	***	***	Allows RtI or severe discrepancy in LD determination	http://www.dpi.state.nd.us/speced/guide/SLDGuide07.pdf
Ohio	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD determination but does not prohibit severe discrepancy	http://www.ode.state.oh.us/GD/DocumentManagement/DocumentDownload.aspx?DocumentID=53146
Oklahoma	***	***	Allows RtI or severe discrepancy in LD determination	http://sde.state.ok.us/Curriculum/SpecEd/pdf/Compliance/Policies_Procedures.pdf

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Oregon	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD eligibility determination	http://www.ode.state.or.us/offices/slp/spedoars.pdf
Pennsylvania	***	***	Allows RtI or severe discrepancy in LD determination	http://www.pacode.com/secure/data/022/chapter14/s14.125.html
Rhode Island	***	***	Proposed regulation indicates phasing in requirement to mandate use of RtI in LD determination (elementary school: 7/2010; middle: 7/2011; high: 7/2011) and eliminating the use of severe discrepancy.	http://www.ride.ri.gov/Regents/Docs/RegentsRegulations/SLD%20For%20Public%20Comment.pdf
South Carolina	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD eligibility determination	http://ed.sc.gov/agency/Standards-and-Learning/Exceptional-Children/old/ec/stateregs/documents/FinalStRegister-StateRegulations.pdf
South Dakota	***	***	Allows LEAs to use RtI as a method of LD determination upon state approval	http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=24:05:25:12&Type=Rule
Tennessee	***	***	Allows LEAs to use RtI as a method of LD determination upon state approval	http://tennessee.gov/sbe/2007DecemberPDFs/III%20C%20Specific%20Learning%20Disabilities%20Eligibility%20Standard.pdf
Texas	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD determination. Does not prohibit the use of severe discrepancy	http://ritter.tea.state.tx.us/rules/tac/chapter089/ch089aa.pdf

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State	General Rule	Web Link to General Rule	Special Education Rule	Web Link to Special Education Rule
Utah	***	***	Allows for RtI and severe discrepancy in LD determination	http://www.schools.utah.gov/sars/lawsregs/pdfs/rules.pdf
Vermont	***	***	Allows for RtI and severe discrepancy in LD determination	http://education.vermont.gov/new/pdf-doc/board/rules/manual_of_rules_ALL.pdf
Virginia	***	***	Allows the use of RtI or pattern of strengths and weaknesses in LD eligibility determination	http://www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf
Washington	***	***	Allows for RtI or severe discrepancy in LD determination	http://apps.leg.wa.gov/WAC/default.aspx?cite=392-172A-03060
West Virginia	***	***	Phasing in requirement to use RtI in evaluations for special education eligibility (elementary school: 7/2009; middle: 7/2010; high: 7/2011), and eliminating the use of severe discrepancy	http://wvde.state.wv.us/osp/p2419.pdf
Wisconsin	***	***	Allows for RtI or severe discrepancy in LD determination	http://dpi.wi.gov/pb/pdf/sldsddrule.pdf
Wyoming	***	***	Allows for RtI or severe discrepancy in LD determination	http://soswy.state.wy.us/Rules/RULES/6641.pdf

Note. Asterisks indicate no information found/not applicable. The information in this table does not address all RtI policies available but discusses those for which information was obtained by SECC staff. Also, SECC does not endorse any of the policies, rules, or regulations discussed in this report.