



Do not delay IDEA evaluation while carrying out RTI

A misconception among educators is that they cannot evaluate a student for eligibility under the IDEA or Section 504 while carrying out response to intervention.

"Educators sometimes say, 'We're doing RTI before we see if the student is eligible for special education,'" said Megan Murren Rittle, a school attorney at Smith, Welch, Webb & White in McDonough, Ga. "They're not understanding that it's not mutually exclusive."

Districts can give interventions while determining if a student is eligible for special education, she said. "They don't have to be mutually exclusive. There's no reason the interviews [you're] doing in the RTI process can't be part of an IEP."

If an educator does suspect that a student might be eligible under IDEA or Section 504, the first thing they should do is take the data they have and call a meeting, Rittle said. Below, Rittle shares an example from her home state of Georgia and offers guidance for districts who find themselves in a similar situation.

Georgia pilot program

SY 2020-21 was the first year of a three-year pilot program run by the Georgia Department of Education to screen children for dyslexia, dysgraphia, dyscalculia, and aphasia, Rittle said. But with the launch of the program, an RTI process for kindergarten through third-graders, comes some confusion from special educators in the state around how this aligns with the IDEA.

Under IDEA, if a child has dyslexia, dysgraphia, dyscalculia, or aphasia, they could potentially be eligible under Specific Learning Disability, Rittle said. Specific Learning Disability is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. [34 CFR 300.8](#) (10)(i).

"If you have a child who is eligible, you're not supposed to delay eligibility while going through the RTI process," Rittle said. "You can do both, evaluate the student for special education and put [him] through the RTI screening process."

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In *Letter to Ferrara* reported at [60 IDELR 46](#) , the Office of Special Education Programs stated that "the implementation of an RTI process cannot be used to delay or deny the full and individual evaluation of a child suspected of having a disability."

The Office for Civil Rights reiterates this point in a 2016 *Dear Colleague Letter* reported at [68 IDELR 52](#). "Implementing an intervention strategy and evaluating for a disability do not have to occur sequentially, but could be implemented at the same time, as parallel responses in an attempt to identify and address a student's needs. Interventions could be implemented while a student is being evaluated, and information gathered during the intervention protocol could be useful in the evaluation process."

What districts can do

"Have a meeting with the parents," Rittle said. "Take the data you have and determine what the issue is." Talk to the parents to find out what they think and what they are seeing at home.

Then, based on the meeting, decide whether to just move forward through the RTI process and put interventions in place, whether to move forward with an IDEA evaluation, or both.

"I think always the best advice is, 'Let's just sit down and talk about it,'" Rittle said. "Let's look at the data and see if we can all come together and determine what steps to take next."

If the parent says, 'I just want to move forward with the evaluation,' then that's what you do. But that doesn't mean you can't move forward with interventions as well. Those interventions can provide data you can use to determine if the student is eligible for special education services. If you get stuck or have questions, call your district attorney, Rittle said.

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