



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 27 2007

Mr. Art Cernosia
1623 East Hill Road
Williston, Vermont 05495

Dear Mr. Cernosia:

This letter is in response to your letter of April 27, 2007, in which you request clarification of an issue addressed in the technical assistance document "Questions and Answers on Response to Intervention (RTI) and Early Intervening Services (EIS)," released in January 2007 by the Office of Special Education Programs (OSEP) to clarify the final Part B regulations implementing the reauthorized Individuals with Disabilities Education Act (IDEA) of 2004.

You ask whether, in the event a local educational agency (LEA) (in a State that leaves the use of an RTI model for purposes of eligibility for specific learning disabilities (SLD) to each LEA) decides it will use an RTI model, as opposed to a severe discrepancy model, to determine whether a child is eligible for special education as a child with a SLD, must every school in the LEA (K-12) use the RTI model for SLD eligibility determinations before any school in the LEA is permitted to do so? You also ask if every school in an LEA must implement RTI for eligibility purposes, are there provisions in the IDEA that would allow a State and/or an LEA to pilot, or otherwise allow the use of an RTI model for eligibility determinations, only in selected schools in the State or LEA?

If the use of a process based on the child's response to scientific, research-based interventions, in identifying children with SLD is required, then all children suspected of having a SLD, in all schools in the LEA, would be required to be involved in the process. However, research indicates that implementation of any process, across any system, is most effective when accomplished systematically, in an incremental manner, over time. If an LEA chose to "scale up" the implementation of the RTI model gradually, over time, as would be reasonable, the LEA could not require the use of RTI for purposes of identifying children with SLD until RTI was fully implemented in the LEA. Therefore, it is unwise to require the use of a process based on the child's response to scientific, research-based intervention before implementation of that process has been successfully scaled up.

On the other hand, if the use of a process based on the child's response to scientific, research-based intervention, is not required but is permitted by the LEA, a school would not have to wait until RTI is fully implemented in all schools in the LEA before using RTI as a part of the identification of SLD. That is, if the LEA is **allowing, but not requiring** the use of RTI, and a particular school, using the criteria adopted by the State for determining whether the child has an SLD as identified in section 300.8(c)(10), is implementing an RTI process, consistent with the LEA's guidelines, it would not have to wait until RTI is implemented in all schools in the LEA before it could use information from an RTI process as part of the identification of children with

SLD.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We hope you find this information responsive to your request. Please do not hesitate to contact me if you have further questions or if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard
Acting Director
Office of Special Education
Programs