

## Exceptional Student Education – Legislative Update June, 2008

### Budget:

Decrease of 30.8 million in guaranteed allocation.  
Decrease in funding for Level 254 and 255 students.

As a result of the State budget cuts, the IDEIA grant will be closely monitored. It is imperative that only those persons paid for out of the grant work with students with disabilities.

### Accountability:

- SB 1908 – The K-20 education performance accountability system comply with NCLB, and IDEA.

Part B State Performance Plan

20 indicators

Florida has been assigned “Needs Assistance” for the 2<sup>nd</sup> year

Polk is being monitored in Dropouts and Evaluations (60-day timeline) 91.8

Polk will get their status in August. Last year Polk received “met requirements”

Code students with added element in student data base who are receiving early intervention services with IDEA dollars

Goal  
100%

### ESE Terminology:

- HB 1313: “Disabled” or “handicapped” now “students with disabilities”  
“Mentally Handicapped” is now “intellectual disabilities” - no PMH, TMH  
“Autism” now “autism spectrum disorder”  
Speech/Language now “speech impairment” and “language impairment”  
SLD includes dyslexia, dyscalculia, and developmental aphasia
- SB 856 Disability History and Awareness Week first two weeks of October
- SB 642 Classroom placement of multiple birth siblings  
“unless the students’ performance indicates otherwise”  
IEP team can override parent request
- SB 2654 Windows of Opportunity Act(Autism)  
Insurance access for therapies for students identified with autism spectrum disorder  
One stop shop for resources for parents  
Huge focus on early intervention  
Screening for diagnosis  
Treatment coverage shall be limited to \$36,000 annually and not exceed \$200,000

## **Administrative Rules:**

All nine rules presented and passed by State Board on June 17, 2008.  
Effective date July 23, 2008

### What's new?

- IEP – short-term objectives or benchmarks required for students on alternate assessment. OPTIONAL for general curriculum students
- IEP team attendance: excusal for team members with written parent consent
- Regular education teacher of the student at IEP meetings
- Progress of IEP goals only at report cards (no longer at progress reports)
- Amend the IEP without a meeting if agreed to by parent and LEA
- Transition addressed beginning at age 14
- New Procedural Safeguards
- Can't place students if due to lack of appropriate instruction in reading or math
- 60-day evaluation timeline begins when parent signs consent for evaluation
- Out of state now transfers not temporary placements
- 45-day rule now 45 school days, not calendar

### **Curriculum:**

- Access Points for math are now approved and available. Training for teachers will be provided in the fall.
- Science Alternate Assessment field test October 20-31, 2008. All districts will participate. Science will be added to spring administration – 25 questions for grades 5, 8, and 11.
- Alternate Assessment reading and math questions are being redone. Simplifying and shortening passage length.

### **RtI:**

- State RtI Plan - Draft plan done
- District RtI Plan to be developed over the next year with a plan to cover 3-5 years for full implementation of RtI.
- Identify district RtI Contact Person for communication with statewide project
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**Office of Special Education Programs (OSEP) visit to Florida November 17-21, 2008**

Don't know if they will come to Polk

FLORIDA DEPARTMENT OF EDUCATION  
 BUREAU OF EXCEPTIONAL STUDENT EDUCATION  
 DUE PROCESS HEARING REQUESTS BY DISTRICT  
 JULY 1, 2005 - PRESENT  
 (As of June 10, 2008)

District	2005-2006	2006-2007	2007-Present
Alachua	1	0	0
Bay	3	5	1
Brevard	4	4	2
Broward	33	29	20
Citrus	0	1	0
Clay	2	1	4
Collier	7	3	0
Dade	62	65	43
Dept. of Corrections	1	0	0
Duval	7	5	5
Escambia	1	1	0
Flagler	1	4	2
FSDB	1	7	3
FSU Charter School	0	0	1
Gadsden	1	0	0
Gulf	0	1	0
Hernando	1	1	1
Highlands	0	1	0
Hillsborough	1	5	6
Holmes	2	0	0
Indian River	0		1
Jackson	1	0	0
Lake	0	0	2

District	2005-2006	2006-2007	2007-Present
Leadership Academy West	0	1	0
Lee	1	1	0
Leon	1	0	1
Manatee	1	0	1
Marion	7	7	11
Martin	0	0	2
Monroe	1	0	0
Nassau	0	1	3
Okaloosa	0	0	1
Okeechobee	1	0	0
Orange	6	12	4
Osceola	4	4	1
Palm Beach	13	13	11
Pasco	0	0	2
Pinellas	0	0	2
Sarasota	3	6	2
Seminole	5	2	4
St. Johns	4	4	2
Suwannee	1	0	0
Volusia	0	2	1
Wakulla	0	1	0
Waiton	0	2	0
<b>Total</b>	<b>129</b>	<b>133</b>	<b>91</b>

# Districts must ensure that RTI isn't used to block special ed referrals

*JULIE WEATHERLY IS A FOUNDER OF THE WEATHERLY LAW FIRM IN ATLANTA, WHICH WORKS with school districts in the area of special education compliance. She is also the founder of Resolutions in Special Education, a consulting firm that provides school districts with special education training and mediation services.*

**Response to Intervention (RTI) appears to be dominating the discussion about special education. Is that raising any red flags for you?**

While I totally believe in the concept of RTI, I am concerned that it is becoming the movement of the day in special education. I'm a little worried that it's too much too fast. It's important to remember that this is a general ed initiative, but people are viewing it as a special ed initiative. If it's not approached appropriately, it's going to get school districts in trouble.

**What are the potential problems?**

If districts don't really put their hearts and resources into it and get regular educators on board, RTI is going to wind up being a situation where people say, "Oh, I can't refer a child for special education anymore because of RTI, so we just won't refer them and our numbers will go down."

**What do administrators need to know about RTI in terms of the law?**

The law doesn't say everyone in this country must do RTI, but if you're going to do it, and certainly if your state mandates it, then you need to make sure you get it right and consider some of the legal implications along the way.

**What are some of the misperceptions about RTI?**

When I'm talking to groups about RTI, people ask me what the difference is between Response to Intervention and just good student support teams. I usually say, "Frankly, nothing. RTI is turbo-charged student support teams." Sometimes people misinterpret that as meaning fast-paced student support teams, but it's turbo as in power, not speed.

**What is the top level headline for the superintendent from a legal perspective?**

Make sure your RTI process doesn't lead staff to believe that they can't make a referral when they have an obvious suspicion that a child has a disability. If that type of situation goes too far, it's going to be a legal problem because

the parent will ask, "Why didn't you refer my child years ago?" If the response is, "Because we have RTI here," it will be a problem.

**Are you starting to see RTI emerge in litigation or is it too soon?**

It is a little too soon. However, there is a case pending in Milwaukee that dates from 2001 that may provide hints of

RTI lawsuits to come. The question at issue is whether children who should have been placed into special education were not getting referred because of the district's assessment procedures. It seems there may have been some kind of unwritten policy to use the assessment procedure as a way to reduce special ed referrals.

**And you fear that similar situations could emerge from RTI?**

Districts have to be sure that they don't use RTI as a reason to avoid referrals to special ed, whether through a misunderstanding of the process or inertia or subtle unspoken pressures to keep referrals down. In other words, districts can't use RTI as a way to raise the bar for referring a child into special education. That's going to make

just as many parents mad as it pleases. It's not looking at children individually.

**What might you recommend to administrators in terms of setting policies and procedures to make sure they won't find themselves on the wrong side of litigation in a year or so?**

First, get buy-in from general ed, because RTI is not a special ed initiative. Second, remember that whenever a school district evaluates a student, you have to give written notice to the parent and get informed written consent from the parent. Third, you must define exactly when an "evaluation" occurred. You also need to get parents on board, making sure they're part of the development of the RTI process and are key to making it work. Finally, the school attorney needs to be involved in making sure he or she fully understands RTI's place in IDEA.



# RTI promises to take the failure out of the special education process

*CHRISTY CHAMBERS IS PRESIDENT OF CASE, the Council of Administrators of Special Education. She is also superintendent of the Special Education District of McHenry County, Illinois.*

## **How should district administrators think about Response to Intervention? What is it and how should they understand it?**

The simple definition would be that it is a process of providing high quality instruction and intervention matched to student need, and then frequently monitoring progress to adjust, revise and inform instruction.

## **What you're describing sounds like just good teaching.**

Absolutely. But what's different is that it's all about data. For instance, you must have data to show that your core curriculum is effective with at least 80 to 85 percent of your students. But what I'm particularly excited about is that for the first time special education isn't necessarily failure oriented. We can be on the prevention side.

## **Elaborate on that.**

Until the reauthorization of IDEA in 2004, to get special education services you had to be failing in academics or have serious emotional needs demonstrated with intensity over time. Before a special education teacher, or a speech pathologist, or any other support source could be used with a child, the child already had to have a disability, meaning that general education alone wasn't working for that child.

## **How has that changed?**

There are two concepts in IDEA 2004. One is Response to Intervention, which of course is getting all the attention. The other piece is Early Intervening Services. Using Early Intervening Services means you can intervene early and use federal IDEA funds with any struggling learner; it doesn't have to be

a special ed student. Response to Intervention is one of the things you can use with that child, in addition to professional development for yourself and behavior interventions for the student. But you intervene early, not only after the child failed.



## **Response to Intervention is not exclusively a special education initiative, is it?**

Absolutely not. The whole idea here is that RTI should be a hallmark of a unified approach to breaking down the separate silos of special ed and general ed. RTI is for any struggling learner or any child that is not making the expected and adequate progress through that core general ed curriculum.

## **You mentioned the importance of data to the RTI process. How should teachers be using RTI data?**

The data have to come from frequent

progress monitoring on an individual basis. Are you getting an adequate response to the targeted type of scientific interventions you're using with the child? You need to monitor that to find out if the intervention is effective. Do you need to change it? Are the students making adequate progress? Are they closing the gap as the other kids continue to learn and increase their knowledge and skills? It's data to inform instruction.

## **How should administrators be thinking about this data?**

Teachers have to have data to show that the interventions they're using are appropriate. Whether it's a reading intervention or behavioral intervention or a math intervention or something at the middle school level or the secondary level, you can't use your gut. First, administrators must have data demonstrating that the district's core curriculum is effective. Then, administrators must ensure that teachers have access to the tools to track data and provide interventions with the appropriate professional development so teachers effectively use the tools, know how to look at data, and how to use it to inform instruction.

## **What are some of those professional development issues?**

Educators must know how to effectively monitor progress. We need to know how to capture data, how to track data and how to use the data to help figure out where to make adjustments in instruction. We must also have access to the tools and interventions and how to use them with fidelity. I think professional development is crucial and is a cornerstone to RTI's effectiveness.

# Fostering a unified approach to RTI and special education

WHAT IS A "UNIFIED APPROACH" TO SPECIAL EDUCATION, AND HOW DOES RESPONSE TO INTERVENTION fit in? To find out, *Achievement Today* interviewed two prominent experts in special education: Alexa Posny, Kansas Commissioner of Education and formerly Director of the Office of Special Education Programs for the U.S. Department of Education, and Judith Hackett, superintendent of the Northwest Suburban Special Education Organization in Illinois and president of the Illinois Alliance of Administrators of Special Education.

## How should educators think about Response to Intervention as it relates to special education?

**Posny:** It's really identifying any student who is having difficulty learning so that intervention can be provided, whether it's needed in the general curriculum or elsewhere. I believe there's a misperception that this is a special ed initiative. However, when we think about Response to Intervention as a systemic approach to providing and meeting the needs of any child, it cuts across all education.

## What is meant by "systemic" or "unified" approach?

**Hackett:** Let's say we have a child where repeated problems come up with attendance or reading or behavior. In a traditional approach we have determined that the student has a behavior problem and send the student to a special education teacher to address it. A unified approach brings in a collaborative team. The focus shifts from who is responsible to what needs to be done to address the student's needs. We take a unified approach, which is to figure out what the problem is, come up with a detailed plan and determine how the team can implement the plan.

## How does RTI fit in with a unified approach?

**Hackett:** Response to Intervention is high quality instruction matched to student needs. The core of it is really differentiating instructional strategies for all students and providing those interventions that are researched based. There is an individual aspect to it as teams look specifically at student needs, but in the broad sense of the terms, RTI unifies your entire school or district in terms of looking comprehensively at the types of curriculum and interventions you have that work or don't work and focusing on charting progress and connecting strategies to outcomes.

## Isn't RTI all about good teaching? You monitor a child's progress and if it's not adequate you incrementally intervene to help meet expectations.

**Posny:** Exactly, but this concept of a systematic approach is key. We know there are kids, even with the best core curriculum and teaching, who still struggle and who need something extra. Maybe it's small groups. It's usually referred to as Tier

2. Even with that level of intervention, there are kids who still struggle; they go to Tier 3, which may be one-on-one or other interventions. Even after that, there are kids who struggle, who most likely have a disability. But I believe we misidentify almost half the kids who are labeled learning disabled. First, we wait for them to fail, so they look disabled even though they may not be. Second, we didn't provide intervention for them as soon as we knew they were struggling. So RTI, with early intervention strategies, is really the key to meeting the needs of all learners.



Alexa Posny



Judith Hackett

## What should teachers know about RTI?

**Hackett:** First, providing high quality interventions matched to a student's needs isn't synonymous with special education. Second, teachers need to know how to look at data to determine what they are doing that is netting the best outcomes. When you start measuring a student's progress every week without seeing significant gains you need to make adjustments.

## How should educators work with parents to help implement this unified approach?

**Hackett:** Having parents at the table to address student needs as early as possible is very important in the process. We must understand their fears: that some of the terms and processes are different and we need to continue to communicate their student's progress and address their questions along the way. It is difficult to explain

RTI in a short period of time without the conceptual framework. It often takes a few layers of explanation and I believe it is the responsibility of educators to reach a common understanding with parents.

## What should district administrators know about RTI?

**Posny:** RTI can really change education because the earlier that school staff can assess a student's needs and identify those with difficulties, the quicker and less expensive it is to help them catch up. By adopting this concept of a unified approach, I believe districts will see a reduction in the number of students who are misdirected to special ed.

*To see an overview of trends in the adoption of RTI, visit [www.spectrumbk12.org/rti\\_survey\\_results](http://www.spectrumbk12.org/rti_survey_results).*