RESPONSE TO INTERVENTION

Guidance for New York State School Districts

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REBECCA H. CORT

Associate Commissioner, Office of Curriculum, Instruction and Standards
JEAN C. STEVENS

Statewide Coordinator for Special Education
JAMES P. DELORENZO

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- Regional School Services
- Bilingual Education and Foreign Language Studies
- Early Education and Reading Initiatives
- Special Education

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- New York State Reading Association (NYSRA)
- School Administrators Association of New York State (NYS) (SAANYS)
- New York State United Teachers (NYSUT)
- United Federation of Teachers of New York City (UFT)
- NYS Special Education Parent Centers
- NYS Association of School Psychologists (NYASP)
- Council of NYS Special Education Administrators (CNYSEA)
- Learning Disabilities Association of NYS (LDA-NYS)
- NYS School Boards Association (NYSSBA)
- NYS Association of Teacher Educators (NYSATE)
- NYS Association of Colleges of Teacher Education (NYACTE)
- Bilingual/ English as Second Language Committee of Practitioners

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Table of Contents

Introduction

Response to Intervention (RtI) is the practice of providing high-quality instruction/intervention matched to student needs and using learning rate over time and level of performance to make important educational decisions about an individual student. (NASDSE, 2006)

RtI represents an important educational strategy to close achievement gaps for all students, including students at risk, students with disabilities and English language learners, by preventing smaller learning problems from becoming insurmountable gaps. It has also been shown to lead to more appropriate identification of and interventions with students with learning disabilities. Each day educators make important decisions about students' educational programs, including decisions as to whether a student who is struggling to meet the standards set for all students might need changes in the nature of early intervention and instruction or might have a learning disability. This decision as to whether a student has a learning disability must be based on extensive and accurate information that leads to the determination that the student's learning difficulties are not the result of the instructional program or approach. RtI is an effective and instructionally relevant process to inform these decisions.

The New York State Education Department (NYSED) has established a regulatory policy framework for RtI in relation to school-wide screenings, minimum components of RtI programs, parent notification and use of RtI in the identification of students with learning disabilities. The Regents policy establishes RtI as a school-wide system of organizing instruction and support resources to deliver high quality instruction to meet the diverse needs of learners.

RtI begins with high quality research-based instruction in the general education setting provided by the general education teacher. Instruction is matched to student need through provision of differentiated instruction in the core curriculum and supplemental intervention delivered in a multi-tier format with increasing levels of intensity and targeted focus of instruction. As a consequence of school-wide screenings of all students and progress monitoring, students who have not mastered critical skills or who are not making satisfactory progress can be identified for supplemental intervention. If the student continues not to make sufficient progress after receiving the most intensive level of instructional intervention, it may be determined that a referral for a comprehensive evaluation to determine eligibility for special education is needed.

Reading in the early grades is a primary focus of the RtI process, as this is the area in which most of the research is available and the curriculum area in which the most students are identified with learning difficulties. However, the process of data-based decision making and the principles of RtI can apply to other content areas as well as to behavioral issues that impact learning.

There are several areas of regulatory requirements in which screening, assessment and the provision of appropriate instruction are outlined reflecting the principles of RtI. It is the integration of these requirements that forms New York's policy

framework for school districts to use to systematize effective educational practice. These regulations, which are included in Appendix A, include:

- Part 117 – School-wide Screening Requirements
- Part 200 – Requirements for Written Board of Education Administrative Policies and Practices
- Part 100 – Required Components of an RtI Program
- Part 200 – Requirements for Procedures for Determining if a Student Has a Learning Disability

The purpose of this guidance document is to describe features or components of an effective RtI model by defining RtI as a multi-tiered early prevention system designed to improve outcomes for all students. The chapters of this document provide guidance on:

- minimum requirements of an RtI program:
  - appropriate instruction,
  - screenings applied to all students,
  - instruction matched to student needs,
  - repeated assessments of student achievement,
  - application of student information to make educational decisions, and
  - notification to parents;
- school district selection of a specific structure and its components;
- staff knowledge and skills needed to implement an RtI program; and
- use of RtI data in determining if a student has a learning disability.

In general, each chapter presents regulatory requirements, followed by guidance, quality indicators, and tools to assist districts in selecting a specific structure and model. Appendices include information on references and resources, regulatory policy framework, and a sample form for documenting procedures for determining if a student has a learning disability. This guidance document should be used in conjunction with information provided by the New York State Response to Intervention Technical Assistance Center (NYS RtI TAC) on their website at www.nysrti.org. The charts at the end of each chapter (reprinted with permission from Mellard and Johnson, A Practitioner's Guide to Implementing Response to Intervention, 2008) are intended to assist districts to identify the essential tasks to be considered when implementing the various features of the RtI process.

For purposes of this document, the RtI process is described as having three tiers. The RtI framework supports both academic and behavioral support, and schools should implement positive behavior support models which are closely related to RtI. However, the primary focus of this document is on the academic instructional aspects of RtI.

This nonregulatory guidance does not impose any requirements beyond those required under applicable law and regulations. The guidance is intended to reflect the current thinking on this topic as of the publication date.

Minimum Requirements of a Response to Intervention Program (RtI)

I. APPROPRIATE INSTRUCTION

A school district's process to determine if a student responds to scientific, research-based instruction shall include **appropriate instruction** delivered to all students in the general education class by qualified personnel. Appropriate instruction in reading means scientific research-based reading programs that include explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies.

[8 NYCRR §100.2(ii)(1)(i)]

APPROPRIATE INSTRUCTION DELIVERED TO ALL STUDENTS IN THE GENERAL EDUCATION CLASS BY QUALIFIED PERSONNEL

Appropriate instruction begins with the core program that provides:

- high quality, research-based instruction to all students in the general education class provided by qualified teachers;
- differentiated instruction[1] to meet the wide range of student needs;
- curriculum that is aligned to the State learning standards and grade level performance indicators for all general education subjects; and
- instructional strategies that utilize a formative assessment process.

It is recommended that schools use the New York State (NYS) curriculum guides to ensure that curriculum is aligned to NYS learning standards. These can be found at http://www.p12.nysed.gov/ciai/cores.html.

The New York State Education Department (NYSED) has posted a series of standardized and research-based *Quality Indicator Review and Resource Guides* on its website. These guides can be used to assess the quality of a school district's instructional programs and practices in the areas of literacy and special education instructional practices. These are available at http://www.p12.nysed.gov/specialed/techassist/QIcover.htm.

It is beyond the scope of this document to provide extensive information on effective instructional strategies for all content areas. Rather, information and links to available resources have been identified for in-depth information on research-based practices to assist schools in making those decisions.

APPROPRIATE INSTRUCTION IN

Appropriate instruction in reading means explicit and systematic instruction in phonemic awareness, phonics, vocabulary

[1]For information on differentiated instruction, see http://www.cast.org/publications/ncac/ncac_diffinstructudl.html#definition.

READING

development, reading fluency (including oral reading skills) and reading comprehension strategies.[8NYCRR 100.2(ii) and 200.4(c)(2)(i)]

For high quality early literacy instruction, the core reading program should minimally be scheduled for an uninterrupted 90 minute block of instruction daily.

APPROPRIATE INSTRUCTION IN MATHEMATICS

Appropriate instruction in mathematics includes instruction in problem-solving, arithmetic skill and fluency, conceptual knowledge/number sense and reasoning ability.

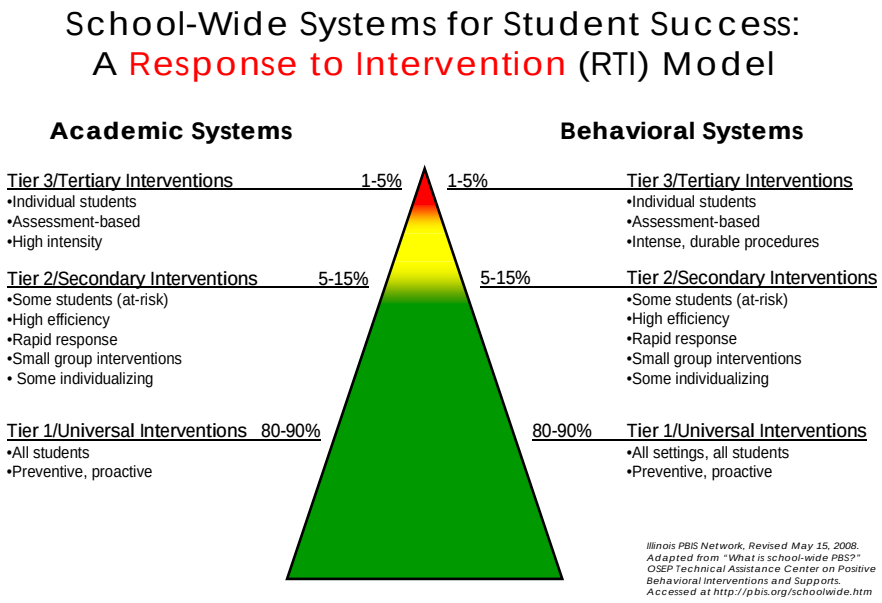
For additional information, see Foundations for Success: The Final Report of the National Mathematics Advisory Panel at http://www.ed.gov/about/bdscomm/list/mathpanel/index.html This report contains 45 findings and recommendations on curricular content, teachers and teacher education, instructional practices and materials, learning processes and assessments.

Additional resources for appropriate instruction in mathematics include, but are not limited to, the Institute of Education Sciences (IES) Practice Guide from What Works Clearinghouse, which offers eight recommendations for identifying and supporting students struggling in mathematics, intended to be implemented within an RtI framework and the guide "Assisting Students Struggling with Mathematics: Response to Intervention (RtI) for Elementary and Middle Schools" which can be found at http://ies.ed.gov/ncee/wwc/pdf/practiceguides/rti_math_pg_042109.pdf.

BEHAVIORAL SUPPORTS AND INTERVENTIONS

Appropriate behavioral supports and intervention is evidenced by a school-wide positive behavioral system which reflects a systems approach to discipline that emphasizes prevention and data-based decision-making to both reduce problem behavior and improve academic performance. NYSED has posted a series of standardized and research-based *Quality Indicator Review and Resource Guides,* which can be used to assess the quality of a school district's practices in the area of behavioral supports and intervention on its website at http://www.p12.nysed.gov/specialed/techassist/behaviorQI.htm. For additional resources on Positive Behavioral Intervention and Supports (PBIS) see http://www.pbis.org/.

While this document focuses on the academic instructional components of RtI, the RtI framework is intended to support both academic and behavioral systems and schools are encouraged to implement both academic and behavioral aspects of an RtI framework as illustrated below:



CULTURALLY RESPONSIVE INSTRUCTION

Culturally responsive instruction uses the cultural knowledge, prior experiences, performance styles and strengths of students from diverse backgrounds to make learning more appropriate and effective for them. Culturally responsive teaching incorporates multicultural information, resources, and materials in all the subjects and skills routinely taught in schools.

The Center for Research on Education, Diversity and Excellence (CREDE) CREDE has developed "Five Standards for Effective Pedagogy" with research supporting the adherence to these standards. One of these standards requires connecting teaching and curriculum to student's experiences and skills of home and community. For indicators of contextualization see http://crede.berkeley.edu.

Another CREDE standard for effective pedagogy includes developing competence in the language and literacy of instruction across the curriculum. "Whether instruction is bilingual or monolingual, literacy is the most fundamental competency necessary for school success." Language appropriate instruction should include "interacting with students in ways that respect students' preferences for speaking that may be different from the teacher's…" and "encouraging students' use of first and second languages in instructional activities."
See http://crede.berkeley.edu/research/crede/lang_dev.html.

Also, see Chapter VI for additional information and resources.

LINGUISTICALLY APPROPRIATE INSTRUCTION

Appropriate instruction for limited English proficient/English language learners (LEP/ELL) students must be both culturally responsive and linguistically appropriate. This includes research-

based instruction that has been validated with LEP/ELL students and bilingual and English as a second language (ESL) instruction, at levels pursuant to Part 154 of the Regulations of the Commissioner of Education. It is also important to determine if adequate support in English language development has been provided and to what extent a student may be struggling due to their lack of proficiency in English.

The same basic requirements for implementing RtI with all general education students apply to situations in which cultural and linguistic diversity may be a factor: screening, progress monitoring, qualified instructors (for reading/literacy and content areas, including instructors providing English language arts (ELA), ESL and bilingual instruction), and application of instruction and interventions with fidelity.

See Chapter VI, *Considerations when Implementing RtI with Limited English Proficient/English Language Learners.*

SCIENTIFICALLY - BASED RESEARCH

Instructional methods based on scientific research identify those practices that demonstrate high learning rates and improved academic performance for most students. Scientifically-based research :

- employs systematic, empirical methods that draw on observation or experiment;
- involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions;
- relies on measurements or observational methods that provide valid data across evaluators and observers, and across multiple measurements and observations; and
- has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparatively rigorous, objective and scientific review. [No Child Left Behind (NCLB) Act of 2001]

Quality Indicators for Appropriate Instruction

- Research/evidence-based instruction that has shown to be effective is provided to all students.
- Scientific research-based reading instruction includes an uninterrupted block of 90 minutes of daily explicit and systematic instruction in phonemic awareness, phonics, vocabulary development at all grade levels, reading fluency (including oral reading skills) and reading comprehension strategies.
- Scientific research-based math instruction includes instruction in problem-solving, arithmetic skill/fluency, conceptual knowledge/number sense and reasoning ability.
- Curriculum is aligned to the State learning standards and grade level performance indicators.
- Instruction is provided by qualified personnel and trained staff.
- Differentiated instruction is used to meet a wide range of student needs.
- Professional development is provided to ensure fidelity of implementation.
- Instructional strategies/programs are implemented with fidelity.
- Instruction is culturally and linguistically responsive to the language and learning needs of students whose first language is not English.

II. SCREENINGS APPLIED TO ALL STUDENTS IN THE CLASS

A school district's process to determine if a student responds to scientific, research-based instruction shall include **screenings** applied to all students in the class to identify those students who are not making academic progress at expected rates.
[8NYCRR §100.2(ii)(1)(ii)]

SCREENINGS

Screening is an assessment procedure characterized by brief, efficient, repeatable testing of age-appropriate academic skills (e.g., identifying letters of the alphabet or reading a list of high frequency words) or behaviors. Screenings are conducted for the purposes of initially identifying students who are "at-risk" for academic failure and who may require closer monitoring and/or further assessment.

Section 117.3 of the Regulations of the Commissioner of Education requires that students with low test scores be monitored periodically through screenings and on-going assessments of the student's reading and mathematic abilities and skills. (see Appendix A).

Screenings of all students should be conducted three times per academic year (fall, winter, spring) to help ensure the early identification of students potentially at risk and the areas in which they may experience difficulty.

Screening instruments should be valid and reliable and aligned with grade-level curriculum based on the NYS learning standards.

For information about the technical adequacy of commonly used screening tools see http://www.rti4success.org/index.php?option=com_content&task=view&id=1091&Itemid=139

USING SCREENING DATA

Using recognized and research-validated screening assessments and guided by the recommendations of the tools' developers, the school district determines the levels of typical, at risk, and seriously at risk performance. This information is used by teachers to determine which students need to be closely monitored for learning difficulties, including further individualized assessment to determine the need for supplemental instruction.

A standard procedure for using screening data to determine if a student responds to scientific, research-based instruction includes either establishing:

1. the cut points at which risk is determined (e.g., establishing risk identification of students who score below a norm-referenced cut-point (such as less than the 25th percentile on a standardized reading test) or

2. a pattern of performance (e.g., identifying students who score below a performance benchmark associated with poor long-term outcome (such as less than 15 on curriculum-based measurement (CBM) word identification fluency at the beginning of first grade).

The way screening results are used to identify a student in need of additional instruction or intervention may vary as a function of the model employed: *direct route or progress monitoring route.* In a *direct route model,* students who are identified as at-risk from a screening assessment are provided with additional or supplemental intervention immediately. In contrast, schools that use a progress monitoring route model, initially identify a student as at-risk based on results from a screening process and continue to progress monitor those students on a weekly basis for five or six weeks to confirm or disprove initial risk status. Typically, schools that employ a progress monitoring route model will also differentiate instruction for those students identified as at-risk during core instruction while additional progress monitoring data are obtained. (Jenkins, J., & Johnson, E. 2008)

SUGGESTED PROCEDURES FOR SCREENINGS USED DURING THE RTI PROCESS

√ Select a screening tool(s) relevant to the skills being tested and the age/grade level of the student being assessed based on the curriculum aligned with the State learning standards.

√ Establish a yearly, school-wide schedule for screening procedures to ensure that the screenings are completed consistently and reliably.

√ Provide school-wide training focusing on standardized administration of screening tool(s) and interpretation of results.

√ Identify students who fall below the established cut-point or benchmark.

√ Determine how to use screening results: direct route model versus progress monitoring route with or without differentiation in core instruction.

√ If using the progress monitoring route, confirm students' risk status on school-wide screening by conducting at least five weeks of weekly monitoring of the student's response to the core instructional program. Consider evidence of poor rates of improvement after receiving appropriate instruction over five to eight weeks in core instruction as confirming the need for supplemental intervention.

√ Use grade level teams to review screening results to

determine what changes or interventions are appropriate for the students identified.

√ Analyze screening data to determine the effectiveness of the core curriculum and instruction and the areas in which professional development may be needed. Generally, if more than 20 percent of all students are not achieving or making adequate progress toward established benchmarks, this may be an indication that the school should evaluate its overall curriculum and instructional program. If less than 20 percent of students are not making adequate progress, it may be assumed that the core program is adequate, and identification of students at risk is needed to provide additional interventions for those students.

PARENT PARTICIPATION

Parents of all students should be notified of school-wide screening results. In addition, parents of students who are identified as at risk and who will be provided supplemental intervention must receive written notification, consistent with section 100.2(ii)(1)(vi) of the Regulations of the Commissioner of Education which includes the:

- amount and nature of data that will be used to monitor a student's progress;
- strategies to increase the student's rate of learning; and
- parent's right to refer the student for special education services.

Quality Indicators for School-Wide Screening

- School-wide screenings occur at least three times during the course of an academic year (fall, winter, spring).
- Screening instrument items are aligned with the curriculum based on the NYS learning standards for each grade level.
- Each screening instrument meets reliability and validity standards associated with psychometrically sound measurements.
- Professional development is provided to ensure fidelity of implementation, scoring and interpretation of results.
- Screening is administered school-wide or at least to 95 percent of all students.
- Cut-scores are established that identify students who are performing at benchmark, at-risk and seriously at-risk levels.
- Results of screenings are used to determine which students are considered at-risk and need further monitoring and assessment.
- Screening results are used to determine effectiveness of core curriculum and instruction.

Essential Task List for School-Wide Screening

Directions: In the second column, write the name of the individual or team who will assume responsibility for the task identified in the first column. In the third column, write the deadline for or status of the task. Complete each task identified.

Task	Responsible Individual/Team	Timeline/Status
Select a screening instrument or review existing screening tools to be certain that content (test items) is aligned with the curriculum for each grade level.		
Secure human and materials resources needed for accurate and efficient administration.		
Determine initial and periodic professional development needs to ensure standardization and accurate administration of screening instruction.		
Administer the screening measure three times a year (e.g., early fall, mid-term, and late spring).		
Establish a database that stores student information and scores and allows for trend analysis.		
Organize the screening results (e.g., graphs and tables) to provide a profile of all students and their comparisons with each other.		
Monitor results at the classroom level and make decisions about when teachers/instructional programs require more scrutiny and support.		
Analyze screening results to identify students who fall below established cut-points and are considered at-risk.		
Establish procedures to continue progress monitoring at-risk students.		
Analyze results at the classroom level to determine strengths and possible weaknesses of core curriculum and instruction.		
Use screening results to support changes to core curriculum or instruction.		

Adapted and reprinted with permission from Mellard, D.F., & Johnson, E. (2008) RTI A Practitioner's Guide to Implementing Response to Intervention.

III. INSTRUCTION MATCHED TO STUDENT NEED

A school district's process to determine if a student responds to scientific, research-based instruction shall include **instruction matched to student need** with increasingly intensive levels of targeted intervention and instruction for students who do not make satisfactory progress in their levels of performance and/or in their rate of learning to meet age or grade level standards.

[8NYCRR §100.2(ii)(1)(iii)]

MULTI-TIER SERVICE DELIVERY MODEL

When students are identified through screening, progress monitoring or other on-going assessment procedures as not making sufficient or satisfactory progress, the school's multi-tier service delivery model provides a range of supplemental instructional interventions with increasing levels of intensity to address these needs. The various tiers include distinguishing features such as:

- size of instructional group,
- mastery requirements for content,
- frequency and focus of screening,
- duration of the intervention,
- frequency and focus of progress monitoring,
- frequency of intervention provided, and
- the instructor's qualifications.

A multi-tiered system can be viewed as layers of increasingly intense intervention that respond to student-specific needs (a continuum of instructional support provided to a student). The number of tiers may vary depending upon the individual school and resources available. For purposes of this document, a three-tier model will be described.

LEVELS OF INTERVENTION: TIER 1

Tier 1 is commonly identified as the core instructional program provided to all students by the general education teacher in the general education classroom. Research-based instruction and positive behavior intervention and supports are part of the core program. A school/district's core program (Tier 1) should minimally include:

- core curriculum aligned to the NYS learning standards;
- appropriate instruction and research-based instructional interventions that meets the needs of at least 80 percent of all learners;
- universal screening administered to all students in the general education classroom three times per year;
- weekly progress monitoring of students initially identified as at-risk for five or six weeks;
- differentiated instruction based on the abilities and needs of all students in the core program; and
- a daily uninterrupted 90 minute block of instruction in reading.

District policies and practices should ensure that parents are informed of curriculum goals and methods of instruction.

Appropriate instruction in reading means scientific research-based reading programs that include explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency and reading comprehension strategies.

As indicated in Chapter I, the foundation of core instruction for LEP/ELL students should be both culturally responsive and linguistically appropriate. Tier 1 appropriate instruction for LEP/ELL students must include bilingual and ESL instruction, at levels pursuant to Part 154 of the Regulations of the Commissioner of Education.

LEVELS OF INTERVENTION: TIER 2

Tier 2 intervention is typically small group (3-5) supplemental instruction. This supplemental instructional intervention **is provided in addition** to, and not in place of, the core instruction provided in Tier 1. For example, a student who is receiving Tier 2 intervention would be provided core instruction plus 20-30 minutes of supplemental interventions three to five days per week. Tier 2 interventions focus on the areas of student need or weakness that are identified in the screening, assessment or progress monitoring reports from Tier 1. Therefore, students are often grouped according to instructional need. Approximately 5 to 10 percent of students in a class receive Tier 2 intervention.

The location of Tier 2 intervention is determined by the school. It may take place in the general education classroom or in an alternate location outside of the general education classroom. The determination of which interventions will be provided to an individual student is made by either a problem-solving process or a standard treatment protocol. (See Chapter V on the decision-making process.) Tier 2 interventions should be supported by research and vary by curriculum focus, group size, frequency, and duration. Individual student needs affect the determination of these variables.

In Tier 2, direct, systematic instruction provides more teacher-directed instruction, carefully structured and sequenced to an individual student, than was provided in Tier 1. The determination of a student's achievement is well defined and mastery is achieved before moving on to the next step in the sequence.

Progress monitoring occurs more frequently in Tier 2 and may vary from once every two weeks to once a week using

Curriculum-Based Measurement (CBM)[2] that measure targeted skills. Periodic checks to ensure that the delivery of instruction was provided in the way it was intended (fidelity checks) are conducted for the purposes of determining how closely the intervention or instruction is implemented to the way it was designed.

The recommended length of time a student spends in the second tier of intervention will vary from approximately nine to 30 weeks, depending on such factors as the skill set to be learned, rate of student's progress, whether the student is making adequate progress according to the standard protocol established prior to initiation of the intervention, the student's age and/or developmental level. When progress monitoring of a Tier 2 intervention indicates lack of adequate response, schools should consider adjusting the intervention in terms of intensity.

LEVELS OF INTERVENTION: TIER 3

Tier 3 intervention is designed for those students who demonstrate insufficient progress in Tier 2. Tier 3 is typically reserved for approximately one to five percent of students in a class who will receive more intensive instruction in addition to their core instruction. Tier 3 differs from Tier 2 instruction in terms of such factors as time, duration, group size, frequency of progress monitoring and focus. This tier provides greater individualized instruction in a small group setting (generally one to two students at a time) anywhere from 30 to 60 minutes at a minimum of four days per week. The progress of students at Tier 3 is monitored more frequently, at least once a week, to determine the student's response to intervention. Instruction is provided by school personnel who are highly skilled or trained in the areas of academic need indicated by student performance data. The setting for Tier 3 intervention is determined by school personnel. It is important to note that Tier 3 is considered supplemental instruction to Tier 1 and is not intended to replace Tier 1 instruction. Similar to Tier 2, school personnel must conduct regular fidelity checks to determine if the intervention was implemented the way it was intended.

PARENT NOTIFICATION

In accordance with section 100.2(ii) of the Regulations of the Commissioner of Education, when a student requires an intervention beyond that provided to all students and begins receiving Tier 2 intervention, parents must be notified in writing of the:

- amount and nature of data that will be collected and the

[2] Curriculum-Based Measurement (CBM) is a method teachers use to find out how students are progressing in basic academic areas such as math, reading, writing, and spelling. (The National Center on Student Progress Monitoring: http://www.studentprogress.org/families.asp).

general education services that will be provided;
- strategies to increase the student's rate of learning; and
- parent's right to request an evaluation for special education programs and/or services.

It is important that schools keep parents informed of the student's progress based upon progress monitoring data collected within each tier. This is consistent with section 200.4(j) of the Regulations of the Commissioner of Education, which requires the parent of a student suspected of having a learning disability to receive data-based documentation of the student's achievement at reasonable intervals reflecting formal assessment of a student's progress during instruction.

Quality Indicators for Multi-Level System

- Each tier provides increasing levels of intensity of services that match the increasing needs of students.
- Various factors distinguish each level or tier including duration and frequency of interventions, group size and frequency of progress monitoring.
- Levels beyond Tier 1 represent supplemental intervention/instruction provided in addition to the core instructional program provided by qualified staff.
- Interventions/instruction provided at each tier have evidence of effectiveness for the student population used.
- Instruction matched to student need is based upon progress monitoring data and diagnostic data if deemed necessary.
- Procedures and decision-making rules for determining a student's movement from tier to tier are established and based on progress monitoring data.
- Treatment fidelity procedures are designed and implemented to help monitor accuracy of interventions and assessment procedures.
- Periodic checks are conducted to determine how closely the intervention or instruction was delivered in the way it was intended.
- Parents are informed of increasing levels of instructional supplemental services including progress monitoring data, strategies used to increase student's rate of learning and right to refer for special education services.

Table: Description of Critical Elements in a 3-Tier RtI Model

The following table outlines the essential features of a three-tier model of RtI including suggested ranges of frequency and duration of screening, interventions and progress monitoring. This is intended as guidance for districts as they determine the various components of their RtI model.

Elements	Tier 1 Core Curriculum and Instruction	Tier 2 Supplemental Instruction	Tier 3 Increased Levels of Supplemental Instruction
Size of instructional group	Whole class grouping	Small group instruction (3-5 students)	Individualized or small group instruction (1-2 students)
Mastery requirements of content	Relative to the cut points identified on criterion screening measures and continued growth as demonstrated by progress monitoring	Relative to the cut points identified on criterion screening measures and continued growth as demonstrated by progress monitoring	Relative to the student's level of performance and continued growth as demonstrated by progress monitoring.
Frequency of progress monitoring	Screening measures three times per year	Varies, but no less than once every two weeks	Varies, but more continuous and no less than once a week
Frequency of intervention provided	Per school schedule	Varies, but no less than three times per week for a minimum of 20-30 minutes per session	Varies, but more frequently than Tier 2 for a minimum of 30 minutes per session
Duration of intervention	School year	9-30 weeks	A minimum of 15-20 weeks

Adapted and reprinted with permission from Johnson, E., Mellard, D., Fuchs, D., McKnight, M. for NRCLD (2006, August) Responsiveness to Intervention (RtI): How to Do It

Essential Task List for Tier 1 Instruction

Directions: In the second column, write the name of the individual or team who will assume responsibility for the task identified in the first column. In the third column, write the deadline for or status of the task. Complete each task identified.

Task	Responsible Individual/Team	Timeline/Status
Identify scientifically based instructional programs in reading, writing, and math.		
Select evidence-based curricula /interventions and resources to accompany core instructional programs.		
Adopt a system to measure fidelity of implementation.		
Select and implement a school-wide academic and behavior screening program.		
Identify team and process (direct route vs. progress monitoring route) to manage screening results.		
Establish data-collection system and implement systematic monitoring of student progress (such as curriculum-based measurement) to determine both level and growth rate.		
Identify team and process to analyze progress monitoring results.		
Develop decision rules (including cut scores) to determine which students are at risk and require more intense instructional support.		
Develop a program of continuous, rigorous professional development experiences related to scientifically based curriculum and teaching practices, progress monitoring, implementing practices with fidelity, and data-based decision-making.		
Develop and implement a process for collaborating with the problem-solving team and monitoring student movement between Tier 1 and Tier 2.		
Decide when to initiate parent involvement.		

Adapted and reprinted with permission from Mellard, D.F., Johnson, E. (2008). RTI A Practitioner's Guide to Implementing Response to Intervention

Essential Task List for Tier 2 and Beyond

Directions: In the second column, write the name of the individual or team who will assume responsibility for the task identified in the first column. In the third column, write the deadline for or status of the task. Complete each task identified.

Task	Responsible Individual/Team	Timeline/Status
Identify structure or make-up of problem-solving team.		
Select resources, curricula, and interventions for use with standard protocol approach in reading (decoding and comprehension), math, and writing.		
Create and continue the development of resources on evidence-based instructional strategies to support identified students.		
Schedule time for general and special education teachers to collaborate, observe, implement, and evaluate strategies.		
Develop decision rules (cut scores, exit criteria) for remaining in or moving out of Tier 2 and beyond (responsiveness vs. unresponsiveness).		
Implement a system of data collection and progress monitoring for Tier 2 and beyond to determine level and growth rate.		
Provide professional development opportunities for problem solving and protocol approaches.		
Ensure time is scheduled and process is established for teams to meet and review student needs.		
Determine level of intensity of instruction for Tier 2 and beyond (how often, how long, size of instructional group).		
Identify measures and procedures to document fidelity of implementation of interventions.		
Establish procedures to provide written notification to parents of students receiving Tier 2 intervention.		

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IV. REPEATED ASSESSMENTS OF STUDENT ACHIEVEMENT (PROGRESS MONITORING)

A school district's process to determine if a student responds to scientific, research-based instruction shall include **repeated assessments of student achievement** which should include curriculum-based measures to determine if interventions are resulting in student progress toward age or grade level standards.

[8NYCRR §100.2(ii)(1)(iv)]

PURPOSE OF PROGRESS MONITORING

Progress monitoring is the practice of assessing student performance using assessments on a repeated basis to determine how well a student is responding to instruction. Data obtained from progress monitoring helps staff to determine the extent to which students are benefiting from classroom instruction and informs decisions about appropriate levels of intervention.

Progress monitoring differs from screening (discussed in Chapter II) regarding the frequency with which it is administered and the kind of information it provides about student performance. Screening targets students who may be at-risk by comparing their performance to a criterion-referenced measure. Progress monitoring provides routine data that display student growth over time to determine if the student is progressing as expected in the curriculum. (Mellard and Johnson, 2008)

USES OF PROGRESS MONITORING DATA

There are different uses of data from progress monitoring within the different tiers of intervention.

Data from progress monitoring in Tier 1 inform decision-making about classroom instruction in two main ways:

1. Once a student has been initially identified as at-risk by screening procedures, progress monitoring can be used to determine the student's progress in the general curriculum and confirm or refute initial screening results.
2. Analysis of average performance of all students combined and their rate of growth can assist teachers/administrators in determining the need for curricular and instructional change within the core curriculum.

The primary purpose of progress monitoring in Tier 2 and beyond involves determining whether the intervention is successful in helping the student catch up to grade level expectations. Data from progress monitoring in Tiers 2 and 3 inform decision-making regarding individual students' responsiveness or lack of responsiveness in two ways:

- Learning rate, or student's growth in achievement or behavior competencies over time, compared to prior levels of performance and peer growth rates; and

- "Level of performance, or the student's relative standing on some dimension of achievement/performance, compared to expected performance (either criterion- or norm-referenced)." (NASDSE, May 2006)

Data from progress monitoring should be used to inform student movement through tiers. For example, progress monitoring data obtained during the course of Tier 2 intervention should be analyzed for level of performance and growth status. If student data reflect performance at or above benchmark, the student may return to Tier 1. If the student is performing below benchmark, but making sufficient growth progress, the decision to continue Tier 2 intervention can be made. If the student is performing below benchmark and demonstrates poor growth (i.e. under-responding), a change in the Tier 2 intervention or movement to a Tier 3 intervention may be considered.

TOOLS FOR PROGRESS MONITORING

The assessment tools selected for progress monitoring should be specific to the skills being measured. CBMs are a frequently used tool for progress monitoring. For example, in reading, an appropriate progress monitoring tool would target the specific essential element(s) of reading with which an individual student is having difficulty, such as phonemic awareness, phonics, fluency, vocabulary and/or comprehension.

The National Center on Response to Intervention provides information about reading and math progress monitoring tools and provides users with information about the technical adequacy of commonly used progress monitoring tools. In addition, the chart provides users with practical information about how to obtain, access support for, and implement the tools. See http://www.rti4success.org/chart/progressMonitoring/progressmonitoringtoolschart.htm.

The use of informal assessments during the course of instruction can provide teachers with additional information on which to base instructional decisions. A combination of CBMs and informal, ongoing assessments (checklists, reading inventories, running records) completed by teachers to monitor progress are recommended so that use of CBM is not the sole index of progress, which could lead to unintended consequences such as children being fast and accurate in word reading, but inattentive to the meaning of what is read.

Additional and individual assessments may also be implemented to inform the nature of instruction that takes place in Tier 2 and beyond. For example, an informal reading inventory (IRA) or diagnostic reading assessment (DRA) may be administered to provide additional information about the instructional needs of the

targeted student.

STEPS FOR PROGRESS MONITORING

Progress monitoring involves the following steps*:

1. Establish a benchmark for performance and plot it on a chart (e.g., "read orally at grade level 40 words per minute by June"). It must be plotted at the projected end of the instructional period, such as the end of the school year.
2. Establish the student's current level of performance (e.g., "20 words per minute").
3. Draw an aim line from the student's current level to the performance benchmark. This picture represents the slope of progress required to meet the benchmark.
4. Monitor the student's progress frequently (e.g., every Monday). Plot the data.
5. Analyze the data on a regular basis, applying decision rules (e.g., "the intervention will be changed after six data points that are below the aimline").
6. Draw a trend line to validate that the student's progress is adequate to meet the goal over time.

*Oregon Department of Education, Office of Student Learning and Partnership (Revised December 2007) Identification of Students with Learning Disabilities under the IDEA 2004, Technical Assistance to School Districts, Oregon Response to Intervention

FREQUENCY OF PROGRESS MONITORING

Decision rules regarding the frequency of progress monitoring within each tier must also be established. If using a standard protocol procedure, this would be determined by the specific protocol. If using the problem-solving method, this could vary dependent upon various factors including, but not limited to:

- frequency of intervention;
- extent of gap in achievement; and/or
- focus of intervention

Progress monitoring should occur not less than once every two weeks in Tier 2 and no less than once a week in Tier 3. Standard Protocol and Problem Solving methods are explained in Chapter V.

FACTORS TO CONSIDER TO DETERMINE ADEQUATE PROGRESS OF LEP/ELL STUDENTS

When monitoring the progress of LEP/ELL students, "the expected rate of progress takes into account… linguistic…considerations such as the student's [native and second] language proficiency, stage of second language acquisition, [and] type of language instruction. The student's progress [is compared with] levels demonstrated by peers from comparable cultural, linguistic, and experiential backgrounds who

have received the intervention." (Garcia & Ortiz, 2008)

Quality Indicators for Progress Monitoring

- Progress monitoring of student performance occurs across all tiers.
- Teachers follow a designated procedure and schedule for progress monitoring.
- Measures are appropriate to the curriculum, grade level and tier level.
- Data from progress monitoring are documented and analyzed.
- A standardized benchmark is used to measure progress and determine progress sufficiency.
- Teachers use progress monitoring to inform instructional effectiveness and the need for changes in instruction or intervention.
- Graphs are used to display data for analysis and decision making.
- Staff receive training in the administration and interpretation of progress monitoring measures and the implications for instruction.
- The district has designated reasonable cut points, and decision rules of the level, slope or percentage of mastery to help determine responsiveness and distinguish adequate from inadequate responsiveness.
- When monitoring the progress of LEP/ELL students, the student's progress is compared with the levels of progress demonstrated by peers from similar cultural and linguistic backgrounds who have received the interventions.

Essential Task List for Progress Monitoring – Tier 1

Directions: In the second column, write the name of the individual or team who will assume responsibility for the task identified in the first column. In the third column, write the deadline for or the status of the task. Complete each task identified.

Tier 1		
Task	**Responsible Individual/Team**	**Timeline/Status**
Within the relevant content area, review the progress monitoring measure or tool selected for Tier 1 to determine whether content is aligned with your curriculum.		
Once a tool has been selected, determine and secure the resources required to implement it (e.g., computers, folders/copies, testing areas).		
Determine initial professional development needs and continuing professional development support.		
Implement a system of data collection and progress monitoring that includes determining both level and growth rate.		
Administer the progress monitoring measure frequently enough to assess a learner's responsiveness. At Tier 1, screening is three times a year, with routine monitoring weekly or twice weekly.		
Monitor results at the individual student level and make decisions about reasonable cut scores to determine movement to Tier 2 and beyond.		
Monitor results at the classroom level and make decisions about when teachers or instructional programs require more scrutiny and support.		

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Tier 2 and Beyond		
Task	**Responsible Individual/Team**	**Timeline/Status**
Implement a system of data collection and progress monitoring that includes determining both level and growth rate.		
Within the relevant area of focus for the intervention, review the progress monitoring measure or tool selected for Tier 2 and beyond to determine whether content is aligned with the intervention.		
Administer the progress monitoring measure frequently enough to assess a learner's responsiveness. At Tier 2, no less than once every two weeks. .		
Organize results to provide a profile of the student's progress within this tier. This could be a graph of progress monitoring data supplemented with student work samples or additional informal assessments.		
Monitor results to determine whether a student is responding to the intervention.		
Develop decision rules about when to return a student to Tier 1, when to continue with Tier 2 and beyond, and whether further scrutiny of student performance for special education is warranted.		

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V. APPLICATION OF STUDENT INFORMATION TO MAKE EDUCATIONAL DECISIONS

A school district's process to determine if a student responds to scientific, research-based instruction shall include the application of information about the student's response to intervention to **make educational decisions** about changes in goals, instruction and/or services and the decision to make a referral for special education programs and/or services.

[8NYCRR §100.2(ii)(1)(v)]

DECISION-MAKING MODELS

Initial screening and progress monitoring data inform decisions about the level and type of interventions needed to help individual students make progress. Schools typically implement small group interventions using either a standard-protocol or a problem-solving model or a combination of the two – hybrid. Both models share similar attributes: multi-tiered approach, universal screening, progress monitoring to determine treatment effect, and a team structure to organize and analyze student performance using progress monitoring data. The models differ in terms of attention to "level of individualization and depth of problem-analysis that occurs prior to the selection, design and implementation of an intervention." (Christ, Burns, & Ysseldyke, 2005, p. 2)

STANDARD PROTOCOL MODEL

A standard protocol model involves the provision of a research-validated intervention for a specific amount of time, duration and frequency (minutes per day, days per week, and number of weeks) with small groups of students having similar needs. A primary feature of the standard protocol model involves standardized instruction or intervention with minimal analysis of skill deficits. The intervention has a set of well-defined steps or procedures, which when implemented appropriately or as intended, increase the probability of producing positive outcomes for students. Intervention groups are formed by identifying the general nature of the deficit and matching it to a prescribed treatment or protocol. (For example, the RtI decision-making team would analyze screening data and identify which students required additional instruction in decoding. These students would receive an intervention using a standardized set of procedures or intervention program that focuses exclusively on decoding.)

Specifics as to who provides the instruction, frequency and duration of the intervention, the materials used and frequency of progress monitoring are determined in a standard protocol model and this standardized, scripted intervention protocol is applied consistently to all students who require the same intervention in decoding skills. (For example. supplemental small group explicit

reading instruction targeting decoding skills for 30 minutes, three times per week for eight weeks, provided by the reading teacher with progress monitoring once a week.) Because the procedures within a standard protocol model are clear and specific, treatment fidelity is relatively easy to check. Any deviation from the implementation procedures of standard protocol compromises the integrity of the intervention and may result in less than optimal results.

PROBLEM-SOLVING

In contrast, the problem solving model involves an in depth analysis of skill deficits and instructional and environmental variables that compromise a student's reading performance (Shapiro, 2009). Information obtained from the examination of instructional variables are used to identify subskill deficits and inform targeted interventions. Common to RtI-PS models is a 4-step process that involves the following steps:

1. Conceptualize the problem (Is there a problem? What is it?)
2. Examine variables that may be influencing the problem (Why is it happening?)
3. Deliver targeted or individualized interventions (What shall we do about it?)
4. Evaluate the effectiveness of the intervention (Did the intervention work?)

Many schools have developed instructional support teams (IST) or student study teams to assist teachers in providing supports and accommodations for students who are having difficulties in the core curriculum. These teams provide suggestions to the teacher for possible interventions for struggling students. The existence of such a team can provide the beginning structure of the instructional decision-making team that is a component of an RtI process. Consistent with the following RtI principles, the team would utilize:

- a prescribed research-based intervention protocol;
- progress monitoring to guide instruction; and
- a standard format for data gathering and presentation when reporting the impact of an intervention rather than the use of anecdotal information.

DECISION-MAKING MODEL COMBINED

Both problem solving and a standard protocol can be used within the same RtI process or framework (considered a hybrid approach). For example, a standard protocol may be best suited for Tier 2 interventions that address larger numbers of students while the problem-solving method may be more appropriate for Tier 3 students who may need more specific interventions to address their individual needs. In addition, problem solving may be a better choice for students at Tier 3 who have already

demonstrated a lack of response to Tier 2 intervention and require a more targeted and individualized intervention.

DATA-BASED DECISION-MAKING

Sufficient time is needed to determine if the intervention is going to work. However, except with standard protocol procedures, the frequency, duration and intensity of interventions should be based upon student performance data, not a specified period of time. Effective data-based decision making includes:

- regular review of data based on intensity of student needs (students with more intense needs or greater gaps in achievement may need to be monitored more frequently);
- sufficient number of data points collected over a specific period of time (a minimum number of six to eight data points is needed to determine responsiveness of the student);
- analysis of learning trajectory or trends compared against trajectory or trends that will result in grade appropriate achievement;
- graphic representation of data to allow for visual analysis of trends; and
- a discussion involving treatment fidelity; that is, how closely the specific steps or procedures within an intervention was delivered the way it was intended (treatment fidelity).

Student-specific factors should be considered when applying decision rules to the design of interventions for individual students, including but not limited to:

- Age of student
- Frequency of intervention
- Extent of gap in achievement
- Trend data including variability and level of data
- Focus of intervention

DECISION RULES

Decision rules or criteria for decision making need to be created prior to implementation of the intervention to determine when:

- students are not responding adequately to instruction and need supplemental intervention;
- students are responding adequately to instruction and no longer need supplemental intervention;
- an intervention may need to be changed; and/or
- a student may need a referral for special education services to determine if a student's learning difficulty is the result of a disability.

If a student has not made adequate progress in attaining grade-level standards after an appropriate period of time when provided with instruction utilized in an RtI framework, the school district must make a referral and promptly request parental consent to evaluate the student to determine if the student needs special

education services and programs. Factors to consider in determining whether an individual student has made adequate or sufficient progress over an appropriate period of time are provided below and on pages 23-24.

SAMPLES OF SCHOOL-WIDE DECISION-RULES

The following are some examples of decision rules for determining which students are "at risk" and use of data to determine if the student is responding to instruction. Each school must select the decision rules it will apply.

- *80 percent decision rule*: If less than 80 percent of all students are meeting benchmarks, review of core curriculum may be needed. (Tier 1)
- *20 Percent Decision Rule*: Students below the 20th percentile in academic skills are placed in small group instruction. (Tier 2)
- *Change Small Group or Individual Instruction Rule*: When progress monitoring data are below the aim line[3] on three consecutive days or when six or more data points produce a flat or decreasing trend line, school staff should change or intensify the intervention.
- *Individualized Instruction Rule*: Individual instruction begins when a student fails to progress after two Tier 2 interventions. (Tier 3)

Adapted and reprinted with permission from Johnson, E., Mellard, D.F., Fuchs, D., & McKnight, M.A. (2006, August). Responsiveness to Intervention (RtI): How to do it (NRCLD).

[3] An aim line is the path to move a student from her current, baseline level of performance, to the performance criterion, within a designated time period.

Quality Indicators for Data-Based Decision Making

- Criteria are established to determine which students will be identified as "at risk" based upon screening.
- Progress monitoring tools are identified indicating what skills will be measured and what types of data will be collected.
- How long an intervention should be provided (number of data points needed) is determined before a decision is made about whether the student has or has not responded.
- Number of data points needed to determine responsiveness to instruction is selected.
- Frequency of data collection is determined for each tier.
- The minimum level of progress needed that would signify the student's responsiveness to intervention is determined.
- Criteria or decision rules that determine a student's movement between levels of intervention are determined.
- The district has established criteria to determine if a student is making sufficient progress over an appropriate period of time before a referral for a special education evaluation is made.
- Determinations are made as to when and what specific data and information will be provided to student's parents.

VI. CONSIDERATIONS WHEN IMPLEMENTING RTI WITH LIMITED ENGLISH PROFICIENT/ENGLISH LANGUAGE LEARNERS (LEP/ELL)

APPROPRIATE INSTRUCTION FOR LEP/ELL STUDENTS

For students identified as LEP/ELL students, appropriate instruction includes instruction that is linguistically and culturally responsive. This means that instruction and interventions must consider and build upon a student's cultural background and experiences as well as their linguistic proficiency (in both English and the native language). *(Esparza Brown and Doolittle: NCCREST, 2008)*

CULTURALLY RESPONSIVE

Culturally responsive teaching means that the student's prior experiences, including funds of knowledge (González, Moll, Floyd-Tenery, Rivera, Rendón, Gonzales, & Amanti, February 1994), home language background, and socio-cultural background are considered. A review of the student's socio-cultural background should address culturally and linguistically-based issues of motivation and the student's prior knowledge of the material being learned or studied. For example, students with different cultural backgrounds may be motivated to a greater degree by rewards for collaborative, group efforts than for individual efforts. All of these variables help to determine how the student learns best, in what settings, and under what teaching direction. In some cases, a student may not benefit from a specific learning strategy simply because he/she needs a different learning or teaching approach, not because he/she cannot comprehend the content of the lesson.

CONSIDERATIONS FOR READING INSTRUCTION

Prior to making decisions about a student's reading fluency, teachers should consider the relationship between the student's language proficiency and his/her literacy skills. In the case of LEP/ELL students, reading fluency and comprehension may be strongly determined by vocabulary comprehension and linguistic proficiency in both the first and second language (Slavin & Chung, 2003).

CONSIDERATIONS FOR MATH INSTRUCTION

The issue of linguistic proficiency and vocabulary comprehension is also important when collecting data and measuring math skills. Vocabulary comprehension has been identified as a major variable in the understanding of math concepts (Kemp & Partyka, 2009). Computational concepts, algorithms, numerical concepts, measurement concepts and the structure of word problems are not necessarily universal (Secada, 1983*)*.

When designing the school district's RtI process, three major variables should be considered when assessing and planning appropriate instruction for students who are LEP/ELL:

- language (literacy and oracy in both native and second languages),

- culture, and
- educational history.

These variables remain consistent across all tiers; what changes is the intensity of instruction, possibly the instructional setting (e.g., instruction in another classroom with students who have similar concerns), and depending on the Tier, some of the key instructional staff may vary. It is also important to ensure consistency in the language of instruction among tiers: students receiving core reading instruction in the home language who also need Tier 2 instruction should receive Tier 2 instruction in the home language. (Linan-Thompson and Ortiz, 2009)

SCREENING

When reading instruction occurs in a language other than English, it is strongly recommended that schools administer screening instruments in the language of instruction in addition to English. It is important that the screening tools used to identify students who are struggling and not meeting benchmarks should be tools that have been validated on the populations to be screened.

As a result of screening, LEP/ELL students who have been identified as struggling and/or not meeting benchmarks may need further language screening and assessment. In this case, educators should use standardized and/or informal tools. Language assessments should be conducted in both the native language and English in all four language areas – listening, speaking, reading, and writing.

"When an ELL student becomes the focus of concern, the instructional program itself must be examined to determine the match between the demands of the curriculum and the student's current proficiency in the language of instruction." It is important to examine the achievement of the student's "true peers" (i.e., students with similar language proficiencies and cultural and experiential backgrounds) to see if they are excelling or not. If a majority of "true peers" within the school are struggling, this is an indication that the instruction is less than optimal for that group of students. (Esparza Brown, 2008)

INSTRUCTION MATCHED TO STUDENT NEED

As for all students, differentiated instruction should be used to meet the diverse needs of all students. *NYSED's Proficiency Levels for English as a Second Language (ESL)* describes the growth stages for the four language arts areas: listening, speaking, reading, and writing. These stages and the *New York State (NYS) Teaching of Language Arts to LEP/ELLs: Learning Standards* should guide instruction for ESL.

AREAS OF DIFFERENTIATION

In addition to differentiation of instruction that is recommended for all students, differentiated instruction for LEP/ELL students should consider the student's level of English proficiency and prior educational experiences to address cultural and linguistic differences. In particular, differentiated instruction should consider grouping to address the student's levels of proficiency in the native language (L1) and English (L2) and the knowledge and skills that are to be learned (e.g., grouping with L1 peers, other LEP/ELL students or with native speakers of English).

When determining appropriate instruction/intervention **at all levels** for LEP/ELL students:

- √ Consider the amount and type of ESL instruction the student received in the past and is currently receiving.
- √ Consider the amount and type of native language instruction the student received in the past and is currently receiving, if applicable.
- √ Ensure that the language(s) used for interventions matches the language(s) used for core instruction.
- √ Consider the impact of language and culture on instruction and learning.
- √ Contact the family to receive feedback and guidance regarding the student's strengths, interests, and needs.
- √ Ensure that bilingual and/or ESL personnel serve on the instructional decision-making team.

TIER 1: CORE INSTRUCTION FOR LEP/ELL

The following guidelines (adapted from Ortiz, Robertson, & Wilkinson, 2009) should be used when differentiating instruction to meet the needs of second language learners at the Tier 1 level:

- √ Analyze assessment/screening data to determine performance levels in both L1 and L2.
- √ Use this assessment data to plan instruction.
- √ Differentiate this instruction based on academic performance levels; the student's L1 and L2 levels; and the cultural background of the student.

Base the L2 performance levels on the *NYSED Proficiency Levels for English as a Second Language*.

TIERS 2 AND 3: STRATEGIC AND INTENSIVE LEVELS OF INTERVENTION FOR LEP/ELL STUDENTS

As is the case with students who are native speakers of English, LEP/ELL students who continue to struggle with the academic material will need further intervention. If using a problem-solving model, the student data and the classroom instructional data should be provided to the instructional decision-making team for analysis to determine an appropriate instructional plan. If using a standard protocol model it is recommended that districts develop a protocol for LEP/ELL students which includes a menu of interventions that have been validated with LEP/ELL students (for further information, see Rivera, Moughamian, Lesaux, & Francis, 2008) in addition to the set of interventions that have been validated with native speakers of English.

The problem-solving team should:

√ Review and analyze the data collected in Tier 1 documentation and conduct further assessments as needed, and make recommendations for Tier 2 intervention(s). For LEP/ELL students, the documentation should include the:
- explanation of how instruction was differentiated to address native and second language issues and cultural differences;
- amount and type of ESL instruction; and,
- amount and type of native language instruction (as appropriate).

√ Select the instructional areas that need further, more intense intervention.

√ Determine the extent of ESL instruction and/or native language instruction needed during Tiers 2 and 3 interventions to ensure the student will benefit from the intervention.

PROGRESS MONITORING

When monitoring the progress of LEP/ELL students:

√ If instruction is being provided in L1 and L2, all on-going assessments should be conducted in both L1 and L2.

√ When evaluating instructional programs for students in either L1 or L2, the results of instruction should be compared to results for "true peers" (i.e., students with the same native language and culture and similar educational histories). The performance of true peers should be used to benchmark progress and decide whether the student is responding adequately to the intervention or needs more intensive intervention.

√ Whenever possible, the comparative sampling of true peers should be large enough for making educationally valid decisions. (S. Ortiz, personal communication.)

√ Knowledge of typical second language development and the student's history of first and second language use should be considered when setting benchmarks and interpreting progress.

LANGUAGE DIFFERENCE OR DISABILITY

When conducting assessments and developing instructional programs for a LEP/ELL student, care must be taken that issues of language differences are not confused with language disorders and that patterns of performance related to the student's socio-cultural background or interrupted schooling are not mistaken for signs of a disability. Assessments in both L1 and L2 should be conducted for comparison before appropriate educational decisions can be made (Ortiz, 2009; Roseberry-McKibbin, 1995).

Table 1 provides an overview of the areas of language development which may be assessed to differentiate between linguistic differences and possible speech or language disability. As with judgments regarding reading development, judgments concerning the "appropriateness" of a student's language should be based upon comparison with speakers who have similar linguistic backgrounds. Although "the literature suggests a high correlation between speech-language impairments and reading disorders [Schoenbrodt, Kumin, & Sloan, 1997; Gerber, 1993; & Sawyer, 1992; cited in Linan-Thompson & Ortiiz, 2009], best practice dictates that assessments be administered to determine the nature of reading difficulties and to guide the design of reading interventions" (Linan-Thompson & Ortiz, 2009, p. 107) before a student is identified as having a learning disability in the area of reading.

Differentiation Between Language Differences vs. Language Disability

Table 1

LANGUAGE AREAS	DIFFERENCE	POSSIBLE DISABILITY/ CONCERNS
Pragmatics: The rules governing social interactions (e.g. turn taking, maintaining topic of conversation).	Social responses to language are based on cultural background (e.g., comfort level in asking or responding to questions) Pauses between turns or overlaps in conversation are similar to those of peers with the same linguistic and cultural background.	Social use of language or lack thereof is inappropriate (e.g., topic of lesson is rocks and the student continues to discuss events that occurred at home without saying how they relate to rocks).
Syntax: The rules governing the order, grammar, and form of phrases or sentences	Grammatical errors due to native language influences (e.g., student may omit initial verb in a question—*You like cake?* (omission of *Do*)). Word order in L1 may differ from that of English (e.g., in Arabic sentences are ordered verb-subject-object while Urdu sentences are ordered subject-object-verb).	Grammatical structures continue to be inappropriate in both languages even after extensive instruction (e.g., student cannot produce the past tense in either Spanish or English indicating difficulty with grammatical tenses).
Semantics: The rules pertaining to both the underlying and the surface meaning of phrases and sentences	A student whose native language is Korean may have difficulty using pronouns, as they do not exist in his/her native language. A student may use words from L1 in productions in L2 because of his inability or unfamiliarity of the vocabulary in L2 (e.g., "*The car is muy rapido*." In this case, the student knows the concept as well as the needed structure but cannot remember the vocabulary).	Student is demonstrating limited phrasing and vocabulary in both languages (e.g., his/her sentences in both languages demonstrate limited or no use of adjectives and adverbs and both languages are marked by a short length of utterance).
Morphology: The rules concerning the construction of words from meaningful units	Native speakers of Russian may not use articles as they do no exist in that language. A student whose native language is Spanish may omit the possessive ('s') when producing an utterance in English (e.g., *"Joe crayon*	Student's productions in both languages demonstrate a lack of the possessive form indicating that he/she has not acquired this morphologic structure by the appropriate age. Again, both languages may be marked by a short length of utterance.

LANGUAGE AREAS	DIFFERENCE	POSSIBLE DISABILITY/ CONCERNS
	broke" or he will say "*the crayon of Joe broke,"* applying a structure that is influenced by the rules of his/her L1. He/she still demonstrates understanding of the morphologic structure for possession but is demonstrating errors in structure that are directly influenced by his/her L1.)	
Fluency: Flowing speech that is not marked by excessive interruptions, interjections, and/or repetitions	Student's language does exhibit more interruptions, interjections, and/or repetitions for his/her age, but there are no physical concomitants marking the speech (physical strain or repeated physical actions), and the student does not seem to exhibit a consciousness of his/her dysfluency. Students learning L2 may exhibit interruptions, interjections, and repetitions as they are searching for words while speaking.	Major reliance on gestures rather than speech to communicate in both L1 and L2, even after lengthy exposure to English. The student exhibits not only interruptions, interjections, and/or repetitions, but also demonstrates physical concomitants that accompany these behaviors such as facial grimacing, leg stomping, or blinking that indicates physical struggle in producing speech. In addition, these students may demonstrate recognition of their dysfluency and try to avoid specific sounds or words. These behaviors will occur in both languages.
Phonology: The rules for combination of sounds in a language	Student may omit specific sound combinations or have difficulty producing certain sounds in the L2 that do not exist in the phonology of the L1 (e.g., student may have difficulty producing the /r/ /l/, /f/, /ch/, or /th/ in L2, or a Tagolog speaker might say "*past" instead of* "*fast*" or add a vowel before words that begin with clusters ("*I go to eschool.")*)	Students will demonstrate a delay in the development of the age appropriate sounds in both languages (e.g., a student may consistently have difficulty producing vowels in both language or by middle school the student will still demonstrate initial consonant deletion in both languages).

Developed by Sarita C. Samora and Idalia Lopez-Diaz. (unpublished – adapted and printed with permission)

Quality Indicators for Implementing RtI with LEP/ELL students

- Personnel with bilingual and ESL certification (teachers, related service providers, school psychologists, and administrators) are members of a district's RtI design team and instructional support teams.
- ESL is an integral part of core instruction for all LEP/ELL students, not an "intensive intervention" or additional tier in the RtI process. (Refer to Part 154 of the Regulations of the Commissioner of Education for required units of ESL and ELA instruction.)
- In districts that have sufficient numbers of LEP/ELL students who speak the same language to require bilingual programs, bilingual instruction is an integral part of core instruction (Tier 1) for those LEP/ELL students. (Refer to Part 154 of the Regulations of the Commissioner of Education for required units of ESL, native language arts and ELA instruction.)
- ESL methodology is employed in all three tiers and native language instruction or support is provided when needed to help rule out limited English proficiency or lack of appropriate instruction as causes of learning difficulties.
- Culturally responsive instruction is employed in all three tiers.
- Evidence-based practices/interventions shown to be effective and validated for LEP/ELL students are used.
- Interventions are adapted to reflect cultural and linguistic considerations; adapted intervention protocols are standardized, implemented with fidelity, and revised as needed based on sufficient data reflecting student results and program efficacy.
- The performance of "true peers" (i.e., students with the same native language and culture and similar educational histories) is considered when setting benchmarks, monitoring progress, and deciding whether a LEP/ELL student is responding adequately to instruction or needs more intensive intervention.
- Research on second language development and the student's history of first and second language development are considered when setting benchmarks, monitoring progress, and deciding whether a LEP/ELL student is responding adequately to instruction or needs more intensive intervention.

VII. NOTIFICATION TO PARENTS

A school district's process to determine if a student responds to scientific, research-based instruction shall include **written notification to the parents** when the student requires an intervention beyond that provided to all students in the general education classroom that provides information about:

(a) the amount and nature of student performance data that will be collected and the general education services that will be provided pursuant to the structure and components of the RtI program selected by the school district;
(b) strategies for increasing the student's rate of learning; and
(c) the parents' right to request an evaluation for special education programs and/or services.

[8NYCRR §100.2(ii)(1)(vi)]

PROCEDURES FOR PARENT NOTIFICATION

While it is expected that parents are involved and kept informed of their child's progress in school at all levels, when students participate in the RtI process, there are specific parent notification requirements. Parents must be notified in writing and in a language or mode of communication they understand if their child needs an intervention beyond that which is provided to all students in the classroom in an RtI process. Such parents must specifically be notified in writing:

- how much and what kind of information (data) the school will collect to monitor the student's progress;
- the nature of the intervention/instructional support the student will receive; and
- of the parent's right to request an evaluation for special education services.

The school should establish clear procedures to meet these requirements, including but not limited to, procedures for:

- determining the method for written parental notification;
- the manner and frequency of parent and staff communication; and
- the manner and frequency in which progress monitoring data will be provided to parents.

In the event a student is referred for an evaluation to determine if the student has a learning disability, the parent will have received appropriate data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction. (8NYCRR §200.4(j)(1)(ii)(b))

Quality Indicators for Parent Notification

- General information about the RtI process is provided to all parents.
- The notification to parents when a student needs supplemental intervention includes all required information and is provided in a language the parent understands.
- Parents of students receiving an intervention beyond that of the general education class are informed of the right to request an evaluation for special education services at any time.
- The nature and frequency of communication between parents and staff is clearly defined.
- The frequency of providing progress monitoring data to parents is adequate and appropriate to ensure they are regularly informed of their child's progress.

VIII. SCHOOL DISTRICT SELECTION OF THE SPECIFIC STRUCTURE AND COMPONENTS OF A RTI PROGRAM

A **school district shall select and define the specific structure and components** of the response to intervention program, including, but not limited to, the criteria for determining the levels of intervention to be provided to students, the types of interventions, the amount and nature of student performance data to be collected and the manner and frequency for progress monitoring.

[8NYCRR §100.2(ii)(2)]

STRUCTURE

NYSED has defined in regulation the minimum components of an RtI program but does not require a specific RtI model that must be uniformly used by all school districts. School districts have discretion to make specific decisions when designing the structure and components of their RtI program. To begin the process it is recommended that the school convene an RtI design team that includes administrators, related service personnel, school psychologists, general education teachers, special education teachers, ESL/bilingual teachers and parents. Decisions will need to be made regarding the following components of the RtI framework:

- √ number of levels or tiers
- √ research-based core instructional program (e.g., reading, math and writing)
- √ universal screening and progress monitoring tools
- √ decision-making process (problem solving vs. standard protocol)
- √ composition of instructional decision-making team if using a problem-solving approach
- √ professional development
- √ procedures to ensure fidelity of implementation
- √ parent involvement and notification procedures

CRITERIA AND DECISION RULES FOR DETERMINING LEVELS OF INTERVENTION

- √ Cut points to identify students at risk based on screening results
- √ Criteria for judging whether a student is or is not progressing adequately in response to instruction
- √ Criteria and decision rules for movement of students between levels
- √ Criteria for determining when an intervention is no longer needed

TYPES OF INTERVENTION

√ Criteria for determining duration and frequency of interventions designed to supplement Tier 1 or core instruction

√ Criteria for determining type of intervention including:

- focus of instruction;
- size of instructional group;
- appropriate instructional setting (within classroom, separate setting); and
- appropriately trained staff.

MANNER AND FREQUENCY FOR PROGRESS MONITORING

√ Progress monitoring procedures and tools such as CBM defined for each level

√ How and how frequently data are shared with parents.

GETTING STARTED

A school readiness survey may assist a school district in its initial steps to implement an RtI approach. Examples of school readiness surveys or checklists can be found at the NYS RtI Technical Assistance Center's website at www.nysrti.org or at the Center on Response to Intervention's website at www.rti4success.org.

USE OF FUNDS: EARLY INTERVENING, TITLE I AND TITLE III

IDEA 2004 allows school districts to use up to 15 percent of their IDEA funds for comprehensive early intervening services (CEIS). This is intended for students not identified as students with disabilities but who need additional academic and behavioral supports to succeed in the general education curriculum. These early intervening funds could be used to support the development of RtI programs including professional development for teachers and school staff.

A presentation from the U.S. Department of Education on how federal funds may be used to support RtI entitled, Implementing RtI Using Title I, Title III, and CEIS Funds: Key Issues for Decision-Makers, is available at http://www.ed.gov/programs/titleiparta/rti.html. This presentation:

- provides background information about these three federal programs;
- defines RtI, recognizing that there are multiple RtI frameworks and that different terminology is sometimes used; and
- provides specific examples of how Title I, Title III, and CEIS funds may be used to support RtI.

IX. Ensuring Staff Knowledge And Skills Necessary To Implement RtI Programs

A school district shall take appropriate steps to **ensure that staff has the knowledge and skills necessary** to implement a response to intervention program and that such program is implemented consistent with the specific structure and components of the RtI process selected by the school district.

[8 NYCRR §100.2(ii)(3)]

Fidelity of Implementation

Existing research has documented that a major factor involved with unsuccessful interventions is a lack of or failure to implement the proposed intervention in the way it was intended. Fidelity addresses not only the steps involved in an intervention, but also the integrity of screening and progress monitoring procedures as well. One way schools can ensure fidelity of implementation is to make sure staff receive appropriate and sustained professional development relative to assessment procedures and interventions. Each school district must identify how it will provide staff with the appropriate professional development needed to ensure the fidelity of implementation of its RtI programs.

Fidelity of the process at the school level means consistency with which the various components are implemented across classrooms and grade levels. Fidelity of implementation means:

1. intervention/instruction is delivered in the way in which it was designed to be delivered;
2. screening and progress monitoring procedures are administered in a standardized manner, and an explicit decision-making model is followed;
3. instruction and interventions are implemented consistent with research or evidence-based practice;
4. staff receive appropriate professional development; and
5. administrators provide supervision and serve as instructional leaders.

An approach to ensuring fidelity includes three dimensions (Mellard and Johnson, 2008):

- Method which includes the tools and approaches a school uses to provide feedback on how RtI is being implemented;
- Frequency regarding how often checks are conducted; and
- Support systems including feedback and professional development needed to implement a process with fidelity.

Professional Development

Effective implementation of a data-based decision making process like RtI requires specific sets of skills and knowledge that are central to the different roles and responsibilities of teachers and other school personnel involved in the process.

Instructional and Supervisory Staff

An effective RtI model requires knowledge and skill in the provision of instruction; monitoring progress, including collecting and displaying performance data for evaluation; and evaluating students' trajectories of learning (the speed with which they acquire new skills) to determine the need for intervention. It also requires designing, implementing, and evaluating interventions in support of students whose trajectories of learning will not result in grade level achievement.

All staff need basic instruction in the underlying concepts (e.g., early literacy, the five core elements of literacy instruction) in order to support the process. In the case of literacy, instructional staff will need a greater depth of knowledge than noninstructional staff, but all staff will need to understand the basics to ensure that the system truly invests in literacy for all students.

Administrative Staff

Administrators may need professional development to acquire an appropriate level of knowledge of the core instructional program and the RtI program, including effective scope and sequence of instruction, instructional strategies, monitoring procedures, effective use of data, problem solving and decision making, and the identification and implementation of interventions appropriate to individual student needs.

Members of Instructional Decision-making Teams

Individuals who will be participating in instructional decision-making teams should have a broad understanding of interventions and become highly skilled in data analysis, problem solving, and decision making in support of improving instructional programs for students referred to the team.

Family Members

Parents and family members are an essential part of an effective RtI model. Schools should ensure that opportunities are available to provide parents with an overview of the RtI process and its benefits, including an introduction of the model (e.g., the levels of intervention and what they comprise in terms of increasingly intensive interventions), the process by which decisions about interventions will be made, the process for communication with families about student progress, their rights to refer their children to the Committee on Special Education (CSE) at any point, and how data from an RtI process can be used as part of the process to determine if the student has a learning disability.

STRATEGIES TO ASSESS THE OVERALL EFFECTIVENESS OF THE RTI PROGRAM

An RtI implementation plan should include strategies for evaluation of implementation fidelity and effectiveness of the model from initial steps forward. Strategies should include both annual summative evaluations to describe progress over the year and formative evaluation during each year to allow for adjustment to the RtI process if it becomes apparent that elements of the model are not being implemented accurately or are not having the desired impact.

Every district should ensure that individuals within the building and/or district have a whole-picture understanding of the model, know what data can be collected to evaluate systemic implementation, and have the skill to understand and analyze the data. The district may want to forge a partnership with higher education faculty with expertise in program evaluation in order to develop district capacity in this area.

Use of an RtI model holds promise not only for supporting individual learners and decreasing inappropriate learning disability identifications, but also for identifying and improving areas of weakness in curriculum and instruction. This level of analysis can build on data accumulated for individual student support. Districts can conduct grade and school level analyses in specific skill areas at a much more detailed level than is possible with the use of State assessment outcomes alone. These analyses may reveal the need for curriculum development alignment or expansion, reconsideration of instructional or supervisory roles in support of student outcomes, professional development for instructional and/or supervisory staff, or even reorganization of systems for more efficient use of resources.

Quality Indicators to Ensure Fidelity of Implementation

- Professional development is provided by staff that are knowledgeable in the areas of early literacy, data-based decision making and progress monitoring.
- Professional development is job embedded and ongoing and is part of the district's overall professional development plan.
- The district has identified strategies to evaluate the effectiveness of its RtI model and to make changes as necessary.
- Administrative staff serve as instructional leaders to provide appropriate supervision and monitoring of the implementation of the RtI program.
- Procedures are in place that assess how accurately intervention and assessment procedures are followed.

X. USE OF RTI IN THE DETERMINATION OF A LEARNING DISABILITY

CRITERIA FOR DETERMINING LEARNING DISABILITY (LD)

NYS has established criteria for the CSE to use when determining if a student has a learning disability.

These criteria include consideration of data and instructional information obtained through an RtI process which provides important information to determine if a student needs to be referred for an individual evaluation to determine if the student has a learning disability. Effective on and after July 1, 2012, a school district must have an RtI process in place as it may no longer use the severe discrepancy between achievement and intellectual ability to determine that a student in kindergarten through grade four has a learning disability in the area of reading.

In making a determination of eligibility for special education, the CSE must determine that underachievement of the student is not due to lack of appropriate instruction in reading (including the five essential components), mathematics or limited English proficiency. The data from RtI can help to document that the reason for a student's poor performance or underachievement is not due to lack of appropriate instruction or limited English proficency. Along with other individual evaluation information, RtI data can yield important descriptive information about how children learn and why they may be having difficulties.

When determining if a student has a learning disability, the data from multiple sources indicates that the student, when provided appropriate instruction:

1. does not adequately achieve grade level standards in the areas of reading and/or mathematics;

   and

2. (a) is not making sufficient progress toward meeting those standards when provided with appropriate instruction consistent with an RtI model;

   or

   (b) exhibits a pattern of strengths and weaknesses in performance and/or achievement relative to age or grade level standards as found relevant by the CSE;

   and

3. has learning difficulties that are not primarily the result of a visual, hearing or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency.

PROCESS FOR DETERMINING LEARNING DISABILITY USING RTI DATA

While the data collected through an RtI process may be used as part of a student's individual evaluation to determine if a student has a learning disability, it may not be the sole source of information to make this determination. A student suspected of having a learning disability must receive a comprehensive multidisciplinary evaluation. Consistent with section 200.4(b) of the Regulations of the Commissioner of Education, the individual evaluation must include a variety of assessment tools and strategies including a physical examination, a social history, other appropriate assessments as necessary, an individual psychological evaluation and an observation. The observation of the student can include information from an observation in routine classroom instruction done either prior to referral for an evaluation or after referral has been made.

The student-centered data collected and information on instructional strategies used throughout an RtI process provides important information to inform the CSE about the student's progress to meet age or State-approved grade-level standards. This data should include, but not be limited to:

- data that demonstrates that the student was provided appropriate instruction delivered by qualified personnel including research-based instruction in reading;
- progress monitoring data that describes how a student responded to particular interventions of increasing intensity;
- instructional information on a student's skill level and rate of learning relative to age/grade level standards or criterion-referenced benchmarks; and
- evaluative data including CBM regarding a student's performance that is useful and instructionally relevant.

WRITTEN REPORT

The CSE must prepare a written report documenting the eligibility determination of a student suspected of having a learning disability which must include the basis for how the decision was made and, if the student has participated in an RtI process:

- the instructional strategies used,
- the student-centered data collected, and
- documentation that parents were notified when the student required an intervention beyond that provided to all students in the general education classroom, informing them about the amount and nature of student performance data that would be collected; the general education services that would be provided in the RtI program; strategies that would be used for increasing their child's rate of learning and the parents right to refer their child for special education services.

Appendix B provides NYS' model form for documentation of a learning disability eligibility determination.

NONPUBLIC SCHOOL STUDENTS

NYSED recommends that all schools, including nonpublic schools, implement RtI programs.

If a student from a nonpublic school is referred for an evaluation to determine if the student has a disability and there is no data from an RtI process available because the nonpublic school does not implement an RtI process, information from other sources should be obtained regarding the type of instruction the student has received and the student's progress in the school's curriculum (such as teacher reports, classroom tests, standardized tests, report cards and information from parents). Nonpublic school students cannot be denied an evaluation to determine if the student has a disability or the provision of services, if eligible, based on the nonpublic school not implementing an RtI process and the lack of data available from an RtI process. The determination of eligibility is based upon a comprehensive multidisciplinary evaluation consistent with section 200.4(b) of the Regulations of the Commissioner of Education. The parent and CSE may agree to extend the timeline to complete the individual evaluation in order to have the student participate in a process to assess the student's response to scientific, research-based intervention (RtI).

Quality Indicators for Use of RtI Data in a Learning Disability Determination

- The determination of a student with a learning disability is based upon a comprehensive multidisciplinary evaluation.
- Data based on the student's response to scientific-based intervention is used as part of the individual evaluation information to determine if a student has a learning disability.
  - The CSE considers progress monitoring data that describes how a student responded to particular interventions of increasing intensity.
  - Student's skill level and rate of learning relative to age/grade level standards or criterion-referenced benchmarks are considered.
  - Instructionally relevant evaluative data including curriculum-based measures regarding a student's performance is considered.
- Student information from the RtI process provides data-based documentation on whether the student has made sufficient progress to meet age or State-approved grade-level standards in the area of the suspected disability.
- Teacher(s) providing RtI interventions participate in the CSE meeting to determine a student's eligibility for special education.

Appendix A

NEW YORK STATE REGULATORY POLICY FRAMEWORK FOR RESPONSE TO INTERVENTION

SCHOOL-WIDE SCREENING

Diagnostic screening for new entrants to school districts uses recognized and validated screening tools to determine a student's development in oral expression, listening comprehension, written expression, basic reading skills, reading fluency and comprehension, mathematical calculation and problem-solving, motor development, articulation skills, and cognitive development.

Students with low test scores shall be monitored periodically through screenings and on-going assessments of the student's reading and mathematic abilities and skills.

- If the student is determined to be making sub-standard progress in such areas of study, instruction shall be provided that is tailored to meet the student's individual needs with increasingly intensive levels of targeted intervention and instruction.
- School districts shall provide written notification to parents when a student requires an intervention beyond which is provided to the general education classroom.
- Such notification shall include:
  - information about the performance data that will be collected and the general education services that will be provided;
  - strategies for increasing the student's rate of learning; and
  - the parents' right to request an evaluation by the Committee on Special Education to determine whether the student has a disability.

[8 NYCRR §117.3]

BOARD OF EDUCATION ADMINISTRATIVE POLICIES AND PRACTICES

Each board of education or board of trustees shall adopt written policy that establishes administrative practices and procedures for implementing school-wide approaches, which may include a response to intervention process pursuant to section 100.2(ii) of this Title, and pre-referral interventions in order to remediate a student's performance prior to referral for special education.

[8 NYCRR §200.2(b)(7)]

REQUIRED COMPONENTS OF A RESPONSE TO INTERVENTION (RTI) PROGRAM

(1) A school district's process to determine if a student responds to scientific, research-based instruction shall include the following **minimum requirements**:

(i) **appropriate instruction** delivered to all students in the general education class by qualified personnel;

(a) appropriate instruction in reading shall mean scientific research-based reading programs that include explicit and systematic instruction in phonemic awareness,

phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies;

(ii) **screenings** applied to all students in the class to identify those students who are not making academic progress at expected rates;

(iii) **instruction matched to student need** with increasingly intensive levels of targeted intervention and instruction for students who do not make satisfactory progress in their levels of performance and/or in their rate of learning to meet age or grade level standards;

(iv) **repeated assessments** of student achievement which should include curriculum-based measures to determine if interventions are resulting in student progress toward age or grade level standards;

(v) the application of information about the student's response to intervention to make **educational decisions** about changes in goals, instruction and/or services and the decision to make a referral for special education programs and/or services; and

(vi) written **notification to the parents** when the student requires an intervention beyond that provided to all students in the general education classroom that provides information about:

(a) the amount and nature of student performance data that will be collected and the general education services that will be provided pursuant to paragraph (2) of this subdivision;

(b) strategies for increasing the student's rate of learning; and

(c) the parents' right to request an evaluation for special education programs and/or services.

(2) A **school district shall select and define the specific structure and components** of the response to intervention program, including, but not limited to, the criteria for determining the levels of intervention to be provided to students, the types of interventions, the amount and nature of student performance data to be collected and the manner and frequency for progress monitoring.

(3) A school district shall take appropriate steps to **ensure that staff has the knowledge and skills necessary** to implement a response to intervention program and that such program is implemented consistent with paragraph (2) of this subdivision.

[8 NYCRR §100.2(II)]

DETERMINATION OF LEARNING

Additional procedures for identifying students with learning disabilities.

DISABILITIES

(1) A student suspected of having a learning disability as defined in section 200.1(zz)(6) of this Part must receive an individual evaluation that includes a variety of assessment tools and strategies pursuant to subdivision (b) of this section. The CSE may not rely on any single procedure as the sole criterion for determining whether a student has a learning disability. The individual evaluation shall be completed within 60 days of receipt of consent, unless extended by mutual written agreement of the student's parent and the CSE.

(i) The individual evaluation must include information from an observation of the student in routine classroom instruction and monitoring of the student's performance that was either done before the student was referred for an evaluation or from an observation of the student's academic performance in the regular classroom after the student has been referred for an evaluation and parental consent, consistent with section 200.5(b) of this Part, is obtained. Such observation shall be conducted by an individual specified in paragraph (2) of this subdivision.

(ii) To ensure that underachievement in a student suspected of having a learning disability is not due to lack of appropriate instruction in reading or mathematics, the CSE must, as part of the evaluation procedures pursuant to section 200.4(b) and (c) of this Part, consider,

(a) data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

(b) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.

(2) The determination of eligibility for special education for a student suspected of having a learning disability must be made by the CSE, which shall include the student's regular education teacher as defined in section 200.1(pp) of this Part and at least one person qualified to conduct individual diagnostic examinations of students (such as a school psychologist, teacher of speech and language disabilities, speech/language pathologist or reading teacher),

(3) A student may be determined to have a learning disability if, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, the student does not achieve adequately for the student's age or to meet State-approved grade-level

standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving; and

(i) The student either:

(a) does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in this paragraph when using a process based on the student's response to scientific, research-based intervention pursuant to section 100.2(ii) of this Title; or

(b) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development that is determined by the CSE to be relevant to the identification of a learning disability, using appropriate assessments consistent with section 200.4(b) of this Part; and

(ii) The CSE determines that its findings under this paragraph are not primarily the result of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency.

(4) In addition to the criteria in paragraph (3) of this subdivision, the CSE is not prohibited from considering whether there is a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematical calculation and/or mathematical problem solving; provided that effective on and after July 1, 2012, a school district shall not use the severe discrepancy criteria to determine that a student in kindergarten through grade four has a learning disability in the area of reading.

(5) Specific documentation for the eligibility determination.

(i) When determining eligibility for a student suspected of having a learning disability, the CSE shall prepare a written report containing a statement of:

(a) whether the student has a learning disability;

(b) the basis for making the determination, including an assurance that the determination has been made in accordance with section 200.4(c)(1) of this Part;

(c) the relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;

(d) the educationally relevant medical findings, if any;

(e) whether, consistent with paragraph (3) of this subdivision:

(1) the student does not achieve adequately for the student's age or to meet State-approved grade-level standards; and
(2) the student
(i) does not make sufficient progress to meet age or State-approved grade-level standards; or
(ii) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development;

(f) the determination of the CSE concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and

(g) if the student has participated in a process that assesses the student's response to scientific, research-based intervention pursuant to section 100.2(ii) of this Title:
(1) the instructional strategies used and the student-centered data collected; and
(2) the documentation that the student's parents were notified in accordance with section 100.2(ii)(1)(vi) of this Title.

(ii) Each CSE member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the CSE member must submit a separate statement presenting the member's conclusions.

[8 NYCRR §200.4(j)]

Appendix B

DOCUMENTATION OF THE DETERMINATION OF ELIGIBILITY FOR A STUDENT SUSPECTED OF HAVING A LEARNING DISABILITY

Section 200.4(j)(5) of the Regulations of the Commissioner of Education requires that the committee on special education (CSE) prepare a written report of the determination of eligibility of a student suspected of having a learning disability that contains a statement of the following information:

1. The CSE has reviewed the individual evaluation results for _____, which indicate that the student:
   - ❑ has a learning disability requiring special education services.
   - ❑ does not have a learning disability.

2. This decision was based on the following sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior in accordance with section 200.4(c)(1) of the Regulations:

3. The relevant behavior noted during the observation of the student and the relationship of that behavior to the student's academic functioning indicate:

4. The educationally relevant medical findings, if any, indicate:

5. To ensure that underachievement in a student suspected of having a learning disability is not due to lack of appropriate instruction in reading or mathematics, the CSE must, as part of the evaluation procedures pursuant to section 200.4(b) and (c), consider:
   - ❑ data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel.

   AND

   - ❑ data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.

6. The CSE has determined, consistent with section 200.4(j)(3) of the Regulations, that:

   ❑ the student does not achieve adequately for the student's age or to meet State-approved grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving;

   AND

   ❑ the student either does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in this paragraph when using a process based on the student's response to scientific, research-based intervention pursuant to section 100.2(ii);

   OR

   ❑ exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development that is determined by the CSE to be relevant to the identification of a learning disability, using appropriate assessments consistent with section 200.4(b).

   AND

   ❑ the student's learning difficulties are not primarily the result of a visual, hearing or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency.

7. Complete this item if the student has participated in a process that assesses the student's response to scientific, research-based intervention.

   ❑ The following instructional strategies were used and student-centered data was collected:

   AND

   ❑ Document how parent's were notified about the amount and nature of student performance data that will be collected and the general education services that will be provided; strategies for increasing the student's rate of learning; and the parents' right to request an evaluation for special education programs and/or services.

8. CSE Member Certification of the Determination of a Learning Disability:

   The determination of eligibility for special education for a student suspected of having a learning disability must be made by the CSE, which must include the student's regular education teacher and a person qualified to conduct individual diagnostic examinations of students (such as a school psychologist, teacher of speech and language disabilities, speech/language pathologist or reading teacher). Each CSE member must certify in writing whether the report reflects his or her conclusion. If not, the member must submit a separate statement presenting his or her conclusions.

Title	Signature	Agree	Disagree
District Representative	_____	❑	❑
Parent of Student	_____	❑	❑
Regular Education Teacher	_____	❑	❑
Special Education Teacher	_____	❑	❑
School Psychologist	_____	❑	❑
Parent Member	_____	❑	❑
Others: Specify	_____	❑	❑
	_____	❑	❑
	_____	❑	❑

Date: _____

Appendix C

READINGS AND REFERENCES

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Examples and Case Studies

For school examples that address the RtI components cited in this document, see the link from NRCLD Learning Disabilities Resource Kit (August, 2006) at: http://www.nrcld.org/rti_manual/pages/RTIManualSection5.pdf

For student examples of progress monitoring charts, demonstrating responsiveness and nonresponsiveness, see NRCLD (Winter, 2007): http://www.nrcld.org/resource_kit/tools/RTIinSLDProcess2007.pdf

Additional Websites:

Center for Applied Special Technology (CAST), part of the project entitled the "National Center for Accessible Curriculum (NCAC)" n article regarding Universal Design for Learning (UDL) and Differentiated Instruction (DI) – http://www.cast.org/publications/ncac/ncac_diffinstruc.htm

Center on Instruction – http://www.centeroninstruction.org/

Colorín Colorado (Reading Rockets for second language learners) – http://www.colorincolorado.org/

Connecticut Department of Education "Response to Intervention" bibliography – http://www.ctserc.org/rti/bibliography.shtml

Multicultural and Diverse Learners (MCDL) – http://www.esc1.net/ – *Responding Educationally to all Learners (REAL)*

National Association of State Directors of Special Education – http://www.nasdse.org/projects/tabid/56/Default.aspx

National Center on Student Progress Monitoring – http://www.studentprogress.org/

Appendix C

National Clearinghouse for English Language Acquisition (NCELA) – http://www.ncela.gwu.edu/

National Research Center on Learning Disabilities – http://www.nrcld.org/research/rti.shtml

National RtI Center (federally funded project) – http://www.rti4success.org/

New York State Reading Resource Center - http://nysrrc.monroe.edu/

New York State RtI Technical Assistance Center – http://www.nysrti.org/

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- *The teaching of language arts to LEP/ELLs: A resource guide for all teachers*
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Reading Rockets – http://readingrockets.org/research/teaching – *Reading Research & Reports*

Rhode Island College supported by the Rhode Island Department of Education – http://www.ritap.org/rti/resources/web_resources.php

U.S. Department of Education website to a variety of resources, including RtI and its relationship to LD determination – http://www.osepideasthatwork.org/toolkit/ta_responsiveness_intervention.asp