

Child Find and RTI

The March 2011 Special Edition discussed a key principle of the Individuals with Disabilities Act (IDEA): its "Child Find" mandate. This means the right to appropriate evaluation in order to identify children who may need special education. This month, we discuss barriers that can occur in this process. The bottom line: there is no reasonable justification to refuse to evaluate or to delay evaluation of a child for special education when disability is suspected.

What is IDEA "Child Find"?

IDEA requires every state to identify, locate, and evaluate all children with disabilities, from birth to the 22nd birthday, who may need Early Intervention or Special Education services. IDEA requires "Child Find" evaluation regardless of the severity of the child's disability, or if a child attends private school, or is homeless.

If children with disabilities *must* be "found," how could this go wrong?

Even though schools are required to find children who need special education help, sometimes families hit a barrier when they request evaluation. The US Department of Education (DOE) is concerned about delays and denials in locating children who need help.

Here is what a Child Find barrier may look like: A family writes to ask for evaluation, but the school district refuses. Under IDEA, the school district must refuse in writing. This is called Prior Written Notice (PWN) and contains reasons for the "no." Sometimes these reasons do not comply with IDEA. For example, a school may tell a parent that they cannot evaluate until the child has gone through a series of general education interventions first. Sometimes the school may even tell a parent that the student must "exhaust" general education resources first. But under IDEA Child Find, these are not legal reasons to delay or deny special education evaluation.

The series of general education interventions are commonly known as Student Study Team or Student Success Team (SST) interventions. Sometimes this is called Response to Intervention (RTI). SST is the same as RTI if scientific, research-based interventions are provided, data is collected, and student progress is closely monitored. Some SSTs offer less than this standard. Carefully monitored interventions can be valuable to a student, and can provide important information to teachers. But SST/RTI interventions can take many months, and sometimes years. If used as a barrier to delay or deny evaluation, children who need special education may go a long time without the specialized help they need, and this can cause damage.

Important OSEP Memo:

"RTI Process Cannot Be Used to Delay-Deny Evaluation for Eligibility under IDEA" (www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf). On January 21, 2011, the federal Office of Special Education Programs (OSEP) released an important memo to all state Directors of Special Education about the evaluation responsibilities of IDEA Child Find. OSEP made it clear that Response to Intervention cannot be used to delay or deny comprehensive evaluation for special education. Parents and educators should read and understand this important guidance. Parents may even want to attach this guidance memo to their letter when requesting special education evaluation.

RTI Background

Before 2004, students suspected of having specific learning disability (SLD) had to demonstrate a severe "discrepancy," or gap, between their intellectual ability and their learning performance in order to qualify for special education. Students who needed help often had to "wait to fail" before the gap became severe enough. Valuable time was lost. This "discrepancy model" of evaluation can still be used.

Meanwhile, educators had found a promising method to serve struggling general education students called RTI. RTI means that teachers or specialists provide scientific, research-based interventions to a general education student and carefully collect information about how the student "responds." If the student did not respond



positively, they might provide another series of more intense interventions, or different interventions. Students who respond well to RTI may not need special education support.

If a student did not improve as expected, this gives the school team an indication from the data collected that the child may have learning disabilities. So when Congress reauthorized IDEA in 2004, RTI was newly allowed as one tool that schools may use to "find" students with specific learning disability who may need special education. IDEA 2004 allowed this option to prevent delays associated with the "wait to fail" model. Under IDEA Child Find, seeing evidence of any suspected disability should prompt the school team to refer a student for comprehensive special education evaluation without delay.

Must the School do RTI Before Referring a Student for Evaluation?

Sometimes parents are told that their child cannot be referred for special education evaluation until a series of RTI interventions are completed. This could be an indication of a "gate-keeping" barrier that prompted federal concern. Schools are not required to initiate or complete an RTI process before referring a child for special education evaluation, or before agreeing to evaluate, when disability is suspected. The OSEP memo clearly states: "It has come to the attention of the OSEP that, in some instances, local education agencies (LEAs) may be using RTI strategies to delay or deny a timely initial evaluation for children suspected of having a disability." School staff should never wait to refer a child for evaluation when there already is reliable evidence of suspected disability "regardless of where that evidence comes from. Reliable evidence of suspected disability usually comes directly from a parent, a doctor, teachers, or others who know the child. Child Find requires that district staff refer a child for evaluation, and evaluate whenever disability is suspected. Comprehensive evaluation must be completed in "all areas of suspected disability."

Parent Referral for Evaluation

If a parent directly refers their child for evaluation in writing, schools may not respond to require the child to go through a RTI/SST process before the district will evaluate. The school can offer RTI/SST intervention, but it is not a required first step. Also, a parent must be clearly informed if the school is actually requesting that the parent give up or delay their child's right to special education evaluation in order to get some immediate intervention. A parent has a right to respond: "I agree to participate in the SST/RTI process so that my child can receive intervention while IDEA evaluations are ongoing, but I do not waive my child's right to evaluation, and expect both to occur at the same time. I look forward to receiving an Assessment Plan." RTI can be one piece of a comprehensive Child Find evaluation, but RTI cannot replace evaluation, or be used to delay or deny evaluation.

Must the School "Exhaust" General Education Resources?

Parents are sometimes told that the school district must "exhaust" general education resources before evaluating. IDEA says that the district must: consider general education interventions and where appropriate utilize them before providing special education services. Understand: 1) IDEA allows flexibility to consider, not demand, interventions. 2) Evaluation is not a special education service. 3) It would be impossible to know when general education interventions have been "exhausted." Exhaustion cannot be used as a reason to deny special education evaluation.

Refusing Child Find evaluation with non-compliant reasons could result in complaints to the state Department of Education. Parents have procedural safeguards under IDEA that give them the right to seek appropriate investigation and remedy by filing a complaint.

From the CA Disability Rights & Defense Fund: <http://dredf.org/mail-se/2011/april/IDEA-Child-Find-Part-2.html>



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