



Governor Kasich's State Budget 2012-2013 Bill Update

The FY 2012-2013 state budget bill, Sub. House Bill 153, is moving through the legislative review process in the House Finance and Appropriations Committee. The special education portion of the bill is currently being heard by the Education Subcommittee chaired by Rep. John Carey.

OCECD is providing qualified support for the proposed budget primarily because the bill contains flat funding for special education related line items and therefore meets minimal federal Maintenance of Effort (MOE) requirements. This also means that the administration will not seek a MOE waiver. This flat funding scenario compares to deeper cuts for the Ohio Department of Education and many other state agencies. ODE's one time federal stimulus funds are not being replaced. This significant reduction overshadows the fact that "state only" (exclusive of federal stimulus funds) primary and secondary education funding is being increased by just over 1 percent per year.

Though education and special education are funded in both years of the biennium, the administration has expressed a clear intent to rewrite the state's school funding formula in the coming months and then have this new formula become effective (via legislation) July 1, 2012, the beginning of FY 2013.

We support and encourage funding for Project More, an effective, one-on-one reading program that has an outstanding track record working with students with disabilities. It is already in operation in Ohio and this amendment would allow it to be spread into multiple regions of the state. Finally, we also

encourage support for reinstatement of ODE's Special Education Accountability report, which was deleted from law in the introduced version of the budget bill.

We will continue to monitor special education related state budget issues. The bill will likely be voted out of the Ohio House sometime in May and then move to the Ohio Senate. It appears likely that the bill will be passed with amendments but without major changes to special education or to school funding generally.

UNA ACTUALIZACIÓN DEL RESUPUESTO DEL PROYECTO DE LEY

El presupuesto del proyecto de ley del año fiscal 2012-2013, (FY Sub I 2012-2013 state budget bill, Sub. House Bill 153, en inglés) está bajo el proceso de revisión. La porción de educación especial bajo este proyecto de ley actualmente fue escuchada por en la cámara del subcomité por el Rep. John Carey.

OCECD está proporcionando soporte calificado al proyecto de ley propuesto, primeramente porque el proyecto contiene fondos para educación especial y por lo consiguiente satisface al mínimo los requerimientos de Esfuerzo de Mantenimiento (Maintenance of Effort (MOE siglás en inglés)). Esto también significa que la administración no buscara un MOE waiver. Este escenario de fondos simples compara a los cortes más profundos por el Departamento de Educación de Ohio y muchas otras agencias estatales. Los fondos federales de estímulo de ODE so serán reemplazados. Esta reducción significativa oscurece el hecho que "estado sólo" (no fondos federales incluidos de estímulo) los fondos primarios y secundarios

de enseñanza serán solamente aumentados por sobre 1 por ciento por año.

Aunque la educación y la educación especial son financiados en ambos años del bienio, la administración ha expresado una intención clara para reescribir una nueva fórmula de financiación escolar del estado en los meses venideros y entonces tener esta nueva fórmula que entre en vigencia (a través de legislación) el 1 de julio de 2012, el principio de FY 2013.

Apoyamos y favorecemos la financiación para el Project More, un programa efectivo y de uno- a-uno de lectura que tiene un historial sobresaliente el cual trabaja con estudiantes con discapacidades. Está ya en operación en Ohio y esta enmienda permitiría ser esparcido en múltiples regiones del estado. Por último, nosotros también favorecemos y apoyamos el restablecimiento de informe Especial de Responsabilidad de Educación de ODE, el cual fue quitado de la ley en la versión introducida en el presupuesto del proyecto de ley.

Continuaremos monitoreando los asuntos de educación especial y los asuntos relacionados al presupuesto del estado. El proyecto de ley probablemente será rechazado por parte de Ohio House en Mayo y después se mueva al Senado de Ohio. Probablemente el proyecto de ley será pasado con enmiendas pero sin ningún cambio mayor a educación especial o a la financiación general escolar.

RESPONSE TO INTERVENTION (RTI)

After the release of the Winter 2011 FORUM regarding obtaining special education services for children with disabilities, we decided it would be helpful to share with you information received in a letter from the U.S. Department of Education regarding the possibility that schools are using the RTI process to delay or deny a student evaluation to children suspected of having a disability. This information will clarify the relationship between RTI and evaluations pursuant to the IDEA.

JAN 21 2011

**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES**

MEMORANDUM

TO: State Directors of Special Education
FROM: Melody Musgrove, Ed.D, Director
Office of Special Education Programs
SUBJECT: A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)

The provisions related to child find in section 612(a)(3) of the Individuals with Disabilities Education Act (IDEA), require that a State have in effect policies and procedures to ensure that the State identifies, locates and evaluates all children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services. It is critical that this identification occur in a timely manner and that no procedures or practices result in delaying or denying this identification. It has come to the attention of the Office of Special Education Programs (OSEP) that, in some instances, local educational agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation for children suspected of having a disability. States and LEAs have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.

A multi-tiered instructional framework, often referred to as RTI, is a schoolwide approach that addresses the needs of all students, including struggling learners and students with disabilities, and integrates assessment and intervention within a multi-level instructional and behavioral system to maximize student achievement and reduce problem behaviors. With a multi-tiered instructional framework, schools identify students at-risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending on a student's responsiveness.

While the Department of Education does not subscribe to a particular RTI framework, the core

characteristics that underpin all RTI models are: (1) students receive high quality research-based instruction in their general education setting; (2) continuous monitoring of student performance; (3) all students are screened for academic and behavioral problems; and (4) multiple levels (tiers) of instruction that are progressively more intense, based on the student's response to instruction. OSEP supports State and local implementation of RTI strategies to ensure that children who are struggling academically and behaviorally are identified early and provided needed interventions in a timely and effective manner. Many LEAs have implemented successful RTI strategies, thus ensuring that children who do not respond to interventions and are potentially eligible for special education and related services are referred for evaluation; and those children who simply need intense short-term interventions are provided those interventions.

The regulations implementing the 2004 Amendments to the IDEA include a provision mandating that States allow, as part of their criteria for determining whether a child has a specific learning disability (SLD), the use of a process based on the child's response to scientific, research-based intervention. See 34 CFR 300.307(a)(2). OSEP continues to receive questions regarding the relationship of RTI to the evaluation provisions of the regulations. In particular, OSEP has heard that some LEAs may be using RTI to delay or deny a timely initial evaluation to determine if a child is a child with a disability and, therefore, eligible for special education and related services pursuant to an individualized education program.

Under 34 CFR §300.307, a State must adopt, consistent with 34 CFR §300.309, criteria for determining whether a child has a specific learning disability as defined in 34 CFR §300.8(c)(10). In addition, the criteria adopted by the State: (1) must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has an SLD; (2) must permit the use of a process based on the child's response to scientific, research-based intervention; and (3) may permit the use of other alternative research-based procedures for determining whether a child has an

SLD. Although the regulations specifically address using the process based on the child's response to scientific, research-based interventions (i.e., RTI) for determining if a child has an SLD, information obtained through RTI strategies may also be used as a component of evaluations for children suspected of having other disabilities, if appropriate.

The regulations at 34 CFR §300.301(b) allow a parent to request an initial evaluation at any time to determine if a child is a child with a disability. The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§300.304-300.311, to a child suspected of having a disability under 34 CFR §300.8. If the LEA agrees with a parent who refers their child for evaluation that the child may be a child who is eligible for special education and related services, the LEA must evaluate the child. The LEA must provide the parent with notice under 34 CFR §§300.503 and 300.504 and obtain informed parental consent, consistent with 34 CFR §300.9, before conducting the evaluation. Although the IDEA and its implementing regulations do not prescribe a specific timeframe from referral for evaluation to parental consent, it has been the Department's longstanding policy that the LEA must seek parental consent within a reasonable period of time after the referral for evaluation, if the LEA agrees that an initial evaluation is needed. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg., 46540, 46637 (August 14, 2006). An LEA must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. 34 CFR §300.301(c).

If, however, the LEA does not suspect that the child has a disability, and denies the request for an initial evaluation, the LEA must provide written notice to parents explaining why the public agency refuses to conduct an initial evaluation and the information that was used as the basis for this decision. 34 CFR §300.503(a) and (b). The parent

can challenge this decision by requesting a due process hearing under 34 CFR §300.507 or filing a State complaint under 34 CFR §300.153 to resolve the dispute regarding the child's need for an evaluation. It would be inconsistent with the evaluation provisions at 34 CFR §§300.301 through 300.111 for an LEA to reject a referral and delay provision of an initial evaluation on the basis that a child has not participated in an RTI framework.

We hope this information is helpful in clarifying the relationship between RTI and evaluations pursuant to the IDEA. Please examine the procedures and practices in your State to ensure that any LEA implementing RTI strategies is appropriately using RTI, and that the use of RTI is not delaying or denying timely initial evaluations to children suspected of having a disability. If you have further questions, please do not hesitate to contact me or Ruth Ryder at 202-245-7513.

References:

Questions and Answers on RTI and Coordinated Early Intervening Services (CEIS), January 2007
Letter to Brekken, 6-2-2010
Letter to Clarke, 4-28-08
Letter to Copenhaver, 10-19-07
Letters to Zirkel, 3-6-07, 8-15-07, 4-8-08 and 12-11-08
cc: Chief State School Officers
Regional Resource Centers
Parent Training Centers
Protection and Advocacy Agencies Section 619 Coordinators

¹ The Department has provided guidance regarding the use of RTI in the identification of specific learning disabilities in its letters to: Zirkel - 3-6-07, 8-15-07, 4-8-08, and 12-11-08; Clarke - 5-28-08; and Copenhaver - 10-19-07. Guidance related to the use of RTI for children ages 3 through 5 was provided in the letter to Brekken - 6-2-10.

These letters can be found at
<http://www2.ed.gov/policy/speed/guid/idea/index.html>.

Contact Persons

Name: Ruth Ryder
Telephone: 202-245-7513
Name: Deborah Morrow
Telephone: 202-245-7456

Additionally, OSEP has issued a letter of clarification in the LRP Volume 26, Issue 18, 2011. OSEP issued a ruling stating “a district

may not require referring agencies or programs to implement a Response to Intervention Model before the district will accept a referral.” What this means to parents and other agencies is any referral from another program such as an early childhood education program, a Head Start program or a parent, the district must conduct a timely evaluation, unless the district finds no reason to suspect a disability.

RESPONDIENDO A LA INTERVENCIÓN/INSTRUCCIÓN (RTI siglas en inglés)

Hemos decidido que sería de gran beneficio compartir esta información. Hemos recibido una carta de parte del Departamento de Educación de los Estados Unidos, la cual específicamente aclara que posiblemente las escuelas están usando el proceso de RTI (siglas en inglés) para retardar o negar al estudiante una evaluación cuando se sospecha que el estudiante tiene una discapacidad. Esta información aclara la diferencia entre RTI (siglas en inglés) y evaluación bajo IDEA.

JAN 21 2011

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MEMORANDUM

TO: State Directors of Special Education
FROM: Melody Musgrove, Ed.D, Director
Office of Special Education Programs
SUBJECT: A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)

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children with disabilities who are homeless or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services. It is critical that this identification occur in a timely manner and that no procedures or practices result in delaying or denying this identification. It has come to the attention of the Office of Special Education Programs (OSEP) that, in some instances, local educational agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation for children suspected of having a disability. States and LEAs have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.

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While the Department of Education does not subscribe to a particular RTI framework, the core characteristics that underpin all RTI models are: (1) students receive high quality research-based instruction in their general education setting; (2) continuous monitoring of student performance; (3) all students are screened for academic and behavioral problems; and (4) multiple levels (tiers) of instruction that are progressively more intense, based on the student's response to instruction. OSEP supports State and local implementation of RTI strategies to ensure that children who are struggling academically and behaviorally are identified early and provided needed interventions in a timely and effective manner. Many LEAs have implemented successful RTI strategies, thus ensuring

that children who do not respond to interventions and are potentially eligible for special education and related services are referred for evaluation; and those children who simply need intense short-term interventions are provided those interventions.

The regulations implementing the 2004 Amendments to the IDEA include a provision mandating that States allow, as part of their criteria for determining whether a child has a specific learning disability (SLD), the use of a process based on the child's response to scientific, research-based intervention. See 34 CFR 300.307(a)(2). OSEP continues to receive questions regarding the relationship of RTI to the evaluation provisions of the regulations. In particular, OSEP has heard that some LEAs may be using RTI to delay or deny a timely initial evaluation to determine if a child is a child with a disability and, therefore, eligible for special education and related services pursuant to an individualized education program.

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or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§300.304-300.311, to a child suspected of having a disability under 34 CFR §300.8. If the LEA agrees with a parent who refers their child for evaluation that the child may be a child who is eligible for special education and related services, the LEA must evaluate the child. The LEA must provide the parent with notice under 34 CFR §§300.503 and 300.504 and obtain informed parental consent, consistent with 34 CFR §300.9, before conducting the evaluation. Although the IDEA and its implementing regulations do not prescribe a specific timeframe from referral for evaluation to parental consent, it has been the Department's longstanding policy that the LEA must seek parental consent within a reasonable period of time after the referral for evaluation, if the LEA agrees that an initial evaluation is needed. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg., 46540, 46637 (August 14, 2006). An LEA must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. 34 CFR §300.301(c).

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We hope this information is helpful in clarifying the relationship between RTI and evaluations pursuant to the IDEA. Please examine the procedures and

practices in your State to ensure that any LEA implementing RTI strategies is appropriately using RTI, and that the use of RTI is not delaying or denying timely initial evaluations to children suspected of having a disability. If you have further questions, please do not hesitate to contact me or Ruth Ryder at 202-245-7513.

References:

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cc: Chief State School Officers
Regional Resource Centers
Parent Training Centers
Protection and Advocacy Agencies Section 619 Coordinators

¹ The Department has provided guidance regarding the use of RTI in the identification of specific learning disabilities in its letters to: Zirkel - 3-6-07, 8-15-07, 4-8-08, and 12-11-08; Clarke - 5-28-08; and Copenhaver - 10-19-07. Guidance related to the use of RTI for children ages 3 through 5 was provided in the letter to Brekken - 6-2-10.

These letters can be found at

<http://www2.ed.gov/policy/speed/guid/idea/index.html>.

Contact Persons

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Name: Deborah Morrow

Telephone: 202-245-7456

Adicionalmente, OSEP ha publicado una carta de clarificación en el LRPP Volume 26, Issue 18, 2011. OSEP issued a ruling stating "un distrito talvez puede de no requerir implementar el Modelo Respuesta a intervención/instrucción (RTI siglas en inglés) antes de aceptar un referido de parte de agencias/programas." Lo que esto significa para los padres y otras agencias que hacen un referido al distrito, ejemplos; programa de Educación Temprana Infantil, Head Start o el padre/madre, es que el distrito tiene que conducir una evaluación cuanto antes o dentro del plazo permitido, a menos que el distrito no encuentre razón para sospechar una discapacidad.

Multicultural Support Provided by OCECD

Apoyo Multicultural proporcionado por OCECD



Marbella Caceres is the multicultural coordinator for the Coalition. She travels throughout Ohio to help Latino parents of children with special education needs and is co-founder of the

Ohio Association of Latino Parents of Children with Special Needs (PLANEO).

She translates training material and parent information, she also develops trainings that address the cultural needs in the state of Ohio, plans outreach programs, coordinates events and runs the statewide PLANEO support groups.

Marbella Caceres la coordinadora multicultural de la Coalición. Ella viaja por todo el estado ayudando a padres latinos que tienen niños/as con necesidades de educación especial y es la co-fundadora del primer grupo de apoyo para padres llamado Padres Latinos Asociados por los Niños Especiales en Ohio (PLANEO).

Ella traduce todos los materiales de entrenamiento e información, desarrolla entrenamientos y materiales para ayudar con la necesidades culturales en el estado de Ohio, organiza los programas de alcance comunitario, coordina eventos y está a cargo del manejo y organización de los grupos de apoyo (PLANEO) a nivel estatal.

Recently the Coalition contracted with 3 multicultural specialists to assist Marbella:

Recientemente la Coalición contrato a 3 especialistas multicultural para asistir a Marbella:

Iliana Martinez advocates for and trains Latino families in central Ohio and assists with PLANEO meetings in Columbus. She helps families with referrals to agencies and services.



Iliana Martinez aboga y entrena a las familias Latinas en la parte Central de Ohio y también ayuda con la organización del grupo De apoyo PLANEO en Columbus.

Esther Rodriguez assists Latino families in the northern part of Ohio, providing trainings, talking to parents on the phone and attending meetings regarding the children's education and assists PLANEO meetings in Cleveland.



Esther Rodriguez asiste a las familias en la parte Noreste de Ohio, proporcionando entrenamientos, hablando con padres por teléfono y atendiendo a las reuniones relacionadas con la educación de sus hijos/as.

Ginny Isaq provides special education advocacy and training to Somali families in central Ohio. She helps families with referrals to agencies and services.



Ginny Isaq proporciona abogacía y entrena a las familias Somalís y del Medio Este en el área de Columbus. Les ayuda a las familias con el referido a diferentes agencias y servicios.

SAVE THE DATE

Ohio's 5th Annual Special Education Leadership Conference - September 19-20, 2011

The Conference that will be held at the Greater Columbus Convention Center. Registration for this conference will be available at www.ocecd.org at a later date.

RICK LAVOIE COMING TO ATHENS, OH - September 13, 2011 (SPONSORED BY SST 16 AND OCECD)

Dr. Richard Lavoie, M.A., M.Ed., is a teacher, administrator, consultant and national speaker. He is best known for his video "How Difficult Can This Be?: The F.A.T. City Workshop" and his new book "The Motivational Breakthrough: 6 Secrets to Turning on the Tuned Out Child". Registration for this will be available at www.ocecd.org at a later date.

MARQUE LA FECHA EN SU CALENDARIO

La 5ta Conferencia Anual de Liderazgo en Educación Especial- Septiembre 19-20, 2011.

Esta Conferencia se llevará a cabo en el Greater Columbus Convention Center. La Registración para participar en esta conferencia estará muy pronto disponible en www.ocecd.org

RICK LAVOIE SE PRESENTARA EN ATHENS, OH – el 13 de Septiembre, 2011 (PATROCINADO POR SST 16 Y OCECD)

Dr. Richard Lavoie, M.A., M.Ed., es maestro, administrador, consultante y orador a nivel nacional. Se le conoce mejor por sus videos "How Difficult Can This Be?,The F.A.T. City Workshop" y su Nuevo libro "The Motivational Breakthrough: 6 Secrets to Turning on the Tuned Out Child". La registraci3n para este evento estar3 disponible muy pronto en www.ocecd.org.

Forum is published by the Ohio Coalition for the Education of Children with Disabilities (OCECD), 165 West Center Street, Suite 302, Marion, Ohio 43302; Toll-free 1-800-374-2806. Website: www.ocecd.org; E-mail: ocecd@ocecd.org

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