

Issues Paper

Response to Intervention: An Equity Perspective

The Equity Assistance Centers Identify Civil Rights Concerns with the Implementation of Response to Intervention

Introduction

The nation's 10 equity assistance centers (EACs) are committed to the successful implementation of the Response to Intervention (RTI) frame at the state and local levels. It is clear to us that the successful implementation of RTI will require an approach that is other than "business as usual." The EACs believe that business as usual historically has led to the over-representation of minorities in special education, the persistence of the achievement gap, the continuance of various systemic and individual acts of discrimination, and the impact of *de facto* segregation of students resulting from certain educational policies and practices that are still evident in our nation's public schools.

Business as usual has led to the disproportionate inclusion of minority, linguistically different and low-income learners in special education. Business as usual has repeatedly led to the mis-identification and misplacement of these populations in special education. Business as usual has sustained the achievement gap among these populations and their counterparts. Business as usual has continued to segregate these populations from their counterparts in public schools. Business as usual has continued to produce discrimination by impact and/or design. It is clear to us that business as usual cannot and should not continue to go on. The Response to Intervention process is intended to change business as usual.

Response to Intervention offers renewed hope that these occurrences will not happen again. As a process, RTI intends to provide high quality instruction and intervention matched to student needs and using learning rate over time and levels of performance to inform educational decision-making in the general education arena before a learner is placed in special education.

For these patterns not to continue as the nation's public education systems move forward, the EACs contend that there are some critical precautions to which educators and other stakeholders must attend or business will go on as usual. It is unreasonable to expect that an innovation such as RTI will reach its desired outcome by simply being superimposed on an educational system that has produced a disproportionate representation of minorities, linguistically different and low-income learners in special education. The EACs believe that implementation of RTI will produce what has been produced for these populations without serious consideration being given to and action being taken on fundamental changes to support the RTI innovation.

[Special Note Before Continuing: Disproportionality is not an issue exclusive to special education. It refers to the under-over representation of certain student populations in gifted and other programs, school-based opportunities, scholarships, courses and other curricular offerings, and supports that help make rich educational experiences for certain populations]

while others have these same opportunities denied to them. Certain populations may be denied because of neglect, insensitivity, ignorance, racism, sexism, classism and a general malaise about how things operate that suggests some deserve certain privileges while others do not. In this discussion, disproportionality is focused on special education only because it is the area of focus in RTI.]

We believe that the successful implementation of RTI, regardless of the models embraced and the evidenced-based approaches used, requires a recasting of education practice at every level and in all aspects of the educational experiences of learners. We believe that for different student outcomes to be realized, the educational experiences of learners must be changed. Disproportionate over-representation, discrimination, persistent achievement gaps and segregation will continue as outcomes unless and until states and local education agencies commit to a new reality in the educational experiences of all learners regardless of race, gender and national origin. To assert this is not new, but to do it on a large enough scale to create the different outcome desired through RTI will require doing things differently.

Administration must recast the management and direction of educational practice. Educators must be willing to rethink how state-adopted curricula and instruction occurs and how teachers are prepared to deliver curricula and instruction in a reformed way. Individuals who shape and control the educational environment and the culture of schools must be challenged to overcome the prejudices, negative perceptions and expectations of those populations of students who have historically been disproportionately placed in special education. These changes will not come easily, but they are entirely necessary.

Finally, for the purposes of this discussion, while RTI finds its origin in the *Individuals with Disabilities Education Act*, it must continually be stressed that these interventions are activities that occur in general education and that stakeholders should view them as ways of keeping students in general education while supporting their learning, rather than as vehicles for facilitating a path to special education. Our concern at this point is that whatever RTI model may be implemented in a school district it may be viewed by too many practitioners as a way of more legitimately assuring that minority, linguistically different and other students are placed in special education. If this occurs, it will be business as usual. This kind of business as usual must stop as we move forward in public education.

We offer **11 conditions we believe must be in place for RTI to be successful**. We believe that RTI implementers must take precautions to ensure these conditions are in place. To that end, we list and discuss these conditions as recommendations and precautions that must receive attention to ensure that RTI does not become an ineffective response to a serious education concern for thousands of learners in our nation's schools. As we move forward with the implementation RTI, we must be rational, realistic and clear about the outcome we collectively seek to produce.

A Discussion of the Issues

Recommendation 1 – Ensure the Creation and Implementation of an Equity Context.

Precaution: Institutions must work to create an **equity context** in order to produce new regularities out of which may arise new practices. If the old context has produced achievement gaps, disproportionality, discrimination and segregation, one should not expect new practices to come from these old contexts and habits.

The equity context speaks to the systems and structures a school district puts into place to ensure that no learner is denied the fair and equitable benefit of a quality, sound educational experience afforded to all other students regardless of race, gender, national origin, economic level and handicap. It becomes the lens through which all of the business of the organization is filtered. In other words, when whatever business is undertaken, the following questions must be raised:

1. How does this impact all learners?
2. What might create a negative or adverse impact?
3. How might that impact be avoided?
4. What precautions should we take as we move forward? and,
5. How do we monitor our work and the outcomes?

We recognize that school districts struggle to ensure that the civil rights of all learners are protected. Nevertheless, discrimination occurs, over-representation in special education continues to be manifested, and many learners fall victim to systems, practices and individuals that violate their best interest, improperly label them and place them in educational situations that support neither their educational improvement nor achievement.

Recommendation 2 – Commit to High Achievement for All Learners Regardless of Race, Gender and National Origin.

Precaution: Failure to implement a goal of **equitable outcomes** for all learners, including minority, linguistically different, male/female, low-income and disabled learners, and adherence to a principle of educational responsiveness to different characteristics will only produce more of the same.

Even before the implementation of the *No Child Left Behind Act*, our nation's public schools had expressed a commitment to academic success for all learners. It is clear to us that while voicing commitment to high achievement for all learners is necessary, it alone is not sufficient to produce that high achievement. Stated commitment must be translated into visible, measurable demonstrative action that is monitored, evaluated and changed as needed to accomplish the desired results. It is a matter of not only what districts say they are committed to, it is a matter of what they do on a daily basis to produce comparable high achievement for all learners.

School districts committing to RTI also must do those things that will prevent the identified groups of focus from being mislabeled and improperly placed in special education. For example,

if the RTI process in a given school district requires implementation of a three- or four-tiered process for ensuring appropriate evidenced-based strategies are used for various learners based on their learning characteristics, the district must automatically ensure that decision-makers and practitioners are properly prepared and trained to use the right strategies with each learner. If they are not trained and prepared to do this, then the district's stated commitment to excellence for all learners is shallow at best, dishonest at worse.

Recommendation 3 – Commit to Real Access and Inclusion.

Precaution: Failure to implement a goal of **equitable access and inclusion** for all learners will only produce more of the same. Schools must commit to a principle of educational responsiveness to different characteristics.

For many years, school systems have expressed an absolute commitment to non-discriminatory access to all schools and programs within those schools for all learners regardless of their differing characteristics, and yet discrimination occurs by design and by impact. To express a dedication to access for all learners and to provide instruction only in English for English language learners whose first language is not English, denies access.

Not making accommodations for disabled learners or failing to create culturally-relevant instructional responses for students of differing characteristics truly denies an expressed commitment to equitable access and inclusion for all learners. Likewise matching evidenced-based strategies with learners on whom evidence has not been gathered is a not so subtle way of denying real access and inclusion for differing students.

Without significant transformation of how schools will do the business of RTI given the diverse students they serve, schools will run the risk of giving access and inclusion to some learners and denying the same to others and that is, by definition, discrimination. The result will be more of the same – the over-inclusion of certain populations in special education or, in the case of the implementation of RTI, potentially being stuck in Tier II or III interventions with no demonstrable movement toward higher achievement in the general education program.

Recommendation 4 – Commit to Equitable Treatment.

Precaution: Failure to implement a goal of **equitable treatment** for all learners, including minority, linguistically different, male/female, low-income and disabled learners, and adherence to a principle of educational responsiveness to different characteristics will only produce more of the same.

Providing access and inclusion for learners but continuing to treat them in hostile, negative, insensitive ways is a double punishment. It is tantamount to saying that one can be included but by being included one must also accept mistreatment and a lack of valuing, respect and regard. Additionally, those subjected to such treatment feel neither safe nor secure in such an environment.

The EACs are repeatedly made aware of stated and implied hostility certain populations continually undergo as they engage in public schools. We are aware that often many expect too little of certain learners and treat them in a way that not only suggests this hostility toward them but also ensures these students learn to internalize this hostility and manifest it through inadequate performance and feelings of low self efficacy and adequacy.

We have no doubt that there will be teachers who will embrace RTI with a sense of focus and purpose and who will dedicate themselves to use the process to move students about whom they truly care toward higher and higher levels of academic excellence. Our concern is not about this group of teachers. Our concern is about those teachers who may violate the best interest of under-achieving students who are diverse in many ways and who are currently victims of mistreatment, low expectation and various forms of overt and covert hostility. We also are aware of teachers who benevolently believe that the best placement for certain diverse students is in special education where they can “get the attention they need or deserve” even when no legitimate or appropriate determination has been made that such placement is valid or warranted. Such teachers, without appropriate training and implementation and monitoring supports, will be the ones who will trap and mistreat certain students in a general education RTI vortex characterized by the same mistreatment and inappropriate intervention and misplacement as has previously identified them for special education settings. The potential is there to do more harm than the intended good of RTI.

Recommendation 5 – Commit to a Real Opportunity to Learn for Every Student.

Precaution: Failure to implement an **equitable opportunity to learn** for all learners, including minority, linguistically different, male/female and low-income learners, and adherence to a principle of educational responsiveness to different characteristics will only produce more of the same.

The concept of opportunity to learn is not new. It also is a concept that has yet to be fully realized in public education. The EACs continually deal with school systems and their educational and instructional personnel who fail to see the importance of this equity principle. Their lack of understanding of it, of course, leads to their inability to implement it. When educators understand this principle, automatically whenever any instructional or educational practice is undertaken, a series of questions naturally should emerge to ensure equity for all learners. Among these questions are:

1. What are the expected outcomes of this innovation or practice on various populations disaggregated by race, gender, national origin and disability?
2. What adaptations must be anticipated, given the differing characteristics of learners, to ensure that every type of learner receives the full/anticipated effect of the innovation or practice?
3. What existing barriers, circumstances and/or conditions must be mitigated to ensure learners can engage the innovation with appropriate supports to produce the anticipated outcomes?
4. What modifications to the innovation must be made to ensure unfettered, non-discriminatory access to the innovation and its intended outcomes?

5. What actions must be undertaken by all stakeholders to ensure each student has real access to the innovation to reap the anticipated outcome of it?

When practitioners fail to raise these and other important questions about students' opportunity to learn, inevitably the students fail to receive a real opportunity to learn. They may be placed in various learning situations but have no opportunity to learn because practitioners have not accounted for their differing characteristics. There may be policies that affirm that all students must be given an opportunity to learn yet have practitioners fail to provide such opportunities to all learners. Practitioners may even realize that certain conditions do not exist (i.e., the curriculum is not in a language the student can understand) yet fail to correct the condition to provide greater opportunity.

The RTI approaches that do not compel practitioners to consider and account for these potentialities will ensure that students by race, gender, national origin, economic level and ability will be denied a real opportunity to learn and will also be punished or blamed for failing to achieve the expected or anticipated outcomes. The EACs have seen it occur in the past. There is no reason to believe that this innovation will be any different without serious new behavior being undertaken and accounted for on the part of practitioners at all levels.

Recommendation 6 – Commit to Rethink and Redirect Resources to Support Students' Continual Learning Improvement at Each Tier.

Precaution: Failure to implement an **equitable distribution of resources** for all learners, including minority, linguistically different, male/female, low-income and disabled learners and adherence to a principle of educational responsiveness to different characteristics will only produce more of the same.

The EACs, as civil rights technical assistance providers, have always seen the unequal distribution of resources to support excellence in learning and high achievement. One of the persistent challenges the EACs have had to face in their assistance to public schools is the reality of campuses in the same school district being unequally funded, having staff unequally qualified and certified, and failing to have materials, resources and other supports for learning unequally distributed while expecting all students to achieve at the same high standards. This principle of equitable distribution of resources requires a different way of looking at the distribution of resources. It requires an intelligent, perceptive and thoughtful understanding that where there is a greater need for support, greater resources must also be applied. Practitioners cannot think or act in a manner that is premised upon the notion that all students need the same resources in the same amount to achieve comparable high outcomes.

While it may be a simple notion to assert that students at the second and third tier of an RTI approach will require more resources and costlier supports to achieve the desired or anticipated income, implementing the principle may be difficult and complex. The EACs have a great concern that practitioners may fail to act in a way to reflect this understanding. Giving students the same intervention in the same way at every tier will not reflect an understanding of this principle. Giving every student the same intervention and only extending the intervention will not reflect an understanding of the principle. Simply buying more expensive materials with no

real understanding of the instructional supports required to implement them properly to create the appropriate student response will not reflect an understanding of the principle. A proper understanding of the principle will have practitioners applying resources in a necessary and sufficient amount to create the desired student response with the appropriate instructional supports to create the greatest likelihood of success for the student.

Recommendation 7 – Ensure All Stakeholders are Jointly Accountable for the Appropriate Implementation of RTI and the Continual Learning Improvement of All Learners.

Precaution: Failure to implement an **equitable, shared accountability** regarding the success of all learners, including minority, linguistically different, male/female, low-income and disabled learners and adherence to a principle of educational responsiveness to different characteristics will only produce more of the same.

As models of RTI are implemented in school districts across the nation, the EACs believe that roles and responsibilities must be clearly specified and defined for each stakeholder or the innovations will not achieve the intended outcome. Proper planning, coordination, training and preparation, and continual monitoring and adjustment on the part of all stakeholders absolutely will be necessary to implement the innovations. Equally important, however, will be the need for all stakeholders to properly carry out their roles and responsibilities, commit to them and expect oversight from others to ensure that these roles and responsibilities are properly implemented. When, and if, they are not, stakeholders must solicit and welcome correction and guidance from colleagues and others to achieve the ends of RTI for students.

It is clear to us that stakeholders blaming stakeholders is not the way shared accountability should be framed. Shared accountability requires collegial support and guidance with the students' highest success being the end toward which all stakeholders are working. While it is often easy and expedient to blame students or their parents when innovations such as RTI are implemented and fall short, that type of expediency will neither be useful nor productive. Shared accountability requires all stakeholders to anticipate and require of themselves and each other an obligation to do better, be better and get better to properly support students' learning and achievement success.

Recommendation 8 – Create Criteria and Set Interventions at the Right Tier Level to Avoid Confusion.

Precaution: Failure to establish and ensure that teachers and other professionals know what truly constitutes a Tier I, II or III evidenced-based intervention is critical. Otherwise, professionals may label an intervention Tier II when it is nothing more than regular instruction provided with a different instructional strategy rather than a different level of intervention.

In her presentation at the RTI summit held in Washington, D.C., during December 2007, Janette Klingner from the National Center for Culturally Responsive Educational Systems noted that among the challenges educators face is the fact that they are not clear about how the RTI process

is similar to and different from the pre-referral process or even what constitutes a Tier II intervention. This is a source of concern for the EACs because it lays a foundation for the continued inappropriate education of many diverse learners and inappropriate placement of these same students in special education. Appropriate RTI implementation will clearly require a definition of the tiers and their interventions to be successful. The implementation will require a clear understanding of the criteria that constitute a Tier II or III intervention. It will require appropriate training, monitoring and adjustment to ensure that students receive the right intervention at the right level for the right amount of time to produce the right result. Unless this is factored in and accounted for, uniformity and consistency of implementation may fail even on the same campus much less within the same district.

Recommendation 9 – Provide Special and Immediate Professional Development to Prepare General Education Teachers to Properly Implement RTI Interventions.

Precaution: Failure to significantly train and prepare general education teachers for the RTI implementation will seriously decrease the likelihood that the innovation will stick, be efficacious or produce the desired result. Teachers will engage students out of their habit and that habit in many respects has created the current situation for diverse populations.

The EACs take a position that for RTI to be implemented properly, general education teachers will require immediate and ongoing professional development of a special and focused nature that will equip them to take on challenges that they have previously left to special education teachers. There is even a likelihood that general education teachers may attempt to ask special education teachers to take on the responsibility to implement Tier II or III interventions. While this is not the intent for RTI, we believe there will be resistance and push back from general education teachers on this matter because of their inadequate preparation and proper support for implementation.

Teachers are more likely to do what they know as well as those things with which they are comfortable. Of course, they are comfortable with what they have done. They teach out of their habit. For many, their habit may not include the kind of interventions implemented in the construct of an RTI model with which they are not familiar. They will look to those who “understand special education” to do the business of RTI in schools. While there should be reciprocal support between general and special education concerning the implementation of RTI, and while the line between general and special education is intended to blur, it does not appear that there is any suggestion at all that special education teachers are to be called upon to do what general education teachers are intended to learn to do with some support from special education teachers. Even though this is not intended, we believe this may become more of a norm as the day-to-day business of schools unfolds on campuses.

Recommendation 10 – Take Immediate Steps to Properly Certify Teachers to Serve English Language Learners and Ensure the Use of Scientific, Research-based Interventions Identified for English Language Learners.

Precaution: Failure of districts to ensure the proper preparation of general education teachers, including their bilingual certification or English as a second language (ESL) endorsement, particularly for core content teachers, reading specialists and other educators working with English language learners, could easily produce the effect of teachers being unable and unqualified to give English language learners the proper support they need to succeed.

The EACs continually confront the challenge of providing assistance to public schools to help train teachers to properly serve English language learners. Many times we are called upon to assist in teacher certification activities to provide ESL certification and/or bilingual endorsement for new and experienced teachers. Very often we are called upon to train content teachers in ESL strategies in the core content areas. There clearly is a shortage of qualified and certified teachers to provide appropriate education for students whose first language is not English. That is a challenge that may only be exacerbated in the implementation of RTI.

The EACs affirm that the proper and appropriate delivery of instruction for English language learners is long overdue. Having teachers who are properly trained and certified to deliver that instruction in all aspects of the curriculum also is long overdue. To fail to initiate an aggressive, deliberate and intentional strategy to properly train and certify all general education teachers at all levels in all curricular areas in ESL and bilingual strategies is a blatant disregard for the realities of public schools. The reality is that English language learners are found everywhere in the educational setting. Their educational success should not just be the concern of ESL-certified or bilingually-endorsed teachers. It must be the concern of all educational practitioners. In this day, all teachers, including content area teachers, must be ESL certified at a minimum. This certification requirement is even more critical with the implementation of RTI given the over-identification of this population of students that the RTI process seeks to interrupt.

Finally, to attempt to use evidence-based interventions that have not been researched on English learners is simply dishonest and lacks professional integrity. The EACs affirm that such practices have led to the over-inclusion of this population in special education. We resist with the strongest voice possible those who will attempt to assert that these strategies will work to produce the desired results without evidence. It is unfair to English language learners and disingenuous concerning the intent of the entire RTI effort.

Recommendation 11 – Inform and Engage Parents in Every Aspect of the RTI Implementation Process and Sustain Transparency Regarding the Interventions.

Precaution: Failure to attend to parent engagement, involvement and participation in the RTI process at every level in communicative ways that parents and guardians can understand will disenfranchise parents, truncate their right and authority to protect their children's rights to a fair and equitable education, and jeopardize the success of RTI implementation.

The EACs continually have to address issues of parent engagement and involvement in the lives of their children in public schools. Often the voice of parents is neither sought nor valued in the business of schools. The EACs are aware that even in the special education IEP process, while

parents may participate, their voices, opinions and points of view may not truly be factored into decisions that are made about their children. We are aware of many instances where parents are simply told what will happen to their children with little or no consideration given to their input. If these things occur in special education, we believe there is the likelihood of more serious practices occurring in general education where no such requirements exist.

A commitment to parent involvement and engagement in the RTI implementation at the campus level must be embraced in both the letter and the spirit of the law. In other words, the *letter of the law* requires that the documentation reflect that parents be notified about the state's policies on the amount of performance data collected on their children and the services that would be provided to them, the strategies used to increase their children's rate of learning, and their right to request an evaluation.

A school district or campus operating in the *spirit of the law* should want to sit with parents, explain what data were collected, why they were collected and how those data were or will be used to make critical decisions about their children's tier placement. The staff should solicit parents' thoughts, questions and reactions about the need for Tier II or III placement and welcome opportunities to help parents see and understand their role and responsibility to collaborate with the school to support their children's success in the RTI process. Schools should provide training and support for parents as partners in the education of their children drawing upon and including the assets parents bring to process to engage them in valuing, mutually supportive and collegial ways. These actions would go a long way to help those parents of children who tend to be over-included in special education to view the education of their children very differently and to want to be engaged in more powerful ways.

Conclusion

The EACs offer these comments as a point of departure for action on the part of state departments of education and local education agencies as well as all technical assistance providers to act in a different way. Our hope is that the implementation of RTI will be executed in ways that serve the best interest of students rather than to be another way by which marginalized students and/or those over-represented in special education are victimized by a strategy that may be poorly conceived and worse, entirely inappropriately implemented.

It is apparent to us that the implementation of RTI will require a deliberate, intentional and well-planned effort on the part of many individuals at the local level to make the process work to benefit the students the initiative is designed and intended to serve. The true challenge before us all is to ensure that we are trained, prepared and properly focused on doing what is necessary to implement RTI successfully. Should we fall short of that goal, we will end up doing more of the same, and learners will once again be the victims of our doing business as usual.

Appendix A **Definitions for the Six Goals of Educational Equity**

Public schools can do what they choose to educate their students within certain limits and parameters, but they are accountable for educating all learners to high academic standards and outcomes regardless of differing characteristics of those learners. Bradley Scott, Ph.D., (director of the equity assistance center at IDRA) has proposed six goals of education equity. The IDRA South Central Collaborative for Equity, has embraced the goals of educational equity. The nine other equity assistance centers have embraced the goals as well.

Goal 1: Comparably High Academic Achievement and Other Student Outcomes

As data on academic achievement and other student outcomes are disaggregated and analyzed, one sees high comparable performance for all identifiable groups of learners, and achievement and performance gaps are virtually non-existent.

Goal 2: Equitable Access and Inclusion

The unobstructed entrance into, involvement of and full participation of learners in schools, programs and activities within those schools.

Goal 3: Equitable Treatment

Patterns of interaction between individuals and within an environment characterized by acceptance, valuing, respect, support, safety and security such that students feel challenged to become invested in the pursuits of learning and excellence without fear of threat, humiliation, danger or disregard.

Goal 4: Equitable Opportunity to Learn

At minimum, the creation of learning opportunities so that every child, regardless of characteristics and identified needs, is presented with the challenge to reach high standards and are given the requisite pedagogical, social, emotional and psychological supports to achieve the high standards of excellence that are established.

Goal 5: Equitable Resources

Funding, staffing and other resources for equity-based excellence that are manifested in the existence of equitably assigned qualified staff, appropriate facilities, other environmental learning spaces, instructional hardware and software, instructional materials and equipment, and all other instructional supports, are distributed in an equitable and fair manner such that the notion that all diverse learners must achieve high academic standards and other school outcomes become possible.

Goal 6: Accountability

The assurance that all education stakeholders accept responsibility and hold themselves and each other responsible for every learner having full access to quality education, qualified teachers, challenging curriculum, full opportunity to learn, and appropriate, sufficient support for learning so they can achieve at excellent levels in academic and other student outcomes.