

# Georgia Department of Education Division for Special Education Services and Supports

## *Understanding Georgia's Tiered System of Supports: MTSS, PBIS and Clarification for Students Referred to Special Education*

Director's Webinar

April 9, 2019

# Outcomes for Today

- Establish a common language for Georgia's Tiered System of Supports for Students
- Understand the five essential components of Georgia's Tiered System of Supports for Students
- Understand the relationship of MTSS and PBIS
- Understanding the difference and interconnection of MTSS, SST and RTI
- Clarification regarding interventions for students referred for Special Education

# Georgia's Tiered System of Supports State Personnel Development Grant (SPDG)

- 5-year grant from the Office of Special Education Programs (OSEP)
- Focused on professional development
- Georgia's SPDG is focused on developing a Tiered System of Supports for Students.



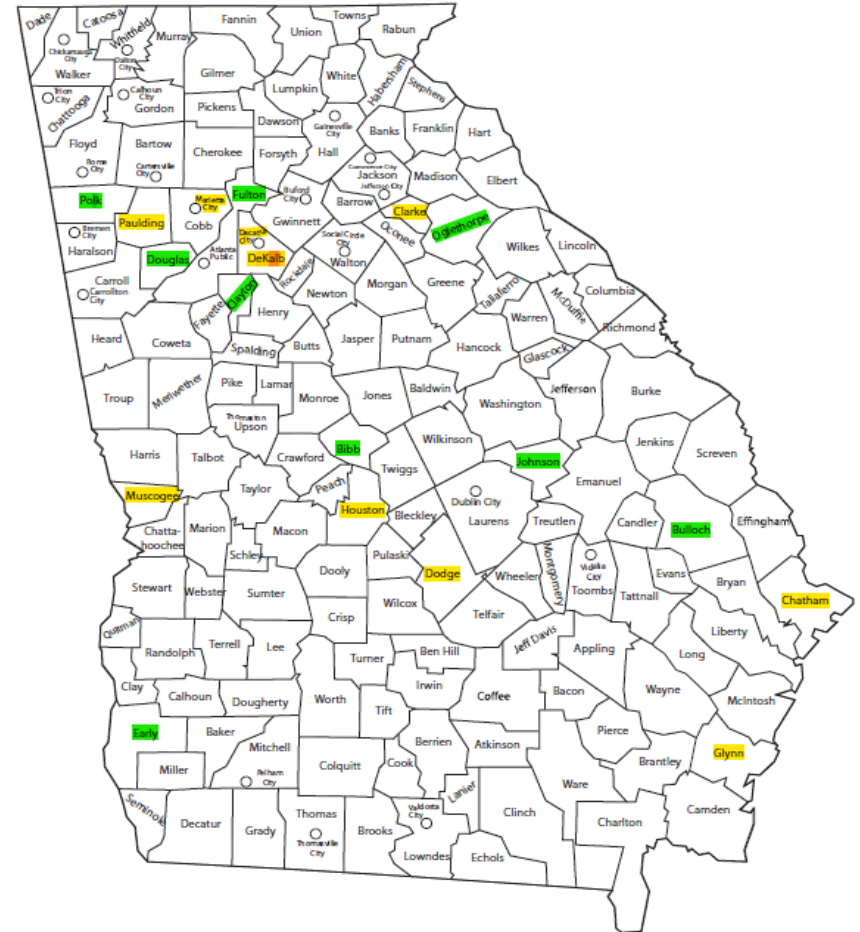
# Georgia's Tiered System of Supports for Students: Cohort 1 and Cohort 2

## Cohort 1

Clarke  
Decatur City  
DeKalb  
Dodge  
Glynn  
Houston  
Marietta City  
Muscogee  
Paulding  
Savannah-Chatham

## Cohort 2

Bulloch  
Douglas  
Dubois Academy  
Early  
Johnson  
Oglethorpe  
State Schools



# Georgia's Tiered System of Supports for Students

## *A National Definition for MTSS*

- A tiered system of supports integrates assessment and intervention within a school-wide, multi-level prevention system to maximize student achievement and reduce behavioral problems.
- Promotes systems alignment to increase efficiency and effectiveness of resources.

Adopted from National Center on Response to Intervention, 2010

# What is MTSS?

- A Multi-Tiered System of Supports is a framework that:
  - incorporates 5 essential components;
  - is data driven;
  - includes a team approach;
  - supports ALL students in learning; and
  - is considered best practice for teaching and learning.

# What's the big deal about a tiered system of supports for students?

**1.07** Effect Size  
(that's really large!!)

## Improved Outcomes

- Decreased expulsion, behavioral referrals, and suspension rates.
- Sustained academic improvement.
- Increase in on-time graduation.

## Strong positive effects on system outcomes

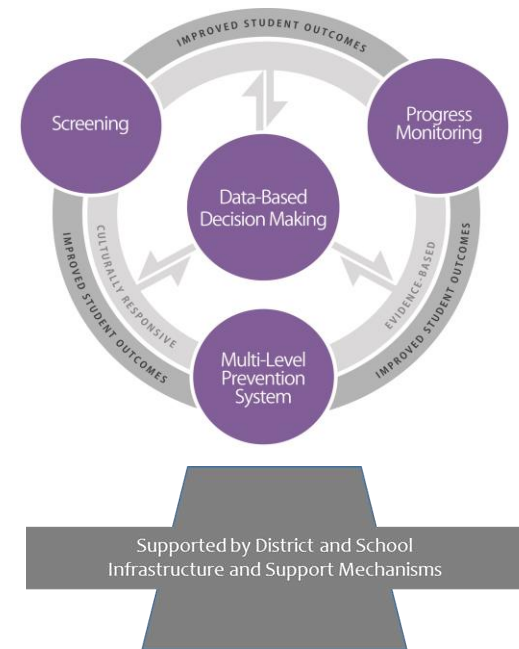
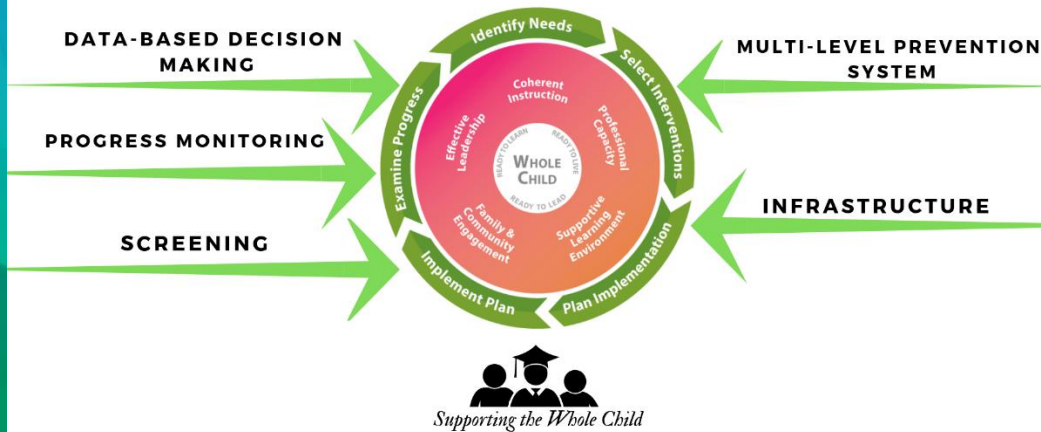
- Increased instructional and planning time
- More efficient use of resources and staff
- Decreased inappropriate special education services
- Reduction in student grade retention

Source: Burns, Appleton, & Stehouwer, 2005; Dexter, Hughes, & Farmer, 2008; Simmons, Coyne, Kwok, McDonagh, Harn, & Kame'enui, 2008; Hattie, 2015

# MTSS: Integrating the *What* and the *How*

Integrating the Essential Components of Georgia's Tiered System of Supports for Students with Georgia's Systems of Continuous Improvement

Nationally Aligned MTSS Framework





# Essential Components of Georgia's Tiered System of Supports for Students

- **Screening**
- **Progress Monitoring**
- **Multi-Level Prevention System**
  - Tier I: Primary Level – Instruction/Core Curriculum
  - Tier II: Secondary Level - Intervention
  - Tier III: Tertiary Level - Intensive Intervention
- **Data-Based Decision Making**
  - Identify instructional needs for academics and/or behavior
  - Evaluate the effectiveness of core curriculum, instruction, interventions and the framework
  - Determine movement within the multi-level system
- **Infrastructure and Support Mechanisms**

9

# MTSS, PBIS, and Other Supports



# Positive Behavioral Interventions and Supports (PBIS)

- PBIS is an evidenced-based, data driven framework proven to reduce disciplinary incidents, increase a school's sense of safety and support improved academic outcomes.

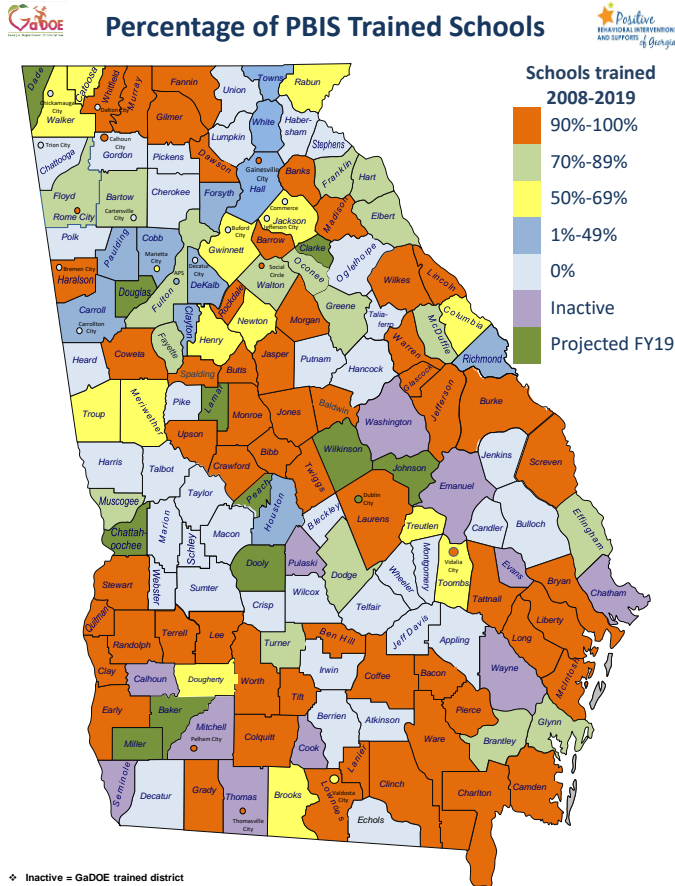
(OSEP Technical Assistance Center on Positive Behavior Interventions & Supports)

# MTSS and PBIS

- PBIS schools apply a multi-tiered approach to prevention, using disciplinary data and principles of behavior analysis to develop school-wide, targeted and individualized interventions and supports to improve school climate for all students.

(OSEP Technical Assistance Center on Positive Behavior Interventions and Supports)

# PBIS Schools in Georgia

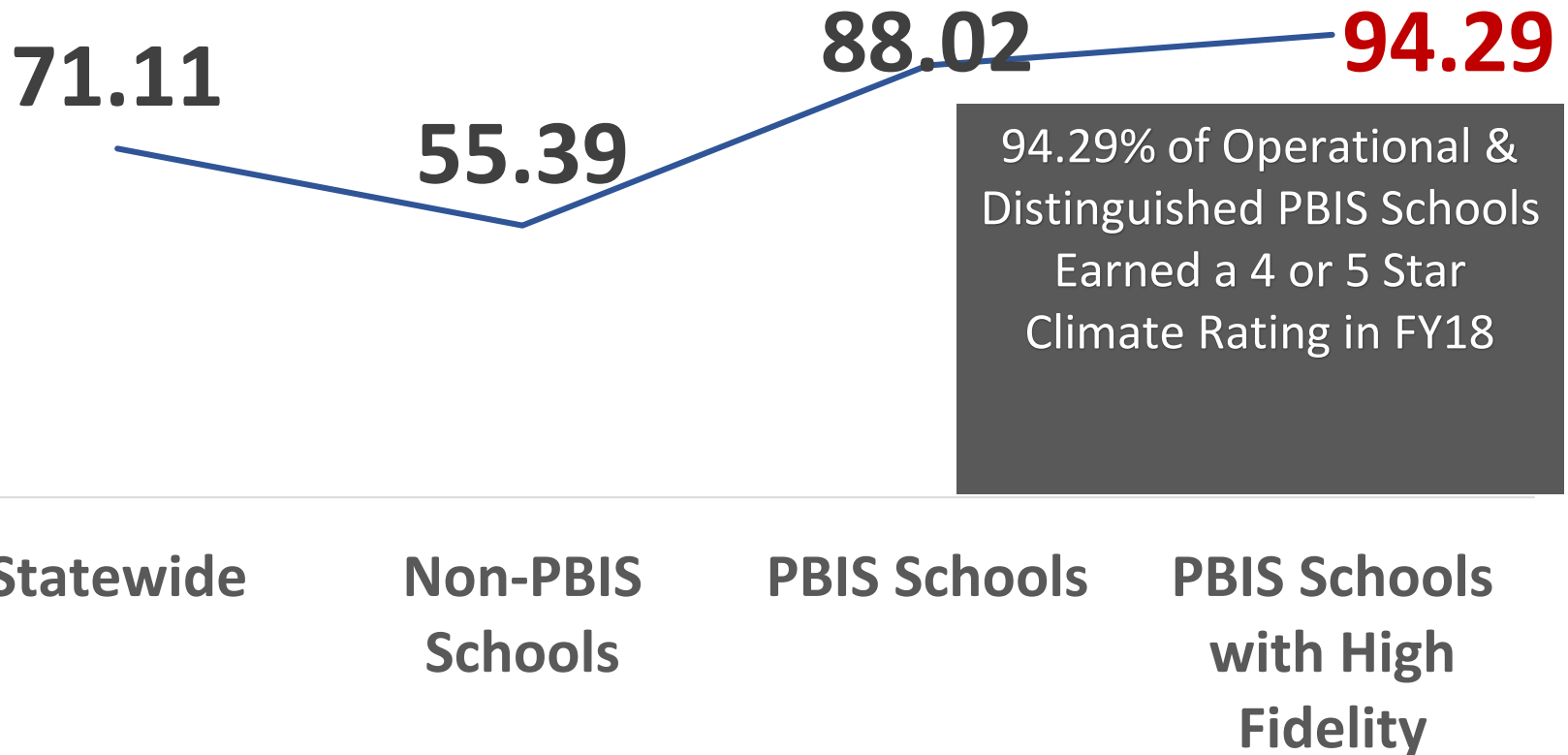


- Over 1,165 Georgia schools have been trained since 2008.
- Schools are recognized based on fidelity of implementation.
- Positive impact on a school's Star Climate Rating.

# The Results...

FY18 LEVELS OF RECOGNITION	School Climate Star Ratings				
	1 Star	2 Star	3 Star	4 Star	5 Star
Distinguished	0.00% (0)	0.00% (0)	0.00% (0)	53.85% (7)	46.15% (6)
Operational	0.00% (0)	0.00% (0)	5.94% (19)	38.44% (123)	55.63% (178)
Emerging	1.37% (5)	1.10% (4)	8.77% (32)	44.66% (163)	44.11% (161)
Installing	1.85% (7)	2.11% (8)	14.25% (54)	37.20% (141)	44.59% (169)
Non-PBIS Schools	2.85% (33)	9.92% (115)	31.84% (369)	49.96% (579)	5.44% (63)
All Schools (Statewide)	2.01% (45)	5.68% (127)	21.20% (474)	45.30% (1013)	25.81% (577)

# % of Schools with 4 or 5 Star Climate Ratings



# House Bill 740

## A BILL TO BE ENTITLED AN ACT

1 To amend Subpart 1A of Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code  
2 of Georgia Annotated, relating to improved student learning environment and discipline in  
3 elementary and secondary education, so as to require local school systems to conduct certain  
4 multi-tiered system of supports and reviews prior to expelling or assigning a student in  
5 preschool through third grade to out-of-school suspension for more than five consecutive or  
6 cumulative days during a school year; to provide for informed parental consent; to provide  
7 exceptions; to provide for definitions; to provide for related matters; to repeal conflicting  
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:



# Georgia Board of Education Rule Code: JD 190-4-8-.15 STUDENT DISCIPLINE

**(d) Multi-tiered system of supports or MTSS** – a systemic, continuous-improvement framework in which data based problem-solving and decision making is practiced across all levels of the educational system for supporting students at multiple levels of intervention.

(l) No student in public preschool through third grade shall be expelled or suspended from school for more than five consecutive or cumulative days during a school year without first receiving a multi-tiered system of supports, such as response to intervention, unless such student possessed a weapon, illegal drugs, or other dangerous instrument or such student's behavior endangers the physical safety of other students or school personnel pursuant to O.C.G.A. 20-2-742.

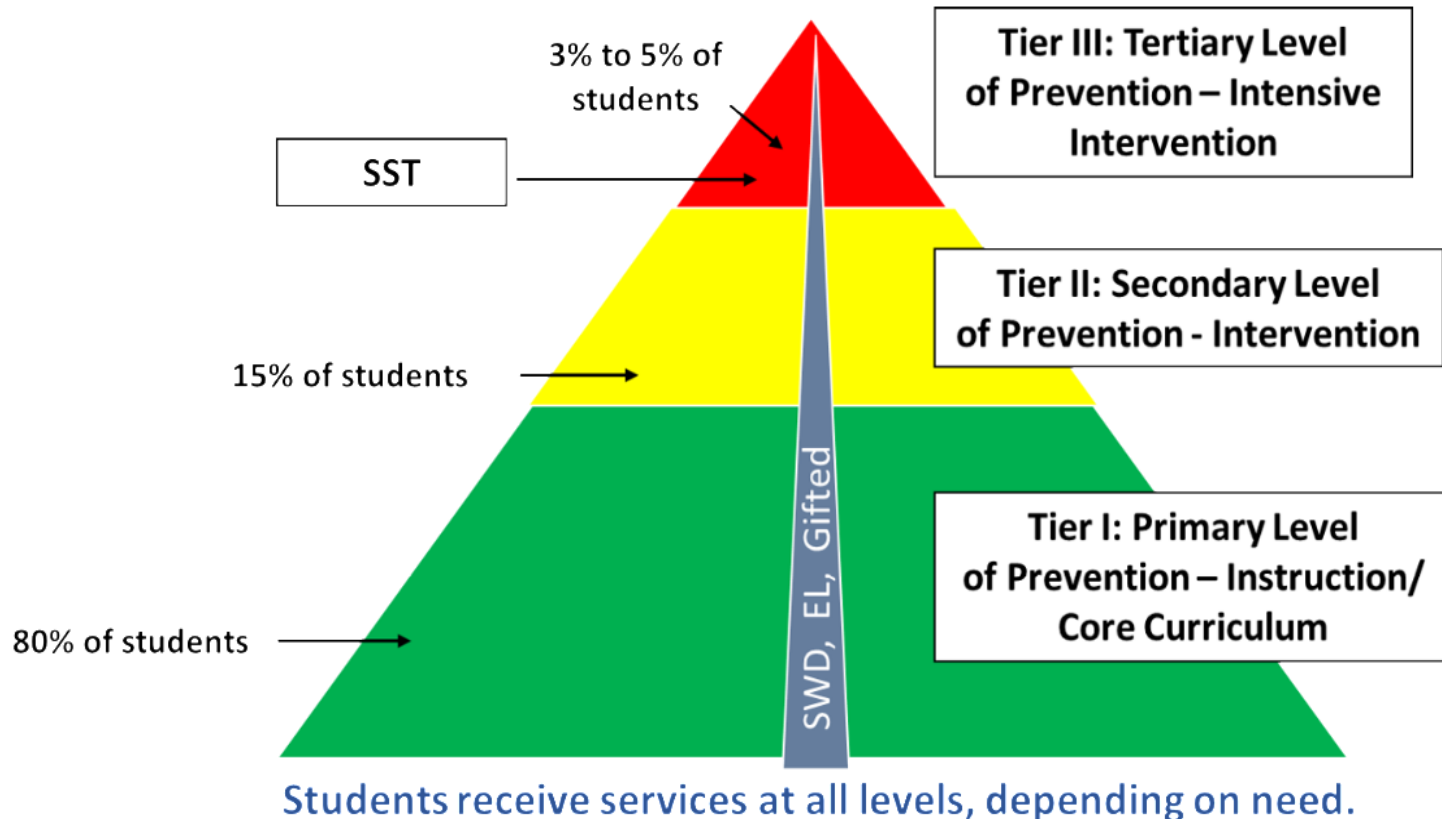
Adopted: November 8, 2018

Effective: November 28, 2018

# Response to Intervention (RTI) and Student Support Team (SST) are contained within Georgia's Tiered System of Supports for Students.

- Under the framework of Georgia's Tiered System of Supports for Students, RTI and SST are still both a part of the process. Georgia's pyramid is now composed of only three tiers.
  - RTI is embedded in the data-based decision making component and remains a part of the multi-level prevention system. It is also included in the screening and progress monitoring components.
  - Under the MTSS framework, SST is initiated at Tier III.

# Multi-Level Prevention System



# Instructional Understandings About Implementing Evidence- Based Practices

- High-Leverage Practices (HLPs) are a set of strategies used across all content areas that are necessary to support student learning.
- When High-Leverage Practices (HLPs) are coupled with Evidence-Based Interventions/Practices (EBIs/EBPs), they provide a continuum of supports that result in a rapid response to academic and behavioral needs.

(<http://www.teachingworks.org/work-of-teaching/high-leveragepractices>)

# High-Leverage Practices (HLPs)

Fundamental to effective teaching

Cut across content domains and grade levels

Used frequently

Supported by research

<http://www.teachingworks.org/work-of-teaching/high-leverage-practices>

# Instructional Understandings About EBIs/EBPs

- Evidence-Based Interventions (EBIs)/Practices (EBPs) are generally content specific and result in positive impacts on academics and behavior.
- Data-based decisions are used to help determine instruction and interventions for all students.
  - student response to interventions
  - fidelity of implementation

Tessie Bailey, American Institutes for Research  
(tbailey@air.org) 3

# What are Evidence-Based Interventions/Practices?

Are Content Specific

Developmentally Appropriate

Learner Dependent

Supported by Research

Tessie Bailey, American Institutes for Research  
(tbailey@air.org) 3



The *Taxonomy of Intervention Intensity*\* was developed based on existing research to support educators in evaluating and building intervention intensity.

Dimensions*	Description
<b>Strength</b>	How well the program works for students with intensive intervention needs, expressed in terms of effect sizes. Effect sizes of above .25 indicate an intervention has value in improving outcomes. Effect sizes of 0.35 to 0.40 are moderate; effect sizes of 0.50 or larger are strong (preferred).
<b>Dosage</b>	The number of opportunities a student has to respond and receive corrective feedback. It refers to the size of the instructional group, the number of minutes each session lasts, and the number of sessions provided per week.
<b>Alignment</b>	How well the program (a) addresses the target student's full set of academic skill deficits, (b) does <i>not</i> address skills the target student has already mastered (extraneous skills for that student), and (c) incorporates a meaningful focus on grade-appropriate curricular standards.
<b>Attention to transfer</b>	The extent to which an intervention is designed to help students (a) transfer the skills they learn to other formats and contexts and (b) realize connections between mastered and related skills.
<b>Comprehensiveness</b>	The number of explicit instruction principles the intervention incorporates (e.g., providing explanations in simple, direct language; modeling efficient solution strategies instead of expecting students to discover strategies on their own; providing practice so students use the strategies to generate many correct responses; and incorporating systematic cumulative review).
<b>Behavioral support</b>	The extent to which the program incorporates (a) self-regulation and executive function components and (b) behavioral principles to minimize nonproductive behavior.
<b>Individualization</b>	A validated, data-based process for individualizing intervention, in which the educator systematically adjusts the intervention over time, in response to ongoing progress monitoring data, to address the student's complex learning needs.

\*Fuchs, L.S, Fuchs, D. & Malone, A.S. (2017). The Taxonomy of Intervention Intensity. *TEACHING Exceptional Children*, 50(1), 35–43.

This document was developed under U.S. Department of Education, Office of Special Education Programs (OSEP) Grant No. HH326Q160001. Celia Rosenquist is the OSEP project officer. The views expressed herein do not necessarily represent the positions or policies of the U.S. Department of Education.

**WANT TO LEARN MORE?**

Visit us at [www.intensiveintervention.org](http://www.intensiveintervention.org).





The *Taxonomy of Intervention Intensity*\* was developed based on existing research to support educators in evaluating and building intervention intensity.



Dimensions*	Description
<b>Strength</b>	How well the program works for students with intensive intervention needs, sometimes expressed as a promising or effective program by a reliable source (e.g., NCII Tools Charts, WWC).
<b>Dosage</b>	The number of opportunities a student has to (a) respond (i.e., practice/demonstrate skill), (b) receive positive feedback (e.g., praise, tokens, points), (c) exchange for backup reinforcers, and (d) receive corrective feedback.
<b>Alignment</b>	How well the program (a) addresses school-wide expectations, (b) addresses classroom/teacher expectations, (c) addresses student's skill deficits, (d) matches rewards to student's preferences and/or function of problem behavior, and (e) does not address extraneous skills.
<b>Attention to transfer</b>	The extent to which an intervention emphasizes how and when a student uses skills across contexts/situations and includes opportunities to practice using skills across context/situations. The program reinforces the use of skills across contexts/situations.
<b>Comprehensiveness</b>	The extent to which the intervention includes a plan for (a) teaching appropriate behavior, (b) adjusting antecedent conditions to prevent problem behavior, (c) reinforcing appropriate behavior, (d) minimizing reinforcement for problem behavior, (e) fading supports (and supports can be easily faded), (f) monitoring fidelity, (g) working in conjunction with related services, and (h) communicating with parents.
<b>Academic support</b>	The extent to which the program (a) can be easily integrated within context of academic instruction, (b) complements rather than supplants academic focus, and (c) includes procedures for reinforcing responses related to academic achievement (e.g., engagement, work completion).
<b>Individualization</b>	A validated, data-based process for individualizing intervention, in which the educator systematically adjusts the intervention over time, in response to ongoing progress monitoring, to address the student's complex learning needs.

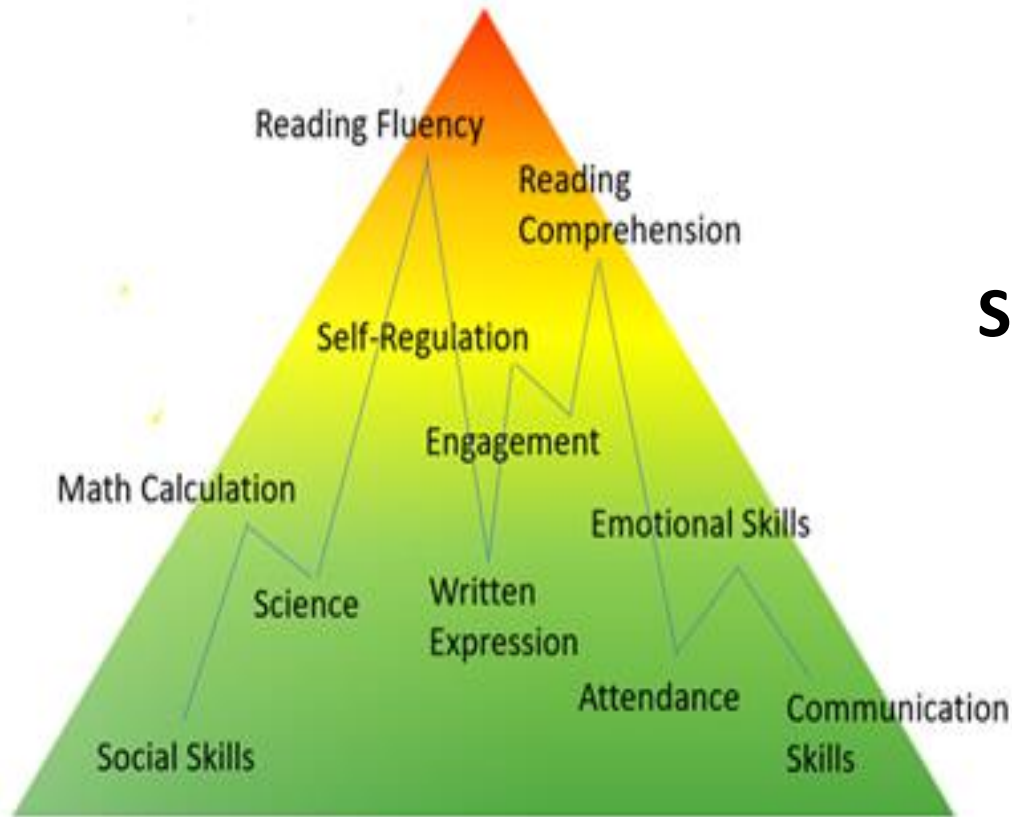


\*Adapted from Fuchs, L.S, Fuchs, D. & Malone, A.S. (2017). The Taxonomy of Intervention Intensity. *TEACHING Exceptional Children*, 50(1), 35–43.

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# Looking at the Whole Child



**Supports are tiered,  
NOT students.**

**Students receive services at all levels, depending on  
need.**

# To Learn More:

[www.gadoe.org/TieredSystemofSupports](http://www.gadoe.org/TieredSystemofSupports)

## Resources:

- Communications Plan
- 1-2 Page Documents: Simplify Essential Components/Framework
- Professional Learning Units
- Infrastructure Webinar – [gamtss@doe.k12.ga.us](mailto:gamtss@doe.k12.ga.us)
- Subscribe to Our Newsletter
- Sign-up for Upcoming Events
- Online module through SLDS/PLO

# Georgia Board of Education Rule Code: IGB 160-4-2-.32 STUDENT SUPPORT TEAM

**(a) Student Support Team (SST)** - an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students, K-12, in a school.

Link to the Board Rule on SST:

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Student-Support-Teams/Pages/default.aspx>

# Georgia Board of Education Rule Code: IGB 160-4-2-.32 STUDENT SUPPORT TEAM

## (2) REQUIREMENTS

(a) Each school shall have a minimum of one SST and shall establish support team procedures.

(b) Before a referral is made for other supplemental or support services, an evaluation and/or assessment shall be conducted.

1. Prior evaluation(s) and/or assessment(s) of a student for a state or federal program shall be considered as having met this requirement.

(c) The SST shall include at a minimum the referring teacher and at least two of the following participants, as appropriate to the needs of the student:

1. Principal
2. General education teacher
3. Counselor
4. Lead teacher
5. School psychologist
6. Subject area specialist
7. ESOL teacher
8. Special education teacher
8. ESOL teacher
9. School social worker
10. Central office personnel
11. Section 504 Coordinator
12. Other appropriate personnel

# Georgia Board of Education Rule

## Code: IGB 160-4-2-.32

### STUDENT SUPPORT TEAM

(d) Parents/guardians shall be invited to participate in all meetings of their child's SST and in the development of interventions for their child.

(e) Each school shall include the following steps in the SST process:

1. Identification of learning and/or behavior problems.
2. Assessment, if necessary.
3. Educational plan.
4. Implementation.
5. Follow-up and support.
6. Continuous monitoring and evaluation.

# Georgia Board of Education Rule

## Code: IGB 160-4-2-.32

### STUDENT SUPPORT TEAM

(f) Documentation of SST activities shall include the following:

1. Student's name.
2. Names of team members.
3. Meeting dates.
4. Identification of student learning and/or behavior problems.
5. Any records of assessment.
6. Educational plan and implementation results.
7. Follow-up and, as appropriate, continuous evaluation.

# MTSS, SST and RTI – Are these terms synonymous?

- **Multi-Tiered System of Supports** - a tiered system of supports that integrates assessment and intervention within a school-wide, multi-level prevention system to maximize student achievement and reduce behavioral problems. Promotes systems alignment to increase efficiency and effectiveness of resources. *(Adopted from Center on Response to Intervention, 2010)*
- **Response to Intervention (RTI)** - 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, and identify students with learning disabilities or other disabilities. *(Center on Response to Intervention)*
- **Student Support Team (SST)** - an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students, K-12, in a school. SST is unique to Georgia. *(Georgia Department of Education)*

Under the framework of Georgia's Tiered System of Supports for Students, RTI and SST are still both a part of the MTSS process.



# How does it all fit together?

Georgia's Tiered  
System of  
Supports

Multi-Tiered  
System of  
Supports (MTSS)

Student Support  
Team (SST)

Positive Behavioral  
Interventions and  
Supports (PBIS)

Response to  
Intervention

House Bill 740

Referral to Special  
Education



# What guides our work?

- Research
- Best Practice
- State Rules
- Federal Law
- Guidance Letters from Office of Special Education Programs (OSEP)
- GaDOE Implementation Guidance
- GaDOE Resources

# Office of Special Education Programs Letter to Zirkel – January 2019

- **Question 1**: Is there a difference between RTI and MTSS under IDEA?
- **Answer**: IDEA does not define RTI or MTSS. RTI is only mentioned in IDEA when determining eligibility for specific learning disability. 20 U.S.C. § 1414(b)(6)(B) and 34 C.F.R. § 300.307(a)(2).

(OSEP Letter to Zirkel, September 2019)

# What does IDEA mention regarding RTI and Specific Learning Disabilities?



# Specific Learning Disabilities

## Sec. 300.307 (a)

(a) General. A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §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 a specific learning disability, as defined in §300.8(c)(10);

(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 a specific learning disability, as defined in §300.8(c)(10).

(Individuals with Disabilities Education Act, Federal Regulations)

# Specific Learning Disabilities

## Sec. 300.309 Determining the existence of a specific learning disability

(a) The group described in §300.306 may determine that a child has a specific learning disability, as defined in §300.8(c)(10), if—

(1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:

(i) Oral expression.

(ii) Listening comprehension.

(iii) Written expression.

(iv) Basic reading skill.

(v) Reading fluency skills.

(vi) Reading comprehension.

(vii) Mathematics calculation.

(viii) Mathematics problem solving.

(2) (i) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention;

(Individuals with Disabilities Education Act, Federal Regulations)

# Specific Learning Disabilities

Special Education State Rules -160-4-7-.05 –Eligibility Determination and Categories of Eligibility: Excerpt from SLD eligibility criteria:

## Required Data Collection

1. (a)

(iii) Results from supplementary instruction that has been or is being provided:

(a) That uses scientific, research or evidence-based interventions selected to correct or reduce the problem(s) the student is having and was in the identified area of concern;

(b) such instruction has been implemented as designed for the period of time indicated by the instructional strategy(ies). If the instructional strategies do not indicate a period of time the strategies should be implemented, the instructional strategies shall be implemented for a minimum of 12 weeks to show the instructional strategies' effect or lack of effect that demonstrates the child is not making sufficient progress to meet age or State-approved grade-level standards within a reasonable time frame;

(iv) the interventions used and the data based progress monitoring results are presented to the parents at regular intervals throughout the interventions.

[http://archives.doe.k12.ga.us/DMGetDocument.aspx/160-4-7-.05\\_Eligibility\\_3-31-10.pdf?p=6CC6799F8C1371F652A505DFC2E6E9873664C9C07475C448B6F4C484C7DA08A6&Type=D](http://archives.doe.k12.ga.us/DMGetDocument.aspx/160-4-7-.05_Eligibility_3-31-10.pdf?p=6CC6799F8C1371F652A505DFC2E6E9873664C9C07475C448B6F4C484C7DA08A6&Type=D)

# Office of Special Education Programs

## Letter to Zirkel – January 2019

- **Question 2:** Is it permissible for a school district to provide special education services (e.g., resource room instruction in reading via multisensory approach) under Tier 2 or 3 prior to an evaluation for IDEA eligibility? If so, what are the legal and related funding limitations?
- **Answer:** Under IDEA Part B, special education and related services are provided to an eligible child with a disability as an element of a free appropriate public education (FAPE) in conformity with the child's individualized education program (IEP). 20 U.S.C. § 1401(9) and 34 C.F.R. § 300.17. The provision of special education and related services occurs only after a child is evaluated in accordance with 34 C.F.R §§ 300.304–300.311 as having a disability, as defined in 34 C.F.R § 300.8 and, who by reason thereof, needs special education and related services. 20 U.S.C. §§ 1414(a)(1)(A) and (b)(4), and 34 C.F.R. §§ 300.301(a) and 300.306. In addition, special education services cannot be provided without parental consent after completing an evaluation and eligibility determination. 20 U.S.C. §§ 1414(a)(1)(A), (a)(1)(D)(i)(II), and (b)(4), and 34 C.F.R. §§ 300.300(b), 300.301(a), and 300.306. Therefore, IDEA Part B funds cannot be used to provide special education and related services during the secondary or tertiary level of an RTI framework to a child who has not been evaluated and found to be a child with a disability and eligible under IDEA, and whose parents have not provided parental consent for the initial provision of services.

(OSEP Letter to Zirkel, September 2019)



# Office of Special Education Programs

## Letter to Zirkel – January 2019

- **Question 3**: Is an RTI approach applicable to special education students (i.e., after rather than before an eligibility evaluation) as a framework for implementing least restrictive environment and/or FAPE under IDEA?
- **Answer**: As discussed in response to Question 2, FAPE includes the provision of special education and related services provided in conformity with an IEP. While there is nothing in IDEA that prohibits children with disabilities who are receiving special education and related services under IDEA from receiving instruction using RTI strategies, all special education and related services must continue to be provided consistent with each child's IEP.

(OSEP Letter to Zirkel, September 2019)

- **[OSEP LETTER: Jan. 29, 2019 to Zirkel](#)**

# Office of Special Education Programs

## Letter to Zirkel – September 2013

- 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.
- There are a number of RTI models, and, while the Department does not endorse a particular RTI model, essential components must be present in RTI. These components include:
  - (1) high quality, evidence-based instruction in general education settings;
  - (2) screening of all students for academic and behavioral problems;
  - (3) two or more levels (sometimes referred to as “tiers”) of instruction that are progressively more intense and based on the student’s response to instruction; and
  - (4) progress monitoring of student performance.

(OSEP Letter to Zirkel, September 2013)

# Office of Special Education Programs

## Letter to Zirkel – September 2013

- It is important to note that no intervention process, whether it includes the components listed above or not, may be used to delay or deny the provision of a full and individual evaluation that meets the requirements of 34 CFR §§300.304-300.311 to a child suspected of having a disability under 34 CFR §300.8.
- Consistent with IDEA section 612(a)(3), a State must 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.
- See OSEP Memo 11-07, A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA), January 21, 2011.

(OSEP Letter to Zirkel, September 2013)

# Memorandum to State Directors of Special Education- January 2011 United States Department of Education

- *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.**

(Memorandum to State Directors, OSEP, United States Department of Education, January 2011)

# Memorandum to State Directors of Special Education- January 2011 United States Department of Education

- 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.

(Memorandum to State Directors, OSEP, United States Department of Education, January 2011)

# Memorandum to State Directors of Special Education- January 2011 United States Department of Education

- 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.
- 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/speced/guid/idea/index.html>.

(Memorandum to State Directors, OSEP, United States Department of Education, January 2011)

# Memorandum to State Directors of Special Education- January 2011 United States Department of Education

- 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).

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- 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.

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# Dear Colleague Letters

## Office of Special Education Programs

### United States Department of Education

- <https://sites.ed.gov/idea/>
- Can search guidance letters using key terms: RTI, MTSS, pre-referral interventions
- Letters are provided as informal guidance, not legally binding, but represent an interpretation by the U.S. Department of Education.

# Clarification Regarding Interventions for Students Referred for Special Education

- Child Find
- Evaluation
- Eligibility

*The Student Support Team requirement to provide interventions has not changed.*

***(Georgia Board of Education Rule: 160-4-2-.32 STUDENT SUPPORT TEAM)***

# Federal Mandates for State Education Agency Compliance

- States are required to have policies and procedures that are aligned **with IDEA** (34 CFR § 300.100). Georgia's Special Education Rules support state level implementation of IDEA.
- States must have in effect policies or procedures to ensure that it complies **with Federal monitoring and enforcement requirements** (34 CFR §§300.600-602 and 34CFR §§300.606-608).
- In addition to the state rules, the GaDOE **outlines specific strategies and best practices in the Special Education Implementation Manual**. Local school LEAs must then implement policies, procedures, and effective practices.

# Child Find

## 34 C.F.R. § 300.111

- Child Find is a critical part of the special education process for all children suspected of having disabilities.
- IDEA requires that children who are suspected of being a child with a disability and in need of special education are identified, located, and evaluated.  
34 C.F.R. § 300.111.

# Child Find

## Georgia Rule 160-4-7-.03(2)(b).

- Child Find Procedures – Prior to referring a student for consideration for eligibility for special education, a student **must** have received scientific, research or evidence based interventions.
- Despite the language in our State Child Find Rule, IDEA does not require that a child receive scientific, research, or evidence-based interventions before being referred for consideration for eligibility for special education and related services. See 34 C.F.R. § 300.111.

# Evaluation and Reevaluation (34 C.F.R. § § 300.301-300.311; Georgia Rule 160-4-7-.04) 60 Days to Evaluation

Once a child is referred for an evaluation by a parent or Student Support Team (SST) to determine if the child is a child with a disability, **the initial evaluation:**

**Must be completed within 60 calendar days** of receiving parental consent for evaluation.

[34 C.F.R. § 300.301(c)(1)(i)]

# Initial Evaluation

- Before an evaluation can begin, the LEA must obtain a signed, informed parental consent for evaluation. The LEA has 60 calendar days after receiving parental consent to complete the initial evaluation.
- Completion of the initial evaluation is defined as completion of the evaluation report(s). LEAs are not required to make the eligibility determination during the 60-day initial evaluation timeline.

# Initial Evaluation

- The eligibility decision should be made within a reasonable period of time following the completion of the evaluation. See 71 Fed. Reg. 46637 (2006). As a matter of best practice, **within 10 calendar days** of the completion of the **60-day initial evaluation period**, an eligibility meeting should be held.
- Development of the Individualized Education Program (IEP) can take up to 30 additional days.

See [34 C.F.R. § 300.323\(c\)\(1\)](#)



# Evaluation Timeline

## Does the 60-Day timeline calculate from consent of evaluation to completion of the evaluation report?

- Yes, the 60-day timeline is from receipt of consent to the completion of the evaluation, which is shown by the completion of the evaluation report(s)\*.
- A comprehensive evaluation report may include combined reports; however, the timeline will be based on the most recent date.

*\*Please note that the completion of report is different than the date assessments were administered.\**

# Special Education Eligibility Requirements (34 C.F.R. § 300.306; Georgia Rule 160-4-7-.05)

## CHAPTER FIVE: SPECIAL EDUCATION ELIGIBILITY REQUIREMENTS ([34 C.F.R. § 300.306](#); GEORGIA RULE [160-4-7-.05](#))

### *Special Education Eligibility Decision Making*

LEAs<sup>1</sup> must recognize the direct and relevant relationship between a multi-tiered system of supports, Student Support Team (SST), and the individual evaluation requirement of the IDEA. Once problem-solving teams determine that a child is suspected of having a disability, a comprehensive evaluation shall be provided to the child being considered for special education eligibility. However, an eligibility determination cannot occur until the existing data is reviewed to determine whether one or more of the exclusionary factors is the determinant factor for the determination that the child is a child with a disability AND the child does not otherwise meet the specific eligibility criteria.

# If a student is referred for an evaluation but no prior interventions have been implemented, can the consent to evaluate and evaluation process move forward?

Yes, as part of the child find and referral process, LEAs must not delay evaluation due to the lack of RTI or research-based interventions. It is permitted to continue to implement interventions during the evaluation process.

Child Find: Points to remember

Does the district suspect the child may be a child with a disability and in need of special education?

If the parent is asking for an evaluation and interventions have or have not been completed, then the district can grant the evaluation or deny the evaluation and provide Prior Written Notice if it does not suspect that the child is a child with a disability and in need of special education.

# Are we continuing to use the RTI process to support the eligibility determination process for a child determined to have Specific Learning Disability?

Yes - for a Specific Learning Disability (SLD) eligibility, Georgia State Rule requires the use of the RTI process. SLD is the only eligibility category in our rules requiring interventions for eligibility.

The State Child Find Rule and SST Rule address interventions before referring the child for a special education evaluation.

# Your Questions

# Newsletters

- [Teacher Tools Newsletter - March 2019](#)
- *Georgia Tiered Connection Newsletter*
- [February 2019](#)

# Contact Information

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