



Policy Advisory Tiered Instruction

Specific federal policies addressing the use of tiered instruction with children prior to kindergarten are not available at this time. However, the Office of Special Education in the U.S. Department of Education issued informal guidance in 2010 on the use of tiered instructional approaches, referred to as Response to Intervention or RTI in this document. For school-age students in kindergarten through Grade 12, there is specific guidance available on the use of tiered instruction. This information can be found within multiple provisions of the [Individuals with Education Act \(IDEA\)](#) and a position paper published by the Council for Exceptional Children (CEC). For more information about each of these sources, click on the links below.

OSEP Informal Guidance on Use of RTI for Three-to-Five Year-Olds

The OSEP guidance addressed several issues regarding the use of RTI with three-to-five year-old children. This statement addressed the referral process for determining whether children are eligible for special education services, along with parental rights in this regard. The guidance is available at <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>.

Council for Exceptional Children (CEC) Position Statement on Response to Intervention

In 2008, CEC released a position statement on RTI. The position statement describes the key components of RTI and provides general guidelines for classroom implementation and system supports.

The CEC position statement is available here:

http://www.cec.sped.org/AM/Template.cfm?Section=CEC_Professional_Policies&Template=/CM/ContentDisplay.cfm&ContentID=11116

IDEA Provisions Addressing RTI and Positive Behavioral Supports (PBS)

IDEA contains multiple provisions that address the use of RTI in public education. These provisions note that school districts are allowed to use RTI as an alternative method for identifying students with learning disabilities, and indicate that students can be determined to have a specific learning disability on the basis of how they respond to research-based interventions. In addition, PBS was referenced multiple times within IDEA as a way of improving the quality of behavior supports provided to all students enrolled in public education, with a particular focus on the importance of this for students with disabilities. These provisions on PBS address a range of issues from funding this approach, to the use of suspension and expulsion rates in relation to evaluating its effects, to professional development and the role of teachers in implementing this approach in classrooms.

Head Start Performance Standards on Suspension and Expulsion

The Head Start Performance Standards clearly lay out a tiered and multifaced approach for working with children who exhibit persistent and challenging behaviors. Head Start and Early Head Start programs are required to prohibit or drastically limit the use of suspension based on a child's behavior (§1302.17(a)). Temporary

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suspensions can only be used as a last resort when there is a safety threat, after other avenues have been exhausted. In order for a suspension to be put in place, programs must work with a mental health consultant, community resources, and the parents of the child to determine if there is no other option but suspension. During the suspension, programs must:

- Maintain communication with parents and mental health consultants
- Develop a written plan to document action and supports needed
- Provide services as needed, including home visits
- Determine if a referral to a local agency in charge of implementing IDEA is necessary (§1302.17(a)(4)).

Once deemed appropriate, it is the responsibility of the program to make sure the child returns to full participation in all program activities as fast as possible, ensuring that child safety is in place.

Expulsion cannot be used strictly based on a child's behavior in Head Start programs. Similar to suspension, the program must explore all possible options and document all steps taken to address the problem before expelling a child (§1302.17(b)). Required steps include (at a minimum):

- Engaging with a mental health consultant
- Providing appropriate services and supports under Section 504 of the Rehabilitation Act if applicable
- Consulting with the parents and the child's teacher to ensure an individualized family service plan (IFSP) or individualized education program (IEP) is in place if appropriate and supports are provided if necessary (§1302.17(b)(2)).

If all possible steps are taken and there is no resolution, Head Start programs are required to collaborate with the child's teacher, the agency responsible for implementing IDEA, and the mental health consultant to determine if expulsion is the best fit for the child. Programs are also required to assist families in the transition to a more appropriate setting when applicable (§1302.17(b)(3)).

References

Head Start Program Performance Standards and Other Regulations. (2016). English. 45 CFR 1301-1305. For complete source of information, go to <https://eclkc.ohs.acf.hhs.gov/policy/45-cfr-chap-xiii>

Individuals with Disabilities Education Act of 2004 (IDEA), Pub. L. No. 108-446. For complete source of information, go to <http://idea.ed.gov/>

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