

As research on the subject has demonstrated, the RtI approach must be implemented as early as possible in order for it to be successful. This precept coupled with the fact that the RtI approach begins with high quality instruction for ALL students is the basis for LDANYS' concurrent support for mandatory statewide pre-K and full day kindergarten. LDANYS believes that RtI methods used should be specific and intense and that there should be a clearly defined timeframe for delivery of RtI and for determining its efficacy. LDANYS endorses the following core features of an RtI approach as indicated by the National Research Center on Learning Disabilities:

1. High quality classroom instruction- for ALL students in the general education setting, prior to any screening or singling out of particular students who are struggling.
2. Research-based instruction- requiring local school districts to use *scientifically proven* curriculums will provide uniformity across the state. Because school districts will be using scientifically validated programs, school districts will be able to project the anticipated level of performance of students participating in the curriculum and share this information with parents. Parents should also be provided with periodic progress reports as well.
3. Classroom performance- general and special education instructors and staff assume an active role in assessing student performance.
4. Universal screening- school staff conducts universal screening of academics and behavioral issues such as attendance, tardiness, truancy, suspensions and disciplinary actions to determine which students need closer monitoring and an enhanced level of intervention. LDANYS believes that a student's social skills and social capacity should also be taken into consideration, as this is often an area of deficiency for individuals with learning disabilities.
5. Continuous progress monitoring- the RtI approach requires staff to closely monitor the progress of students on a continuous basis to readily identify those who are not performing as expected.
6. Research-based interventions- when the monitoring process indicates a student is underachieving an appropriate instructional intervention is implemented. Standardized treatment protocols are those that have been validated by researchers. These interventions are delivered in an 8-12 week timeframe and are designed to increase the intensity of the learner's instructional experience.
7. Progress monitoring during interventions- school staff use progress monitoring data to determine the intervention's effectiveness and make modifications as needed. Also, it is important that this data is available for researchers validating the effectiveness of RtI.
8. Fidelity measures- these are designed to assess the staff and to ensure that the interventions being utilized were implemented as intended and with consistency.

Students who undergo an RtI process that exposes them to appropriate methods of intervention and continue to exhibit academic difficulty should be referred for a comprehensive psycho-educational evaluation to be conducted by a qualified, multi-disciplinary team of experts. LDANYS also believes that since the RtI approach is intended to be used in the early grades and

that the efficacy of RtI decreases as a student ages, a different approach to identifying older students as having specific learning disabilities must be considered. Students 10 years of age and older that continue to exhibit academic, social and behavioral difficulties should be immediately referred for a comprehensive evaluation regardless of any other interventions that may be in place at that time, assuming that the components of RtI have already been implemented, and that services and interventions provided as a result of substandard performance on statewide tests have already been delivered.

Other areas of needed clarification relative to RtI include the right of parents to request an evaluation for their child at any time regardless of where their child is in the RtI process; how RtI will be considered during the evaluation process; how the 60-day timeframe correlates with RtI and further clarification in the regulations that lack of parent participation does not eliminate the possibility of a student to be classified by the school district.

In order to ensure that RtI is implemented appropriately, we urge the State Education Department to convene a multidisciplinary panel of professionals to examine all facets of the process; the impact RtI will have upon the education of students in New York State and to recommend best practices. The development of a demonstration project to evaluate some of these issues may also be warranted.

#### **Transition Services:**

LDANYS believes that since New York State's approach to providing transition services has been recognized by the federal government as a national best-practice model, the State Education Department should continue its practice of exceeding federal standards in the provision of transition services. LDANYS recommends that the State Education Department consolidate the current two-tiered provision of transition services to begin at the age of 14 and to be completed by the age of 16. While students at the age of 14 may not yet have a clear picture of exactly what they want to do with their lives, they should at the very least begin to formulate basic goals, explore the various post-secondary options that are available and become aware of what the expectations are of these post-secondary options in order for them to participate in them.

#### **Multi-year IEPs:**

LDANYS opposes the concept of multi-year IEP's because it is in direct conflict with the concept of RtI. If special education services are to be considered a continuation of RtI, which has an intrinsic system of continuous monitoring and adjusting to meet the needs of the student, then annual IEPs with similar built-in monitoring mechanisms are an essential part of the process.

#### **Disciplinary Procedures:**

LDANYS urges careful development of regulatory language related to the implementation of the disciplinary procedures called for under IDEA 2004. In addition, the State Education Department is urged to develop clear and consistent training, communications and monitoring mechanisms for these procedures that include parents as stakeholders, in order to ensure that the provisions of IDEA 2004 are uniformly understood and applied by all districts only in accordance with the intent of the legislation. In the absence of clear expectations set and enforced by the State Education Department a significant risk exists that the disciplinary

provisions of IDEA 2004 could be utilized as a mechanism to permanently remove behaviorally challenging students with disabilities (who could also be perceived as having a negative impact on a district's ability to meet AYP) from the classroom setting. LDANYS specifically urges the State Education Department to carefully limit and monitor the use of home tutoring as an alternate educational setting, to only those short-term situations where no other setting is viable. Home tutoring should never be permitted to become a permanent placement for any student. Without such limits, it is highly likely that the disciplinary provisions of IDEA 2004 will become a primary vehicle for significantly increasing the number of students with disabilities who drop out of their educational programs.

**Monitoring, Technical Assistance and Enforcement:**

LDANYS is encouraged by the inclusion of new language in IDEA 2004 regarding the states' involvement in providing technical assistance, monitoring and enforcing local school districts' compliance with the law. We believe that a much stronger system of quality assurance is needed in New York State to ensure that local school districts are complying with the law. While we can appreciate the desire for some level of local flexibility, there needs to be a system of accountability in place to compel school districts to abide by state and federal regulations. If there is not a stronger system of monitoring and enforcement than it almost doesn't matter how strong and clear state regulations are if local school districts chose to interpret and implement them according to their individual perceptions. We urge the State Education Department to take this concern into serious consideration when developing its State Performance Plan.

Again, we thank you for the opportunity to submit comments regarding New York State's implementation of IDEA 2004. Please feel free to contact Heather Loukmas, LDANYS Executive Director at 518-608-8992 if further clarification is needed or if there are any questions regarding our comments.

Sincerely,

Michael Helman  
President