

## RTI (Response to Intervention)

### \* CARS+ guidelines for multi-tier (RTI) models (see addendum) (2007 Summer)

\* Response to Intervention – Superintendent Jack O’Connell: November 14, 2008 and March 17, 2009 (see addendum)

### 1. Can special educators serve non-identified students in an RTI /intervention program? (2009 Fall) (2010 Summer)

Yes, if the following legal requirements are met:

- . \* Special education teachers must have the appropriate credentials to provide instruction to both students with an IEP and those students without IEPs. (*Service Delivery for Students with Disabilities, CDE, March 27, 2009*)
- . \* Teachers must be highly qualified - Special education teachers providing instruction in the core academic subjects must meet the same "highly qualified" requirements and personnel qualifications described in the Individuals with Disabilities Education Act (IDEA) laws and regulations (*EC Section 56058*). (*Service Delivery for Students with Disabilities, CDE, March 27, 2009*)
- . \* All IEPs of identified students are being fully implemented. Failure to appropriately implement IEPs is one of the most non-compliant areas in California.

**There must be clear entrance and exit criteria for non-identified students. For example, “students will be provided intervention services for 6 weeks focusing on a specific set of learning goals.”**

### 2. When a resource specialist/specialist is told that he/she is the RTI2 person for the school, what documents, links, information can be used to support Education Code 56362.1 (maintaining caseloads for resource specialists)? (2010 Spring)

Despite the frequent use of education code 56362, a reference to 56362.1 is almost never made. Education code 56362.1 defines the term caseload for Section 56362. The definition in 56362.1 is that the caseload shall include, but not be limited to, all pupils for whom the resource specialist performs any of the services described in subdivision (a) of Section 56362. That subdivision describes instructing, consulting, coordinating and monitoring students whose needs have been identified on an IEP.

RtI is a function of general education. This has been enumerated in many documents published by CDE and others. In the letter on RTI from State Superintendent Jack O’Connell, Response to Intervention Squared(RtI2) is described as “emerging nationally as an effective strategy to support every student

<http://www.cde.ca.gov/nr/el/le/yr08ltr1114.asp>). The California Department of Education (CDE) is squaring the term RTI to Response to Instruction and Intervention (RtI2) to define a general education approach of high quality instruction, early intervention, and prevention and behavioral strategies.” He further states “that implementation of RTI2 in general education reduces the disproportionate representation of certain groups of students identified as needing special education services.” His letter on Service Delivery Models dated March 27, 2009 (see the service delivery model page on our website) delineates the statement in education code 56362 that an RSP teacher cannot be simultaneously assigned to serve as a resource specialist and as a regular class teacher. He further states that “The RSP caseload cannot exceed 28 students who have IEPs.”

An IDEA Q&A document regarding Response to Intervention (RTI) and Early Intervening Services (EIS) discusses the fact that students with disabilities can have access to RTI services. “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 unless the use of such strategies is inconsistent with their individualized education programs (IEPs).” Its only concern was that the 15% EIS funds could not be used because the student had already been identified. See also page 22 of our Winter 2009 newsletter and page 5 of our Summer 2008 newsletter for additional information.

If a special educator is asked to teach general education students as part of their service delivery, and it doesn’t compromise their ability to meet the IEPs of their students, but it does exceed their caseload, a special educator can choose to do this as a personal choice, but the law (Sec. 56362.1) does not support this. If it does compromise the ability of the special educator to meet the needs of their students, there is no law requiring them to do so. At this point, contacting CDE through a complaint or working with your union to resolve this is suggested.

CARS+ is aware of the significant changes in service delivery throughout the state. CARS+ is also aware of the negative impact on students and teachers. We will continue to work with the California Department of Education, legislators and the Commission of Special Education to try and resolve these issues.

### **3. I am have been told that as a resource specialist I must teach 3 periods a day of intensive instruction to general education students as part of our school’s RTI program. Is this legal? (2010 Fall)**

YES “if personnel costs are shared across special education and non-special education funding sources in a pro-rated manner based on instructional time. The pro-rated costs must be in accordance with federal funding requirements.”

“For example, a full time RSP teacher operating within the required caseload limit of 28, might implement 14 IEPs (one-half of the maximum caseload of 28) and provide instruction in reading as 50 percent of the position. Special education funding could be used for the 50% of the special education RSP teacher in

implementing IEPs and the other funding sources could fund the position for the remaining percent. The remaining 14 IEPs must also be implemented by qualified staff.”

“In the above example, special education funds could only be used for the RSP teacher to fund 50% of the position that delivers special education and related services. In this case, the special education teacher is assigned half-time to special education and half-time for instruction to students without IEPs. There is no funding supplanting and the LEA is compliant regarding assignments.”

If this is not the case, the answer is NO. Education Code 56362(d) states that “resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.”