CHAPTER 67-23-06
RESPONSE TO INTERVENTION

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67-23-06-01. Definitions.

As used in this chapter, the following definitions apply:

1. "Evidence-based practices" includes educational practices and instructional strategies that are supported by relevant scientific research studies.

2. "Fidelity of implementation" means:

   a. In the case of evidence-based practices, consistent and accurate implementation of a program following the program developer's specifications; and

   b. In the case of the components of the response to intervention framework, that all components are implemented in accordance with nationally approved standards and the North Dakota department of public instruction.

3. "Progress monitoring" and "standard protocol" means scientifically based processes used to monitor implementation of interventions by assessing a child's academic performance and evaluating the effectiveness of the instruction received by the child.

4. "Universal screening" means a screening protocol is provided to all children at a grade level. It is the first stage in identifying or predicting children who may be at risk for poor learning outcomes.

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General Authority: NDCC 15.1-32-09, 28-32-02
Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

67-23-06-02. Use of response to intervention by local education agencies.

1. A local education agency may adopt a response to intervention process and may choose to use the process to determine if a child has a specific learning disability consistent with 34 CFR 300.301-311. Prior to implementation of response to intervention during the evaluation of a student suspected of having a specific learning disability, a local education agency must demonstrate the completeness of its response to intervention process through:

   a. Evidence of training in the components of the response to intervention framework;

   b. Adoption of evidence-based curriculum, instruction, and interventions; and

   c. Demonstration that its response to intervention process includes screening, diagnostic and progress monitoring assessments, and other elements of an approved national standard for the components of the framework.

2. The local education agency must provide documentation:

   a. Of the time and frequency of the interventions;

b. That the programs used are evidence-based;

c. That the programs are implemented with fidelity; and

d. That the procedures are periodically reviewed and updated based on the evidence collected regarding their effectiveness in improving student achievement.

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67-23-06-03. Response to intervention - Components.

Response to intervention is a schoolwide system designed to meet the needs of students using a tiered framework. Using response to intervention to evaluate for special education eligibility is one component of an overall system implementation process that includes leadership, communication with and involvement of parents, professional development, and fidelity of implementation of the process across all tiers. It is consistent with nationally recognized procedures and includes the following components:

1. Screening of all students that will identify students at risk of poor learning outcomes or challenging behaviors;

2. A multilevel prevention and intervention framework that is implemented schoolwide and is designed to prevent school failure;

3. Progress monitoring that is ongoing, occurs frequently, and is used to quantify rates of improvement and inform instructional practice and development of individualized programs; and

4. A data-based decisionmaking process that informs instruction, movement from tier to tier, and identification of children with specific learning disabilities.

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67-23-06-04. Parental notification.

1. At the start of each school year, a local education agency using response to intervention to identify children with specific learning disabilities must provide parents with a description of the school's essential components of response to intervention.

2. Each school or district will have a mechanism for updating parents on the progress of their child who is receiving primary, secondary, or tertiary interventions.

3. Parents must be involved during the decisionmaking regarding participation of their child in the multilevel prevention and intervention framework.

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67-23-06-05. Eligibility determination for a specific learning disability.

A local education agency determination that a child has a specific learning disability includes the results of supplemental instruction as demonstrated by written documentation describing:

1. The nature of the child's achievement concerns and lack of progress;

2. Documentation, including data from interventions;

3. An explanation of the scientifically research-based practices used in the determination;

4. An explanation of the exclusionary factors that are not related to a learning disability but may impinge on the child's performance; and

5. The need for special education.

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Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

67-23-06-06. When evaluation is required.

A local education agency must conduct an evaluation:

1. When a preponderance of the evidence indicates the child is not responding to interventions and a disability is suspected; or

2. When a parent requests an evaluation, unless the local education agency determines an evaluation is not warranted and gives the parent written notice of its determination.

History: Effective July 1, 2012.
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