



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MEMORANDUM

TO: Part B Directors and 619 Coordinators

FROM: Peter Keup
Director, Office of Special Education Services

DATE: May 2, 2023

RE: Not Using Multi-Tiered System of Supports (MTSS) to Delay Evaluations

It has come to our attention that initial evaluations have sometimes been delayed or denied by local educational agencies (LEAs) until a child goes through the (MTSS) process, sometimes referred to as Response to Intervention (RTI). Although the term RTI is no longer commonly used to describe a State's multi-tiered system of supports, the attached memoranda apply to all tiered systems of support, whether the State uses an RTI, MTSS, or a unique State name. The basis for these memoranda is the child find requirements in Section 612(a)(3) of the Individual's with Disabilities Education Act (IDEA). Each IDEA Part B and Part C grantee must ensure it has a system in place for meeting the child-find requirements as a condition for funding.

The United States Department of Education, Office of Special Education Programs (OSEP) reminds State educational agencies and LEAs that the Part B regulations at 34 C.F.R. §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 under the IDEA. As OSEP Memorandum 11-07 states, MTSS/RTI may not be used to delay or deny a full and individual evaluation under 34 C.F.R. §§300.304-300.311 for a child suspected of having a disability. A child can be placed in or continue to receive interventions during the evaluation process. Results from interventions can be valuable data that can contribute to a comprehensive evaluation.

With respect to preschool children, the IDEA does not require or encourage a local or preschool program to use a MTSS approach prior to referral for evaluation or as part of determining whether a 3-, 4-, or 5-year-old is eligible for special education and related services. Once an LEA receives a referral from a preschool program, the LEA must initiate an evaluation process to determine if the child is a child with a disability. See: 34 C.F.R. §300.301(b).

More information can be found within the memorandum linked below.

1. [OSEP Memorandum 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); and
2. [OSEP Memorandum 16-07](#)--A Response to Intervention Process Cannot be Used to Delay-Deny an Evaluation for Preschool Education Services under the Individuals with Disabilities Education Act (April 29, 2016).

Please contact our office at 803-734-8224 if you have questions. Thank you for all you do for students with disabilities.