

WHEN IS A FORMAL ASSESSMENT PLAN NECESSARY IN EITHER RTI OR TRADITIONAL ENVIRONMENTS?

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When student(s) are observed, interviewed or tested, school staff must consider whether parental informed consent for these procedures is required. IDEA 2004 does allow “screening” procedures without parental permission, such as determining phonemic awareness proficiency and other progress monitoring activities necessary to inform instructional programming. Many schools are beginning to use academic and behavioral Rtl. Assessment plans are not necessary for all Rtl activities.

General Principles

- If staff are *collecting new data* for the purpose of determining disability, an assessment plan is necessary.
- If staff are *reviewing existing data*, such as how a student is responding to behavior supports or academic instruction for the purpose of assisting the teacher in instruction components or instructional methods, no assessment plan is required.

Examples of “Assessment” and Decisions

The following examples may be helpful in clarifying decisions about assessment plan necessity:

Observations and Assessment Plans

- **Observation of an individual student example 1: Is an assessment plan needed?**

An observation in a classroom setting by a school psychologist or other specialist is requested for an individual student. At a school team meeting, the teacher and parent request an informal observation by school psychologist, special education teacher or other support personnel in order to further understand the student’s academic performance or social skills development for fine tuning Tier 1 instructional components or for alteration of *Tier 1 social behavior* supports available for all students. No disability is suspected.

Suggested Finding: This observation can be considered a review of existing data and constitutes consultation to assist the teacher in instructional planning, and therefore does not require an assessment plan.

- **Observation of an individual student example 2: Is an assessment plan needed?**

Follow-up observation about treatment fidelity in adhering to an IEP derived intervention or lesser interventions from a Tier 2 menu is required. This direct observation and review of records will also note how the student is responded to

an IEP or 504 team generated curricular accommodation plan or a behavior support plan. The parents are aware of the plan(s) and are receiving ongoing communication on progress.

Suggested Finding: This is a review of existing data and constitutes progress monitoring to inform decision making. An assessment plan is not required.

- **Observation of an individual student example 3: Is an assessment plan needed?**

An observation of an individual student is requested in which a suspected disability is the issue. The teacher believes the student may have a mental or medical disorder (e.g., AD/HD or Tourette's syndrome or Intermittent Rage Disorder) requiring referrals and/or may indicate eligibility for special education. The parents are not yet aware of the concern. The observation is to collect data on behaviors suggestive of a disability.

Suggested Finding: This observation can be considered "collecting new data" necessary to determine if a disability is present. This requires an assessment plan. If the school is using Rtl however, and the teacher wants to recommend a Tier II general education intervention such as school based mentoring for the student, the psychologist may observe in the process of assisting the team in this general education activity. This would be screening for providing information as to whether the student requires supports, not gathering data on disability. If in the process of observation, for the screening purpose under Rtl, a disability becomes suspect, then further testing would not occur without specific parental permission.

- **Observation of an entire group of students: Is an assessment plan necessary?**

The teacher has requested observation of an entire class for suggestions on accommodating diverse learners and or diverse behavioral challenges. She has mentioned several students she is concerned about, but in general is looking at improving Tier 1 interventions for all students.

Suggested Finding: This is a review of existing data to determine if the Tier I environment needs alterations. Any data reviewed, such as all the students' academic performance results or the classwide points and levels data of the students, is to provide assistance to the teacher in instructional design and is not an assessment. So, though the teacher may have been primarily concerned with a few students, by reviewing the entire class, no assessment plan is necessary. If the specialist notes that several students in the class are struggling despite good interventions in place for Tier I and they are already receiving Tier II academic and/or behavioral interventions, the specialist will review Tier II data to determine if Tier III supports are now required. If so, a bright line has been crossed and an assessment plan to determine if a disability is present should be developed.

☐ Testing and Assessment Plans

• Testing of an individual student: Is an assessment plan necessary?

An individual assessment will compare this individual to a norm-referenced group in an area of “suspected disability” such as emotional disturbance utilizing the BASC II, Achenbach, or similar instruments for rating social emotional development. Or, a learning disability is in question, and the specialist will be utilizing the WIAT, WISC III or other cognitive or academic nationally normed instrument measures.

Suggested Finding: This testing is “collecting new data” about possible disability when these tools are used.

- **Traditional Model:** The student has generated a referral for this assessment, and it clearly is to determine eligibility for special education. An assessment plan is required for this data collection.
- **Rtl Model:** If the student has not responded to lesser Tier 1 instruction, further data collection would consist of direct observations and teacher rating scales that do not compare the student to a norm-referenced group for the purpose of identifying disability and therefore would not require an assessment plan. This data would be for the purpose of determining necessary alterations in Tier 1 or the possibility of Tier 2 interventions that are available for all students demonstrating need. If progress monitoring of tier 2 interventions indicates the need for Tier 3 interventions, with the suspicion of disability now at the root of the testing, an assessment plan is required. This is not a “screening” for academic or social emotional development needs typically provided to students in general education programming.

• Testing a whole group of students: Are assessment plans necessary?

The whole class is screened for acquisition of a criterion-referenced skill in either Rtl or traditional models (e.g., ability to decode “oi”; ability to sound blend; pronunciation of words, phonemic awareness).

Suggested Finding:

- **Traditional Model:** This does not require an assessment plan. If more in-depth individualized assessment follows this screening it would likely constitute disability suspicion to determine eligibility and would require informed consent.
- **Rtl Model:** If more in-depth individualized assessment occurs following this screening, it would likely be to establish a baseline for treatment that has not yet risen to the level of disability suspicion. The student would receive Tier II interventions, which do not require disability determination.

Teacher administered assessments of the students' progress towards standards mastery of students that s/he teaches

- **No, assessment plan/informed consent is not necessary**

The teacher keeps data on which skills her students have mastered and makes decisions on instruction needs based on that data when she reviews her records. This is part of the on-going teacher/student relationship, is criterion-referenced and does not require informed consent at each step. Quizzes, tests and informal observation data are collected on all students, with and without IEPs. The parent is informed of progress toward meeting standards on report cards. If the student has an IEP, IEP goal mastery is communicated through regular district reporting procedures and IEP team meetings. Even if a school psychologist reviews this data as part of a consultation, or assists the teacher by gathering data on a skill, such as reading, no assessment plan is required in traditional or RtI environments.

- **Yes, assessment plan/informed consent is required**

If the teacher elects to use a norm-referenced test of achievement to establish standard scores/percentiles and other comparisons to a national norm group as a measurement of progress for an annual IEP team meeting, an assessment plan is required. How the student corresponds to a national norm group is not screening for the purpose of instructional design. Review of curricula mastered by the student provides that data. When comparing to a national norm group, informed consent is required.

Assessment to develop a behavior plan

- **No, an assessment plan/informed consent is not necessary**

During an IEP team meeting, a discussion as to whether the student has "behavior impeding learning" occurs. IEP team decides, yes, s/he does, and positive behavioral interventions strategies and supports are decided upon and these are written into a behavior support plan during the meeting, with parent(s) in attendance. During this discussion, participants describe the behavior(s) and a hypothesis as to the function of the behavior (an informal type of Functional Behavioral Assessment) is determined based on participants' reports and team member's previous observations of the behavior

Suggested finding:

- **Traditional model:** With no default behavior interventions (for Tier II) available, the team has no choice but to move to a formal behavior plan. Though this indirect functional behavioral assessment is not as desirable as a longer data collection, analysis of behavior and hypothesis formulation, it may occur on occasion. Professional judgment should be used to determine if all necessary data is on hand to move to the behavior plan development phase. The data is reviewed with the parent at hand, and a plan developed with their

input, this does not require an assessment plan as no additional new data is collected and the development process is an IEP team function.

- **Rtl model:** When a district has adopted both academic and behavior Rtl, a different outcome may occur. The student required Tier III in academics (special education) but has not yet developed the need for a Tier III intervention (FBA and development of a corresponding behavior plan due to a need beyond positive default interventions). The team may identify that yes, behavior is impeding learning, and positive interventions are required. Those interventions would begin with the default behavior interventions, e.g., self monitoring, home/school notes, school based mentoring, and would be specified in the IEP. If progress monitoring data shows lack of response to the behavior interventions, formal FBA and BSP would then occur as a TIER III intervention. No new information is required, and no assessment plan is necessary for the application of TIER II interventions.

- **YES, assessment plan/informed consent is required**

A classroom observation has determined that a student with an IEP may require a behavior plan for serious ongoing behavior, e.g. repeated assaults, severe property damage, pervasive maladaptive behavior of a serious nature, self injurious behavior. Data is necessary as to what has already been tried, effects of medication, exact nature of any disabilities, function(s) of the problem behavior, etc. for this complex student with complex behaviors.

Suggested finding: This requires not only the collecting of new data; it requires exchange of information across service providers in and out of the school setting. Informed consent for this communication is required, as well as an assessment plan for the functional behavior assessment.

- ☐ **To assess a threat that has been made by a student**

- **No, assessment plan/informed consent is not necessary**

A student with or without an IEP reportedly threatens to assault his peers after school. The school counselor or psychologist or principal (members of the school's threat assessment and safety team) interview the student to determine the student's needs and the needs for safety provision for any potential victims, including whether law enforcement will be involved.

Suggested finding: This is not a special education evaluation. Assessment is necessary to determine safety and support needs. No assessment plan is necessary to complete a safety evaluation, even if the school calls this process a "threat assessment." See: www.pent.ca.gov/threat for protocol.

- **YES, assessment plan/informed consent is required**

A student with or without an IEP has been interviewed (threat assessment, threat inquiry, safety inquiry or whatever it is termed) following a threat to harm others. The parent(s) have been interviewed as well, and disciplinary action (suspension) has also occurred. It was determined in the initial threat

assessment interview that the threat was substantive and that a full mental health assessment beyond the eleven inquiry areas recommended by the Safe School Initiative is now necessary. This will be performed by a school psychologist or other site-based mental health service providers) to determine the student's mental health needs and if any referrals are necessary to protect the safety of this student or others in the school environment.

Suggested finding: The initial threat assessment, even if performed by a school psychologist and others, does NOT require an assessment plan. However, the team now has come to question mental health status of the student based on how the student and others responded to the initial safety assessment. The student likely showed depression or features of a mental disorder requiring data collection to determine potential referrals and strategies to reduce risk of violence in the future. An assessment plan is required because this is clearly collecting new data in relation to suspected diagnoses. However, consideration should be given to the danger in this situation. If the family does not agree to the assessment, the school district can persuade the family to either permit this assessment by school personnel, or arrange for an assessment with outside personnel with permission granted for the exchange of information. The school board and superintendent are likely to involve district legal counsel to discuss the refusal, and may determine that until safety has been determined, the student will not be allowed on campus. Often this student will be up for expulsion for the behavior.