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November 19, 2008

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Eilani Gerstner *gA*

**RE: WRITTEN REPORT: MATH AND SCIENCE EDUCATION IN NEW MEXICO**

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In its 2008 interim workplan, the Legislative Education Study Committee (LESC) requested a written report on mathematics and science education in New Mexico. In response to this request, the Public Education Department (PED) has provided:

- a report to the LESL from the Mathematics and Science Bureau (Attachment 1);
- the 2008 Mathematics and Science Advisory Council annual report (Attachment 2);
- the New Mexico Project 2012 report (Attachment 3); and
- FY 10 New Mexico Project 2012 appropriations recommendations (Attachment 4).

**Report to the LESL from the Mathematics and Science Bureau**

The 2008 report from PED addresses the continued implementation of the above legislation enacted in 2007, as well as the award of funding for summer institutes for FY 09 and the assessment of the institutes (see Attachment 1).

Major findings of the PED report indicate that:

- New Mexico will need approximately 100 more mathematics teachers to meet the increased mathematics graduation requirements;
- PED has serious concerns about teacher supply because New Mexico's public universities produced 26 high school math teachers and 27 high school science teachers

in school year 2007-2008 (there were also 30 high school math teachers on Internship licenses while working toward alternative Level 1 licensure);

- there are some “non-traditional” sources of high school mathematics and science teachers in New Mexico, including teachers in the “Teacher for America” program and a number of teachers from the Philippines; however, STARS (the student teacher accountability reporting system) does not include data that allows PED to document how many teachers from other countries are working in New Mexico; and
- New Mexico high schools have requested approximately \$7.5 million in science laboratory improvements, equipment, and supplies to meet the additional science laboratory requirement (53 percent of districts indicated they would need to build or remodel laboratories, 90 percent reported needing more equipment and supplies).

The report also indicates that the \$2.5 million for the FY 09 summer institutes has been awarded to a total of 17 professional development providers, and that the institutes will primarily be assessed through a participant survey. The bureau will be receiving technical assistance from the Southwest Comprehensive Center to relate teachers’ participation in professional development to their students’ achievement.

### **2008 Mathematics and Science Advisory Council Annual Report**

The *Mathematics and Science Education Act* requires the Mathematics and Science Advisory Council to “produce an annual report on public elementary and secondary mathematics and science student achievement” to be submitted to PED, the Governor, and the Legislature each year by November 30. Attachment 2 includes a summary of the 2008 Mathematics and Science Advisory Council report.

Highlights from the annual report include that:

- mathematics and science scores on both New Mexico’s standards-based assessments and the National Assessment of Education Progress have shown small but steady improvement in most grades;
- although legislation enacted in 2007 requires that Algebra I be offered to all eighth graders by school year 2008-2009, in school year 2007-2008 approximately 60 percent of middle schools offered Algebra I; data for school year 2008-2009 will be available soon;
- the advisory council is concerned that almost half of eighth graders taking Algebra I did not score at the proficient level on the seventh grade standards-based assessment;
- on the other hand, approximately half of the students who take Algebra I in eighth grade go on to take a more advanced mathematics course in ninth grade; and
- of the students who graduated from New Mexico high schools in 2008 and went to college in New Mexico, 39 percent had to take a remedial mathematics course at the Algebra I level or lower – the same rate as in 2007.

## **New Mexico Project 2012 Report**

In 2008, the Mathematics and Science Advisory Council created New Mexico Project 2012, a project designed to implement the Mathematics and Science Bureau's strategic plan (Attachment 3 contains a summary of New Mexico Project 2012). The goal of New Mexico Project 2012 is that by the year 2012, New Mexico students will be among the nation's leaders in mathematics and science achievement. In order to accomplish this goal, the objectives of New Mexico Project 2012 include, among others:

- better preparing new teachers in mathematics and science content;
- significantly increasing the number of mathematics and science teachers in New Mexico;
- increase and strengthen the annual professional development for all mathematics and science teachers;
- utilizing New Mexico's engineers, mathematicians, and scientists to supplement the mathematics and science content knowledge available to students and teachers; and
- beginning a public awareness campaign to emphasize the importance of mathematics and science education.

### **FY 10 New Mexico Project 2012 Appropriations Request**

The *Mathematics and Science Education Act* also charges the Mathematics and Science Advisory Council with recommending funding mechanisms that support the improvement of mathematics and science education in New Mexico. To this end, the advisory council is recommending just over \$15.0 million and \$40,000 in tax credits for FY 10 to implement New Mexico Project 2012 (Attachment 4 contains the appropriations requests for New Mexico Project 2012). The recommendations include:

- nearly \$1.3 million to the Higher Education Department (HED) to produce more mathematics and science teachers through incentive programs such as full scholarships;
- approximately \$5.9 million to PED for teacher professional development (this amount includes \$2.5 million in recurring dollars for summer reading, mathematics, and science institutes);
- \$7.5 million to PED to refurbish high school science laboratories and purchase equipment in order to meet new graduation requirements to take an additional science laboratory course to graduate;
- \$36,000 to PED to form state curricular committees for mathematics and science;
- \$240,000 to PED and \$40,000 in tax credits to provide incentives for engineers, mathematicians, and scientists to serve as subject matter experts; and
- \$60,000 to PED to bolster public awareness of the importance of K-12 mathematics and science education.

### **Background**

The LESC has heard reports on mathematics and science education in New Mexico each interim since 2005. Based upon these reports, the LESC endorsed legislation in 2007 that was enacted to establish:

- the *Mathematics and Science Education Act*, which created the PED Mathematics and Science Bureau in statute<sup>1</sup> and laid out requirements for a Mathematics and Science Advisory Council and Mathematics and Science Proficiency Fund;
- increased graduation requirements in mathematics and science for students entering their freshman year in school year 2009-2010; specifically, four credits of mathematics, including one at the Algebra II level or higher, and two laboratory science courses instead of one;
- the requirement that Algebra I be offered in eighth grade statewide by school year 2008-2009; and
- the requirement that PED create a rule and requirements to allow unlicensed content area experts to assist in classrooms.

Other legislation enacted in 2007 also required school districts to align curricula district-wide by grade level in mathematics by school year 2008-2009 and in science and language arts by 2009-2010, and to align teacher professional development with state standards.

Since 2006, the LESC has also endorsed and the Legislature has appropriated a total of \$6.7 million for summer reading, mathematics, and science institutes for teachers:

- \$1.7 million for FY 07, including \$47,080 distributed by PED to Re:Learning for reading and writing in mathematics;
- \$2.5 million for FY 08, including \$500,000 distributed by PED to Re:Learning for reading in the content areas; and
- \$2.5 million for FY 09, including \$500,000 distributed by PED to Re:Learning for reading in the content areas.

The 2007 report to the LESC on mathematics and science education addressed the implementation of the summer institutes and the requirements in 2007 law, including the results of an LESC survey that indicated that high schools will need additional mathematics teachers and improved or expanded science laboratories to implement the increased graduation requirements. However, a number of high school principals did not respond to the survey, and many who did were uncertain of their exact needs.

During the 2008 interim, staff at the Mathematics and Science Bureau conducted an inventory of the needs of high schools to implement the new graduation requirements, building upon and comparing results with the 2007 LESC survey. The Mathematics and Science Bureau also surveyed districts to evaluate the implementation of the requirements to offer Algebra I in eighth grade and to align mathematics and science curricula in each district.

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<sup>1</sup> In 2006, the Legislature appropriated \$250,000 to PED for FY 07 to create the Mathematics and Science Bureau; the 2007 legislation established the bureau in statute.

## 2008 Report to the LESC on Math & Science *At a Glance*

Staff of the Legislative Education Study Committee asked the Public Education Department to prepare a report providing the following information. Each "At-a-Glance" bullet references the pages in the full report where more information is available.

The number of additional mathematics and science teachers and specific science laboratory improvements that will be needed to implement the new graduation requirements by district, including estimated costs:

- It is estimated that about 100 additional high school math teachers are needed. (p.2-4)
- There are serious concerns about teacher supply (in 2007-2008 the public universities only produced 26 high school math and 27 high school science teachers). (p.4)
- While no increase in high school science teachers is needed, there are multi-million dollar requests for improving science lab facilities and equipment. We suggest an FY09 investment of \$7.5M in science lab facilities and equipment. (p.5)

A description of how a uniform curriculum in mathematics has been instituted in school year 2008-2009, and how a uniform curriculum in science will be instituted in school year 2009-2010:

- Districts were given three options for preparing alignment documents. (p.5)
- All but 35 districts have complied as of 11/14/2008. (p.5-6)
- In 2009 a similar process will be used for science *Standards* alignment. (p.6)

The rule and requirements for unlicensed content area experts (subject matter experts):

- A rule has been proposed that leaves the decision at the district level. (p.6-7)

The following information regarding the FY 09 summer reading, math, and science institutes:

- a) the amounts awarded to summer institute providers and the purpose of each institute:
  - \$2.5M was awarded among 17 providers. (p.7-8)
  - Most "summer institutes" attempt to work with all math or science teachers at a school and provide follow-up. (p.9-10)
- b) how each institute will be assessed:
  - Each participant fills out a survey (p.9,11-12)
- c) a description of the reports the institutes will submit to PED:
  - An evaluation report that identifies specific, measurable goals and metrics, and progress made toward achieving those goals will be sent to the PED. (p.9)
- d) the selection process for the FY 09 providers, including any changes in the process from the prior year:
  - A selection committee used a set of Guidelines based on best practices. (p.9)
- e) a description of how teachers' participation in the institutes affect students' performance and achievement
  - In general, student achievement is improving. (p.10)
  - The Southwest Comprehensive Center (SWCC) will assist in carefully linking teacher participation in professional development to student achievement (p.10)



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SECRETARY OF EDUCATION

BILL RICHARDSON  
GOVERNOR

November 17, 2008

**REPORT**

- TO:** Legislative Education Study Committee
- FR:** Math and Science Bureau, Public Education Department
- RE:** Report on Mathematics and Science Education issues in New Mexico

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Staff of the Legislative Education Study Committee asked the Public Education Department to prepare a report providing the following information:

- the number of additional mathematics and science teachers and specific science laboratory improvements that will be needed to implement the new graduation requirements by district, including estimated costs;
- a description of how a uniform curriculum in mathematics has been instituted in school year 2008-2009, and how a uniform curriculum in science will be instituted in school year 2009-2010;
- the rule and requirements for unlicensed content area experts (subject matter experts); and
- the following information regarding the FY 09 summer reading, math, and science institutes:
  - a) the amounts awarded to summer institute providers and the purpose of each institute;
  - b) how each institute will be assessed;
  - c) a description of the reports the institutes will submit to PED;
  - d) the selection process for the FY 09 providers, including any changes in the process from the prior year; and
  - e) a description of how teachers' participation in the institutes affect students' performance and achievement.

Please also include the following reports and an executive summary of each:

- the Mathematics and Science Advisory Council annual report;
- the *NM Project 2012* report; and
- the requests for funding for the 2009 legislative session.

Below we report on each of the requested items:

The number of additional mathematics and science teachers and specific science laboratory improvements that will be needed to implement the new graduation requirements by district, including estimated costs.

### Additional High School Math Teachers Needed

Table 1 below presents three different estimates of the number of high school math teachers needed to meet the new graduation requirement that will take effect for students entering grade 9 in 2009-2010:

Table 1  
Additional Math Teachers Needed to Implement New Graduation Requirements

District	Number of high school math teachers needed estimated by the MSB <sup>1</sup>	Number of high school math teachers needed indicated in PED survey <sup>2</sup>	Number of high school math teachers needed indicated in LESC survey <sup>3</sup>
Alamogordo	3	Did not respond	2
Albuquerque	15	6 or 7	?
Animas	0	1	Did not respond
Artesia	0	3	Yes
Aztec	3	3	0
Belen	0	1 or 2	Did not respond
Bernalillo	1	Did not respond	Don't know
Bloomfield	1	3	0
Capitan	0	0	Did not respond
Carlsbad	3	4	?
Carrizozo	0	0	0
Central Cons.	1	1	1
Chama	0	1	Yes
Cimarron	0	Did not respond	0
Clayton	0	Did not respond	1
Cloudcroft	0.5	0	Yes
Clovis	2	At least 4	Don't know
Cobre Cons.	0	Did not respond	Did not respond
Corona	0	Did not respond	0
Cuba	0	Did not respond	Did not respond
Deming	3	9	Did not respond
Des Moines	0	0	Yes
Dexter	0	Did not respond	Did not respond
Dora	0	Did not respond	At least 1
Dulce	Data not available	Did not respond	Did not respond
Elida	0	0	Did not respond
Espanola	3	Did not respond	3 or 4
Estancia	0.5	2	Did not respond
Eunice	0	Did not respond	Did not respond
Farmington	3	2	0
Floyd	0	1	Yes
Ft Sumner	0	0	Yes

Gadsden	6	8	Yes
Gallup	1	Did not respond	1
Grady	0	0	0.14
Grants	0	Did not respond	Did not respond
Hagerman	0	1	Did not respond
Hatch	2	2	Did not respond
Hobbs	1	Undetermined	Yes
Hondo	0	Did not respond	0
House	0	Did not respond	0
Jal	0	1 or 2	Did not respond
Jemez Mountain	0	2	0
Jemez Valley	0	2	Did not respond
Lake Arthur	0	1	Did not respond
Las Cruces	16	9	Did not respond
Las Vegas City	1	Did not respond	Did not respond
Logan	0	Did not respond	Did not respond
Lordsburg	0	1	Yes
Los Alamos	0.5	Did not respond	Did not respond
Los Lunas	5	Only a few	Yes
Loving	0	0.5	Did not respond
Lovington	1	2	0
Magdalena	0	Did not respond	Don't know
Maxwell	0	1	Did not respond
Melrose	0	0	0
Mesa Vista	0	3	Did not respond
Mora	0	Did not respond	yes
Moriarty	0	2	0
Mosquero	0	1	Did not respond
Mountainair	0	2	Did not respond
Pecos	0	Did not respond	Did not respond
Penasco	0	Did not respond	Did not respond
Pojoaque	1	Did not respond	1
Portales	1	0	Yes
Quemado	0	1	Did not respond
Questa	0	Did not respond	Did not respond
Raton	0	Did not respond	Did not respond
Reserve	0	Did not respond	Did not respond
Rio Rancho	9	Not sure	4 or 5
Roswell	3	4	Did not respond
Roy	0	0	0
Ruidoso	0	2.5	Yes
San Jon	0	1	Don't know
Santa Fe	4	4	Yes
Santa Rosa	0	Did not respond	Yes
Silver City	1	4	Did not respond
Socorro	1	1.5	1
Springer	0	0	Did not respond
Taos	1	1	Did not respond
Tatum	0	Did not respond	0
Texico	0	Did not respond	Did not respond

Truth or Cons.	2	Did not respond	Yes
Tucumcari	0	2	Don't know
Tularosa	0	0	Yes
Vaughn	0	Did not respond	Did not respond
Wagon Mound	0	Did not respond	0
West Las Vegas	2	Did not respond	Did not respond
Zuni	1	3	Don't know
	98.5		

- 1 One easy way to look at the new requirement is that all students should be taking a math course every year. The Math and Science Bureau (MSB) used 40-day enrollment in STARS to determine how many students were not enrolled in math classes during the 2007-2008 school year. Since students grades are not yet reported in STARS we do not know for sure how many students stay in the courses and pass them.
- 2 The PED survey used "Survey Monkey" and was sent to Superintendents.
- 3 The LESC Survey Monkey was sent to high school Principals.

In many cases, the PED and LESC survey results, despite some contradictions, confirm the MSB estimates. Therefore it would seem that New Mexico will need about 100 additional high school math teachers. In 2007-2008 there were just over 930 individuals teaching high school math with a "regular" education license, but 125 of them did not have the proper license or endorsement. (There were 174 teaching high school math with a Special Education license, but there the qualifications for teaching are different. For instance, those teaching children who take the alternative assessment do not have to be regularly endorsed in math.) Also, the average age was 46 and 42% were over 50. The projected new needs plus the demographics of the current teaching force indicate a particularly serious situation since last year New Mexico public universities only prepared 26 new high school math teachers through their traditional undergraduate and post-bachelors programs. There were also about 30 high school math teachers that had Intern licenses while working on an Alternative License.

#### **Non- traditional Sources of High School Math and Science Teachers:**

"Teach for America" currently has six high school Math teachers and six high school Science teachers at schools in the Gallup area with predominantly Native American students. (At the middle school level, they have also placed eight math and five science teachers.) They have expressed interest in expanding to schools with similar populations in the Santa Fe area.

The Math and Science Bureau has learned that several districts are hiring math and science teachers from the Philippines. Apparently other states are doing the same. A recent Associated Press story on the phenomenon of teachers from the Philippines was published online by *Education Week*<sup>1</sup> and appeared in many local newspapers across the country. There are several firms that help districts recruit teachers from the Philippines including Visiting International Faculty Program ([www.vifprogram.com](http://www.vifprogram.com)), In-talage Inc., and Avenida International Consultants ([www.ligayaavenida.com/](http://www.ligayaavenida.com/)). STARS does not currently include data that allows us to determine just how many teachers from the Philippines (or other countries) are working in New Mexico.

#### **Additional High School Science Teachers Needed**

The change in the high school graduation requirements in science did not change the number of courses required (three), it just raised the number of those courses that have to have a lab

<sup>1</sup> [www.edweek.org/ew/articles/2008/09/14/162224nfeusimportingteachers\\_ap.html](http://www.edweek.org/ew/articles/2008/09/14/162224nfeusimportingteachers_ap.html)

component from one to two. Therefore, the requirement does not imply the need for more teachers. However, as with high school math teaching not all have the proper license and endorsement. Also, the demographics were similar to math: average age was also 46 and 40% were over 50. The public universities prepared 27 high school science teachers in their regular undergraduate and post-bachelors programs, and there were about 30 on Intern licenses.

### **Specific science laboratory improvements**

The LESC survey asked high schools "Will your school need additional science laboratory facilities in order to meet the new requirements?" Responses were received from 58 comprehensive high schools. Of those 31% reported needing lab facilities and 16% were not sure. They were not asked about needing equipment and supplies.

The PED survey found that 53% of those responding would need to build or remodel science labs. Almost 90% reported needing more equipment and supplies.

To try to get more detailed information and straighten out inconsistencies a follow-up survey was sent to the Science Department Chairs at the 118 comprehensive high schools with a follow-up email to the Superintendents. Sixty-six (56%) responded. Almost \$16,000,000 was requested for new or remodeled labs from 18 schools, 13 schools requested almost \$400,000 for equipment, and 28 schools indicated a need for over \$500,000 for other science materials, small equipment and supplies. Only 10 schools indicated that they did not need additional funds to implement the new lab component requirement.

### **A description of how a uniform curriculum in mathematics has been instituted in school year 2008-2009, and how a uniform curriculum in science will be instituted in school year 2009-2010;**

#### **Alignment of Math Curricula**

HB 911 (2007) created New Mexico Statute 22-13-1.6 which states that

*Each school district shall align its curricula to meet the state standards for each grade level and subject area so that students who transfer between public schools within the school district receive the same educational opportunity within the same grade or subject area.*

After much discussion and the preparation of alignment documents by grade level for each K-5 and 6-8 textbook series, a memo was emailed to Superintendents on May 31, 2008 with a return date of August 15. It gave districts three options for complying:

**Route 1:** Submitting Math alignment documents that they had already prepared as part of their on-going EPSS work.

**Route 2:** Submitting the Math alignment documents that had been prepared by the Math and Science Bureau with any necessary changes to reflect district implementation.

**Route 3:** Using templates with the *Standards* in one column and other columns for the districts to indicate how they were meeting each *Standard*.

On October 14, 2008, an email was sent to those districts that had not complied reminding them of their statutory obligation. . As of November 14 the following districts have still **not** replied:

Artesia Public Schools  
Aztec Municipal Schools

Capitan Municipal Schools  
Carrizozo Municipal Schools

**State of New Mexico**  
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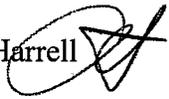
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Frances R. Maestas, Director

November 19, 2008

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** David Harrell 

**RE:** **WRITTEN REPORT: *MONITOR RESPONSE TO INTERVENTION PROGRAM, SJM 9***

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**Introduction**

Senate Joint Memorial 9 (2008), endorsed by the Legislative Education Study Committee (LESC), focuses on an approach to instruction known as Response to Intervention (RtI). An attempt to address the academic and behavioral needs of all students in a timely fashion, RtI has received considerable attention since the reauthorization of the federal *Individuals with Disabilities Education Improvement Act of 2004* (IDEA), which encourages the use of RtI. In New Mexico, RtI is a mandate not of state law but of rule promulgated by the Public Education Department (PED).

The LESL has heard testimony on RtI since 2005, when the committee was briefed on the reauthorization of IDEA. That presentation did little more than describe the concept of RtI as one of the components of the revised and reauthorized IDEA. A more extensive presentation followed in 2006, when PED and school districts were beginning to implement the approach. One point that arose from the 2006 presentation was the importance of staff professional development to the effective implementation of RtI, a point reinforced in the attached report.

More recently, during the 2008 interim, the committee has heard references to RtI in much of the testimony by school district superintendents on the impact of the proposed public school funding formula and the uses that these superintendents would make of the additional

funding that the proposed formula would produce. The superintendents identified such actions as purchasing more supplemental intervention materials, hiring intervention specialists, and providing more professional development. They also predicted a decrease in the number of special education referrals (with a corresponding decrease in funding) and noted the costs to implement the RtI model prescribed by PED rule.

Among its provisions, discussed more fully below, SJM 9 (attached) requests that PED monitor school districts' implementation of RtI and report to the LESC. The PED report begins with an executive summary; then, through a question-and-answer format, it explains the concepts and features of RtI, especially as practiced in New Mexico, and it reports findings from a survey of superintendents and principals. The report concludes with several recommendations. This staff cover memo provides a context for the report.

### **Concepts and Components of RtI**

Definitions of RtI vary somewhat among the researchers who have written about it and the practitioners who implement it, but there seems to be general agreement on the fundamental concepts. The definition in a recent publication by the Center for Evaluation & Education Policy is indicative of most of the others. According to this report, RtI "refers to an integrated, schoolwide method of service delivery across general and special education that promotes successful school outcomes for all students . . . [and it] involves systematically evaluating the cause-effect relationship between an academic or behavioral intervention and a student's response to the intervention." This same report calls RtI "a viable model for improvement of the overall education system and . . . an alternative to traditional identification procedures for SLD [specific learning disabilities]."

Furthermore, as defined in a guidance document that PED published in December 2006, RtI is "the practice of providing high-quality instruction and interventions to meet students' needs and monitor progress in order to ensure effectiveness of instruction and/or interventions." This document further explains that RtI is "an integrated service delivery approach" that should be applied to general education, remedial education, and special education and that it is the process that all student assistance teams in New Mexico must follow. As such, PED continues, RtI has the capacity to improve outcomes and provide support for all students.

There seems to be some disagreement over the origin of RtI, with some sources citing practices within special education and others attributing the approach to general education. Whatever its origins, RtI is widely regarded now as a school-wide approach that depends upon collaboration among personnel throughout the education spectrum and that clearly incorporates special education. Although they do not use the phrase itself, both the federal IDEA and the regulations by the US Department of Education (USDE) strongly encourage states and school districts, in determining whether a child has SLD, to use an evaluation process based on the child's response to "scientific, research-based intervention." Such an approach, proponents of RtI believe, will address students' needs more promptly and prevent "false positives" in identifying students with SLD.

The connection with general education is also clear, especially in the funding provisions: as SJM 9 notes, IDEA allows school districts to use up to 15 percent of their Part B IDEA funds for early intervention services for students not identified as needing special education or related services. Moreover, the broad-based application of RtI is evident in such assertions as this one from the National Joint Committee on Learning Disabilities: “An RTI approach promotes collaboration and shared responsibility among general educators, special educators, teachers of English language learners, related service personnel, administrators, and parents.”

The RtI model in New Mexico is based on a three-tier sequence of interventions that become more intense according to the needs of the student. As illustrated in the PED report on SJM 9:

- Tier 1, general education, consists of appropriate, research-based instruction in a standard curriculum, together with universal screening of students;
- Tier 2, involving student assistance teams, provides targeted interventions and small-group instruction for students identified in Tier 1 as needing additional assistance; and
- Tier 3, special education, provides specialized instruction according to a student’s Individualized Education Plan, or IEP.

As the PED report explains, the national model of this three-tier approach suggests that 80 to 90 percent of students are appropriately served in Tier 1, 5.0 to 10 percent in Tier 2, and 1.0 to 5.0 percent in Tier 3. As the report also explains, however, these percentages are intended as target goals and are likely to vary in the beginning and to change over time as the RtI model is implemented in individual schools. A case in point is that the proposed public school funding formula presumes that approximately 16 percent of New Mexico students qualify for special education.

Furthermore, as SJM 9 notes, RtI is part of the “dual discrepancy model” of identifying students in need of special education that PED has required districts to use. In brief, the dual discrepancy model identifies SLD by using student data from tiers 1 and 2 in conjunction with a discrepancy between a student’s measured IQ and actual performance, which had been the single discrepancy used to determine SLD. A PED rule effective June 29, 2007 requires school districts to implement this dual discrepancy model in grades K-3 by July 1, 2009. Moreover, the PED report cites a study by American Institutes for Research, which found that New Mexico is one of only two western states to establish such a deadline.

### **Provisions of SJM 9**

SJM 9 requests that PED monitor school districts’ implementation of RtI and evaluate the impact that the approach has on the academic progress of students (see page 10 of the report) and on the identification of students needing special education and related services (pp. 10-11 and 15-16). The joint memorial further requests that PED monitor the assessment instruments that school districts use to ensure that they are appropriate (pp. 11-12) and that PED “provide periodic updates” to the LESC prior to the 2009 legislative session.

In addition to these points, LESC staff asked the department to include in the report, to the extent possible, information about other aspects of RtI that have been of interest to committee members:

- the fiscal impact on school districts (p. 12);
- the professional development that PED and school districts have provided to support RtI (pp. 13-14);
- the extent of the implementation of RtI in middle schools and high schools (pp. 10-11);
- any districts that have not implemented RtI (p. 10); and
- any other issues or challenges to implementation that PED believes merit the committee's attention (pp. 16-17).

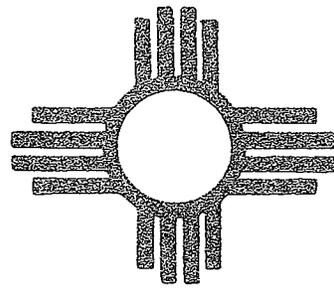
### **Other Views of RtI**

Although RtI is generally implemented in grades K-12, there is growing interest in even earlier implementation, as well as support in higher education. On the first point, two researchers with the Frank Porter Graham Child Development Institute at The University of North Carolina at Chapel Hill are piloting the first RtI framework for preschool students. Called Recognition and Response, the pilot is aimed at several hundred four-year-olds in 30 pre-kindergarten classes in Maryland and Florida, and it will focus on the system's effectiveness in increasing students' vocabulary and letter recognition. On the second point, the recently reauthorized federal *Higher Education Act* includes a program called Teach to Reach, which is intended to help general education candidates apply scientifically valid research by using strategies such as RtI and other "positive behavioral interventions and support strategies." Similarly, the PED report notes the need for collaboration with the Higher Education Department and institutions of higher education to develop curricula to prepare teachers and administrators to work within an RtI framework.

Finally, it should be noted that a number of parties have expressed concerns or reservations about RtI.

- During the summer of 2006, when the proposed USDE regulations were available for public comment, several "commenters" objected to RtI on the grounds that there is little scientific evidence demonstrating that RtI models correctly identify children with SLD and that RtI itself is a subjective method of determining whether treatment for SLD is effective.
- According to a recent report by the National Joint Committee on Learning Disabilities, parents of students with SLD are concerned that securing proper services for their children through the RtI process may depend more on their own knowledge and initiative than on school efforts.

- This same report finds that school staff members are often concerned about the increased paperwork “due to data collection and documentation demands for the progress monitoring, classification criteria, movement between levels, intervention documentation, and other record keeping” required to implement RtI. (On this point, incidentally, several divisions and bureaus within PED are collaborating among themselves and with school districts to determine what data are necessary and how they should be submitted, compiled, and reported.)
- In October 2006, the Learning Disabilities Association of America issued a position paper that, among other points, raised “serious concerns about the availability of ‘scientific research-based interventions’ for all ages and all academic domains” – that is, later grades and specific content areas beyond early reading skills.
- Finally, closer to home, the October 2008 issue of *The Recorder* (the newsletter of the New Mexico Coalition of School Administrators), asks, “Where was, or is, the demand for the additional resources, staff, and professional development that is so clearly necessary to make such an initiative work?”



The Legislature  
of the  
State of New Mexico

48th Legislature, Second Session

LAWS 2008

CHAPTER \_\_\_\_\_

SENATE JOINT MEMORIAL 9

Introduced by

SENATOR CYNTHIA NAVA



FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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A JOINT MEMORIAL

REQUESTING THE PUBLIC EDUCATION DEPARTMENT TO MONITOR  
IMPLEMENTATION OF THE RESPONSE TO INTERVENTION APPROACH TO  
IDENTIFYING SPECIAL EDUCATION STUDENTS AND TO EVALUATE ITS  
EFFECT ON STUDENTS' ACADEMIC PROGRESS AND IDENTIFICATION  
RATES IN SCHOOL DISTRICTS.

WHEREAS, research indicates that special education  
should only be considered when a student's performance shows  
a dual discrepancy, which is when the student performs  
significantly below same-grade peers on measures of academic  
performance and also performs poorly in response to carefully  
planned and precisely delivered instruction; and

WHEREAS, the federal Individuals with Disabilities  
Education Improvement Act of 2004 allows school districts to  
use scientific, research-based interventions as an  
alternative method for identifying students with specific  
learning disabilities and to expend up to fifteen percent of  
the district's Part B funds for early intervention services  
for students not identified as needing special education or  
related services; and

WHEREAS, in the response to intervention approach, a  
student with academic delays is given one or more  
research-validated interventions and if the student fails to  
show significantly improved academic skills despite the

1 interventions, this failure to respond to intervention may be  
2 viewed as evidence of an underlying learning disability; and

3 WHEREAS, the response to intervention approach may  
4 reduce referrals to special education by providing a means to  
5 distinguish between students who perform poorly in school due  
6 to learning disabilities and those who perform poorly in  
7 school due to other factors, such as reading problems; and

8 WHEREAS, the national center for education statistics  
9 indicates that New Mexico identifies children as having  
10 learning disabilities at a rate of fifteen and eight-tenths  
11 percent, which is two percent above the national average; and

12 WHEREAS, the public education department has required  
13 districts to implement the response to intervention approach  
14 as part of a dual discrepancy model for identifying children  
15 with learning disabilities in kindergarten through grade  
16 three; and

17 WHEREAS, the department has extended the implementation  
18 deadline from July 1, 2007 to July 1, 2009;

19 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
20 STATE OF NEW MEXICO that the public education department be  
21 requested to monitor the implementation of the response to  
22 intervention approach by school districts and to evaluate the  
23 impact that the approach has on the academic progress of  
24 students and on the identification of students as needing  
25 special education and related services; and

1 BE IT FURTHER RESOLVED that the department monitor the  
2 assessment instruments used by school districts to help  
3 identify student needs and to measure response to  
4 interventions to ensure that the assessments are both valid  
5 and appropriate for the purpose; and

6 BE IT FURTHER RESOLVED that the department provide  
7 periodic updates, including the number of school districts  
8 that have fully implemented the response to intervention  
9 approach, and report its findings and recommendations, if  
10 any, to the legislative education study committee prior to  
11 the first session of the forty-ninth legislature; and

12 BE IT FURTHER RESOLVED that a copy of this memorial be  
13 transmitted to the secretary of public education. \_\_\_\_\_

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s/Diane D. Denish

Diane D. Denish, President  
Senate

s/Lenore M. Naranjo

Lenore M. Naranjo, Chief Clerk  
Senate

s/Ben Lujan

Ben Lujan, Speaker  
House of Representatives

s/Stephen R. Arias

Stephen R. Arias, Chief Clerk  
House of Representatives



RECEIVED  
VIA E-MAIL

NOV 12 2008

Report to the  
Legislative Education Study Committee  
in regards to  
Senate Joint Memorial 009  
January 2008

Requesting the Public Education Department to monitor implementation of the  
Response to Intervention (Rtl) approach to identifying special education students  
and evaluate its effect on students' academic progress  
and identification rates in school districts

Prepared by the  
New Mexico Public Education Department  
Quality Assurance Bureau  
on behalf of

Dr. Veronica C. García  
Secretary of Education

November 2008

## Table of Contents

EXECUTIVE SUMMARY .....	3
INTRODUCTION.....	4
What is Response to Intervention (Rtl)? .....	4
Is using an Rtl framework federally mandated? .....	4
What is New Mexico's Rtl framework? Is it mandated by state rule? .....	4
Do students move between the tiers? .....	6
Are the percentages of students served at each tier as shown on the graphic on the previous page compliance indicators or it is possible for them to be different? .....	6
How does Rtl relate to identification of students with disabilities? .....	6
REPORT METHODOLOGY .....	7
OVERVIEW OF FINDINGS.....	8
What do superintendents and principals report about the level of understanding about the state's Rtl framework? .....	8
What is the extent of how districts and schools are implementing an Rtl framework? .....	9
What do we know about the extent of Rtl implementation in middle and high schools?...	9
Has full implementation occurred across the state? .....	10
What do principals report about the impact that Rtl has had on academic progress of students, as well as its impact on office discipline referrals and referrals to special education?.....	10
What assessments are used for progress monitoring?.....	11
What do superintendents and principals report as the fiscal impact that Rtl has had on schools? .....	12
What professional development, guidance, and technical assistance has occurred to support the Rtl framework? .....	13
What partnerships has the PED engaged in to support efforts to implement Rtl? .....	14
What is the impact of using an Rtl framework on identification of students needing special education and related services? .....	15
RECOMMENDATIONS.....	16

## Executive Summary

Since 2004, New Mexico state rules have required schools to organize and operate using what is known as the three-tier model of student intervention. The model consists of three tiers that use a set of increasingly intensive academic and/or behavioral supports based on the data resulting from progress monitoring of student's response to instruction and/or intervention. How the students respond then serves as a guide for making educational decisions. The three-tier model of student intervention serves as the State's Response to Intervention (Rtl) framework.

This report contains an introduction to Rtl and the State's framework. It also contains an analysis of where districts and charter schools are in relation to understanding and implementing Rtl. The data for the analysis was obtained through data that is resident in the Public Education Department (PED), from a recent survey of superintendents, principals, and charter schools, and from studies of Rtl implementation in other states.

The survey showed that the majority of schools rate their understanding of Rtl and the state's framework as *emerging*, as opposed to *substantially understood*. Research has shown that it takes three to five years, or more, for an organization to make changes such as the complex ones associated with implementing an Rtl framework. Survey results bear that out and show that there are about four different phases of implementation. Districts who responded to the survey fall into one of each of those phases about equally. At this time, no district or state reports full implementation.

The report findings suggest that implementing the three-tier model of student intervention has had positive impact. Survey respondents report that overall student achievement is up, office discipline referrals are down, and referrals to special education are down.

Survey respondents echoed the need for more funding for Rtl-related activities and materials. However, more study will be necessary to determine the exact fiscal impact that Rtl has had on schools who are implementing the framework. Likewise, more time will be needed to collect data to determine if utilizing an Rtl framework will significantly reduce the numbers of students who are subsequently identified for special education services.

Recommendations include more funding for schools as they move deeper into implementation. The PED will also need more funds and a dedicated FTE as the Department's Rtl Coordinator in order to nurture broad ownership in the model internally and with external stakeholders, coordinate professional development, and conduct pilot projects. It is important to maintain a long-term outlook.

## Introduction

### ***What is Response to Intervention (Rtl)?***

Rtl is a **framework** being used across the country for how schools organize and deliver instruction and behavior support services to **all** students in a learning community. It is a problem-solving approach for guiding instruction for **all** students who need assistance—both general and special education. The framework consists of a multi-tiered model that uses a set of increasingly intensive academic and/or behavioral supports based on the data resulting from progress monitoring of student's response to instruction and/or intervention. How the students respond then serves as a guide for making educational decisions. Although *Rtl* is a relatively new term, it simply represents a best practice for educating students using a scientifically-based and system-wide approach. Rtl signifies a shift in the way schools teach as we focus on ways to improve student achievement as it emphasizes early intervention before a student enters a cycle of failure.

### ***Is using an Rtl framework federally mandated?***

The federal government does not mandate the use of an Rtl framework. However, in the face of increasing pressure to meet proficiency standards set by the federal No Child Left Behind (NCLB) Act, the federal government strongly encourages and supports that states do so because research has shown that using an Rtl approach holds promise for improving student achievement.<sup>1</sup> Therefore, the federal government has allowed states to develop their own state-defined characteristics for an Rtl framework.

### ***What is New Mexico's Rtl framework? Is it mandated by state rule?***

Each state has defined its own Rtl framework and collectively they share many commonalities. In New Mexico, the Rtl framework is known as the ***three-tier model of student intervention***. The mandate for schools to use the three-tier model exists in state rule that was enacted in 2004. State rule at Subsections B–C of 6.31.2.10 NMAC provides that schools must organize and operate using the three-tier model to match students with an appropriate level of instruction and/or intervention.

- In **Tier 1**, all students receive appropriate, standards-based instruction including any class, grade-level, or school-wide interventions, as well as monitoring and universal screening for potential problems. Tier 1 interventions are provided in the general education classroom and may consist of programs that have a mild, moderate, or intense set of instruction (i.e., differentiated or tiered instructional programs).
- In **Tier 2**, students who have not responded significantly to Tier 1 core programs and/or tiered instructional programs are referred to the school's Student Assistance Team (SAT) and may receive a written, individual SAT Intervention Plan. These students are ones who have shown over time a significant deviation from their grade-level peers or exhibit a much slower learning rate and/or persistent behavioral problems. This plan could include more intense instruction in terms of nature, frequency, and duration,

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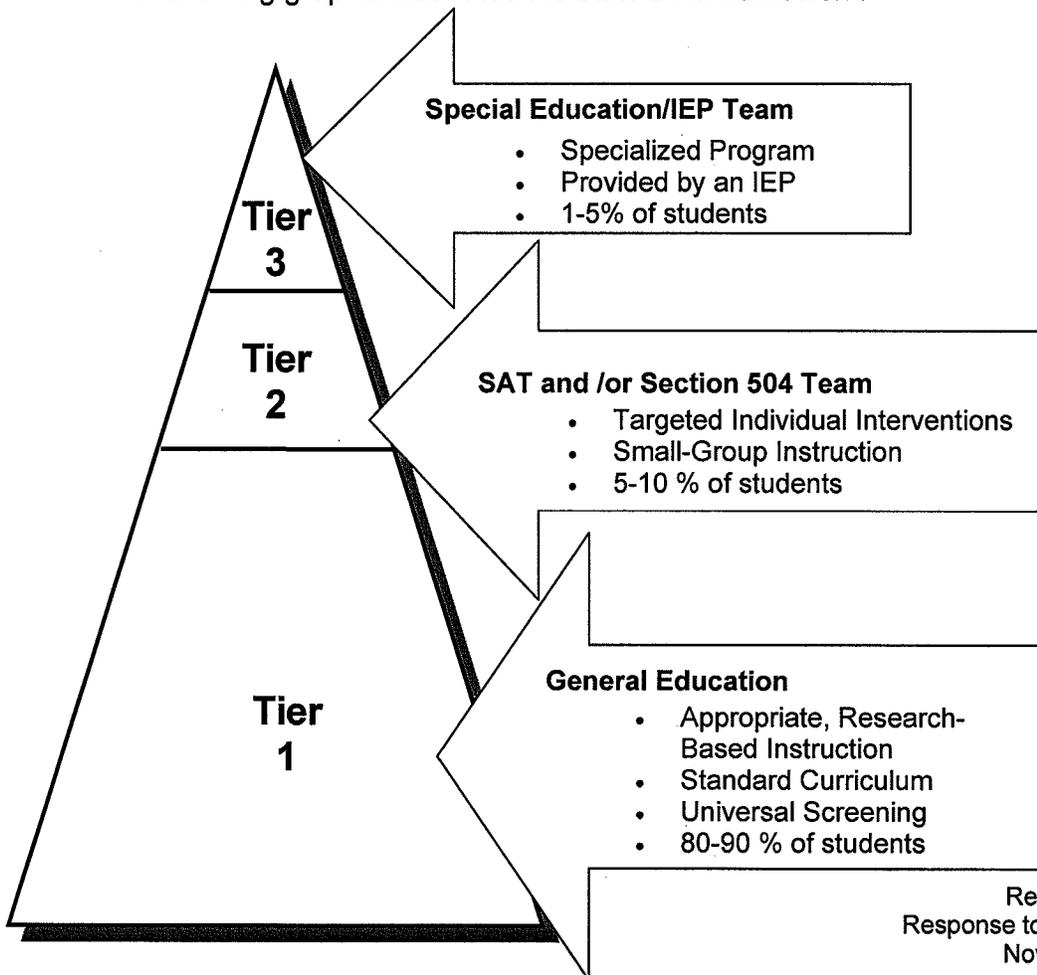
<sup>1</sup> Compton, et al. 2006; McMaster et al. 2005; Speece and Case 2001; Torgesen et al. 1999

provided individually or in small groups, and happens in addition to the general education curriculum. Tier 2 services are designed to supplement, enhance, and support Tier 1 programs. Eligible students with disabilities who do not qualify for special education can also be served at this tier through a Section 504 accommodations plan, as the school's SAT wears the hat of the Section 504 team as necessary.

- In **Tier 3**, a student qualifies for special education services under the IDEA **and/or** the state criteria for gifted, and receives specially-designed instruction and related services through an Individualized Education Program (IEP).

In all tiers, a student is **progress monitored** to see if the instruction and/or intervention are effective. In **Tier 1**, progress monitoring typically occurs through short-cycle assessments administered to all students three times a year, as well as yearly standards-based assessments. A school may also use some other type of brief assessment administered more frequently and then adjust the intensity of instruction for some groups of students. In **Tier 2**, progress monitoring data may be collected every few weeks for individual students as decided in the student's written SAT Intervention Plan. In **Tier 3**, the IEP team monitors the student's progress with the IEP goals and services, issues progress reports, and reviews the student's IEP as needed, but at least annually. If a student is not responding well to the IEP services, the IEP team meets to review that data and adjust the IEP as necessary.

The following graphic illustrates the state's RtI framework:

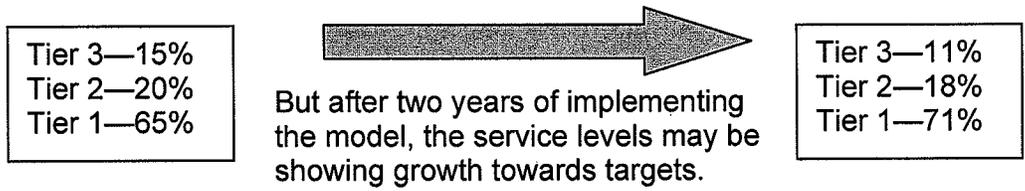


**Do students move between the tiers?**

The three-tier model of student intervention is meant to be a fluid system. As a student needs assistance at a higher tier, he or she may move up. Conversely, if the student is responsive to the higher level of intervention (such as a student who is exiting special education at Tier 3), then he or she may move down to Tier 2 as they transition out of an intense level of intervention. Thus, some movement across tiers is expected.

**Are the percentages of students served at each tier as shown on the graphic on the previous page compliance indicators or it is possible for them to be different?**

The range of percentages shown on the graphic were based on models developed by national experts and researchers, and are meant as target goals. Although the model seems straightforward, the degree to which each school in the state is presently aligned with these percentages may vary depending on the length of time the school has been implementing the three-tier model, the extent of implementation, the quality of implementation, and/or the specific nature of the school population. As schools begin the journey to implement the model, we recommend they conduct a self-assessment or audit to determine their present levels in this regard. For example, a beginning audit may show that a school population is being served as shown below.



The key for schools to move towards target percentages is to focus on improvements to the core program (standard curriculum) at Tier 1 so that it functions as a prevention mechanism allowing the percent of students requiring more intense support to decrease over time. So, if data from core program or short-cycle assessments show that at least 80% of students are not proficient with grade-level benchmarks, then the school needs to take a good look at the core program and problem solve how to impact it for better results—making sure it is research-based, backed with professional development, delivered by quality educators, and that poorly-implemented programs are improved or replaced with different programs if necessary. This is an ongoing endeavor through the school’s EPSS (school improvement) process.

**How does Rtl relate to identification of students with disabilities?**

As a related prong of the Rtl framework, the Individuals with Disabilities Education Act (IDEA) of 2004 permits that public education agencies may choose to use an Rtl process as one of a variety of measures used in evaluations and eligibility determinations for specific learning disabilities (SLD).<sup>2</sup>

<sup>2</sup> See the IDEA at 34 CFR Sec. 300.307.

However, state rule at Subsection C (2) of 6.31.2.10 NMAC sets forth a mandate. It provides that effective July 1, 2009, public agencies in New Mexico must implement what is known as a *dual discrepancy* model of identification for SLD in grades K-3 only.

This represents a departure from former identification methods where a student was identified as SLD based on a test that measured IQ and compared it to actual performance. The more severe the discrepancy between these two measures, the more likely it is that a student is learning disabled. Under the state's dual discrepancy model, a K-3 student suspected of having a learning disability would still be given the standard IQ/performance test as part of a comprehensive evaluation. However, data from the student's response to interventions provided at Tiers 1 and 2 would also be incorporated into the evaluation and eligibility determination.

It is thought that the dual discrepancy model will give educators a broader view of how the student learns compared to the snapshot obtained from utilizing a single discrepancy model. One advantage is that the progress monitoring utilized in the Rtl process yields data directly relevant to instructional design and delivery. In this way, educators can better plan an effective program to meet the specialized needs of a student with disabilities, or distinguish a student who truly has a learning disability from one whose learning difficulties could be resolved with scientifically-based, general education interventions.

## **Report Methodology**

For the purposes of collecting data for this report, the PED analyzed information from the following sources:

- Descriptions of Rtl activities contained in school Title I applications
- Report from the PED's Special Education Bureau (SEB)
- Data from electronic surveys regarding Rtl framework understanding and implementation. The PED sent this survey to all superintendents, principals, and charter schools in October 2008. Responses were anonymous and received as follows:
  - 38 superintendents responded (43% of total)
  - 115 principals responded (14% of total number of schools)
    - 68 elementary schools
    - 20 middle schools
    - 9 high schools
    - 18 charter schools

Although not all districts and schools responded, the sample size is adequate to get a snapshot of information relevant to the purposes of this report.

- Information from the preliminary report of a study conducted in Fall 2008 by the American Institutes for Research (AIR) [www.air.org](http://www.air.org) for REL-West.<sup>3</sup> The study focused on state-level implementation of RtI in nine western states, including New Mexico, and will be released soon.
- In September 2008, REL-Southeast published a similar report of six southeast region states. That document was reviewed for purposes of comparative analysis, and for developing a conceptual and organizational structure for this report.<sup>4</sup>

## Overview of Findings

### ***What do superintendents and principals report about the level of understanding about the state's RtI framework?***

Survey responders perceived their district's or school's level of understanding of the state's framework as shown below.

	Substantial understanding and engaged in implementation	Awareness is emerging	Might need additional assistance or clarification
Elementary Schools	46%	48%	6%
Middle Schools	55%	25%	20%
High Schools	33%	45%	22%
Charter Schools	28%	44%	28%
Superintendents	40%	55%	5%

Overall, it appears the majority of schools responding to the survey reflect that their understanding is emerging. Nevertheless, survey comments and questions to the PED echo that there is still a lot of misunderstanding about the state's RtI framework, and the Department will need to work to ensure awareness, alignment, and common practice. As one charter school principal in the survey responded:

*I did not know about any of this.*

<sup>3</sup> The Regional Educational Laboratory (REL) Program is a network of 10 laboratories that serve the educational needs of designated regions by providing access to high quality, scientifically valid education research and related technical assistance activities. The REL Program is funded by the U.S. Department of Education. Operation of REL-West is currently contracted to Wested. [www.wested.org](http://www.wested.org).

<sup>4</sup> See *State Policies and Procedures and Selected Local Implementation Practices in Response to Intervention in the Six Southeast Region States* (REL-Southeast, September 2008) <http://ies.ed.gov/ncee/edlabs/projects/project.asp?projectID=166&productID=115>

**What is the extent of how districts and schools are implementing an Rtl framework?**

The state rule requiring schools to operate using the three-tier model of student intervention went into effect in 2004, so the PED would expect that schools are already organizing and delivering instruction using this framework. However, we know that, as schools or any organization begins a journey to change, they go through specific phases over time, as it is a challenge to rollout new and complex practices. This is particularly so when the change involves several integrated parts and procedures as does an Rtl framework.

1. Typically, a change involves the first stage of learning about a concept, embracing it, and assessing readiness to move forward.
2. The second phase involves developing an infrastructure necessary to support a change. That is, mobilizing resources and scaling up for implementation.
3. When the infrastructure is in place, implementation may finally occur. However, it may first rollout as a pilot project and/or in phases.
4. When pilot or phase-in projects are complete and successful, full implementation may finally occur across all sites.

Superintendents who responded to the survey (43% of the total number of districts) about their district's overall status of implementation of the three-tier model of student intervention reflect the aforementioned reality.

- |                            |     |
|----------------------------|-----|
| 1. Beginning or emerging   | 26% |
| 2. Building infrastructure | 24% |
| 3. Partial implementation  | 29% |
| 4. Full implementation     | 21% |

This systematic process of change may take three to five years, or more. As one survey respondent noted:

*It is hard to change attitudes, but the system is working. The second year is easier than the initial year.*

**What do we know about the extent of Rtl implementation in middle and high schools?**

Some other state agencies have expressed the opinion that middle and high school implementation of the Rtl framework is a challenge, because using "benchmark assessments and differentiated instruction at these levels requires a shift in thinking for many middle and high school teachers, and some may lack the skills and experience to use tiered instruction."<sup>5</sup> While it is true that learning how to design and implement interventions or use tiered instruction is a sophisticated skill, the survey sample (29 middle and high schools) shows a positive trend towards general implementation of the framework.

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<sup>5</sup> Ibid. page 19.

- The majority of middle and high school respondents rated their school as achieving partial or full implementation on a list of basic Tier 1 and 2 components.
- The majority of **high school** principals who responded (45%) reported that they were in their first year of implementing the Rtl framework. (Second year—22%, Third or more—22%, Not yet—11%)
- The majority of **middle school** principals who responded (35%) reported that they were in their second year of implementing the Rtl framework. (First year—30%, Third or more—30%, Not yet—5%)

***Has full implementation occurred across the state?***

No. As indicated above, it is expected that schools will need a number of years to achieve full implementation. The AIR study of nine western states finds that none of the nine states, including New Mexico, reported full statewide implementation of the Rtl framework. Several state agency respondents in that study indicated that they lacked data on the level of district or school implementation and/or were in the process of collecting it.

***What do principals report about the impact that Rtl has had on academic progress of students, as well as its impact on office discipline referrals and referrals to special education?***

As it is across much of the country, the use of an Rtl framework is relatively new. So, most information on results is largely based on anecdotal reports or small data samples, and more reliable data is yet to come.

According to the survey, principals of schools in the state who have been implementing the three-tier model of student intervention for at least two years rate the impact at their schools as shown below.

Note: Percentages reflect how principals responded to each type of impact. (Example: 54% of the middle school principals who responded report that overall achievement is up at their school.)

	Overall Achievement		Office Discipline Referrals		Special Ed. Referrals	
Elementary schools	<b>Up</b>	<b>63%</b>	Up	2%	Up	5%
	Down	7%	<b>Down</b>	<b>54%</b>	<b>Down</b>	<b>78%</b>
	Same	30%	Same	44%	Same	17%
Middle schools	<b>Up</b>	<b>54%</b>	Up	7%	Up	8%
	Down	8%	<b>Down</b>	<b>54%</b>	<b>Down</b>	<b>77%</b>
	Same	38%	Same	39%	Same	15%
High schools	<b>Up</b>	<b>100%</b>	Up	0%	Up	0%
	Down	0%	<b>Down</b>	<b>75%</b>	<b>Down</b>	<b>75%</b>
	Same	0%	Same	25%	Same	25%
Charter schools	<b>Up</b>	<b>50%</b>	Up	0%	Up	0%
	Down	25%	<b>Down</b>	<b>75%</b>	<b>Down</b>	<b>75%</b>
	Same	25%	Same	25%	Same	25%

As three administrators in the survey noted:

- *This [Rtl] is actually a good thing as it will drive the decisions sites are making about implementing interventions. No longer can a teacher say, "I tried everything I know and s/he just can't learn," and then suggest special education placement.*
- *It's an excellent framework and has had a positive impact on our school. Our school went from not making AYP for 3 years to making it last year....While there were many factors that led to student growth, using the Rtl Framework kept us focused on student achievement, how they were progressing, and making changes when results were not achieved...We have also been a Positive Behavior Support School for several years, so we don't just address academics, but also behaviors and use appropriate interventions when needs are identified.*
- *I fully support this framework. I firmly believe that too many students are unnecessarily identified, especially as SLD for special education services.*

### **What assessments are used for progress monitoring?**

Data are the essence to any Rtl framework. The PED's technical assistance guide *Response to Intervention: A Systematic Process to Increase Learning Outcomes for All Students* (December 2006) <sup>6</sup> sets forth state guidance for implementing the state's Rtl framework. The guide provides that short-cycle assessments are the Tier 1 progress monitoring mechanisms in New Mexico (page 14). The PED does not mandate the use of one particular short-cycle assessment instrument. Rather, this is a district decision. Short-cycle assessments are typically administered three to four times a year to all students and the following are ones most widely used in New Mexico schools:

- Northwest Evaluation Association—Measurement of Academic Progress (MAP)
- Dynamic Indicators of Basic Early Literacy Skills (DIBELS)
- Developmental Reading Assessment (DRA)

These assessments are commercially produced and considered valid for the purposes for which they were developed.

At Tier 2, schools are advised to use curriculum-based measures (CBMs) in addition to short-cycle assessments to determine how a student is responding to the level of intervention as prescribed by the school's SAT. Curriculum-based assessments are a direct assessment of basic skill areas, are intended to be aligned to state standards, and can be administered quickly and more frequently than short-cycle assessments. CBMs can be teacher-developed or purchased. The use of CBMs is a district decision and no data is available at the PED on the current use of them in schools.

At Tier 3 (special education), the student's Individualized Education Program (IEP) team is advised to use all the progress monitoring mechanisms in Tiers 1

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<sup>6</sup> See <http://www.ped.state.nm.us/Rtl/dl09/RtlManualFinalCombo2006%2012-06.pdf>

and 2, as well any monitoring the team determines to be relevant to the individual student's IEP goals and objectives.

***What do superintendents and principals report as the fiscal impact that Rtl has had on schools?***

The exact fiscal impact on requiring schools to use the three-tier model of student intervention and progress monitoring tools is unknown. The PED's Title 1 Bureau reports that the following districts have used an unspecified portion of their total Title 1 federal funds to support Rtl activities: Albuquerque, Bloomfield, Clovis, Deming, Farmington, Gallup, Hobbs, Las Cruces, Los Lunas, Lovington, and Taos. All of these districts have an enrollment of 3,000 or more students.

However, the following selected survey comments from superintendents and principals clearly reflect that implementing an Rtl framework is resource intensive, and that implementation is a barrier when resources are unavailable:

- *We have insufficient funds to pay teachers for the extended time they need in which to learn research-based strategies to improve student achievement.*
- *We have insufficient FTEs to provide the scheduled intervention classes that would be required for the large number of students who need them.*
- *We have no funding to accomplish any of this.*
- *There are increased costs for personnel (instructors, stipends), materials (books, copying costs), human capital (stress, increased health issues).*
- *Additional personnel are required to meet the needs of our students in addition to classroom teachers. Also, this requires more professional development funding.*
- *In a very small school it is difficult to allocate FTE, conduct a comprehensive high school curriculum, and implement Rtl.*
- *There's not enough staff to manage smaller groupings.*
- *Serious lack of money for needed tier two interventions. It really limits our ability to truly differentiate for students.*
- *Not enough funding for Tier II interventions—options are limited.*
- *The SAT Chairperson at each school site is close to being a full-time position, hard to find and retain personnel even with a stipend.*
- *Schools also lack space to provide the necessary intervention classes.*
- *There's a serious lack of money for needed tier two interventions. It really limits our ability to truly differentiate for students.*
- *Rtl is a complex challenge in our district due to no funding for training, increase in the number of classes at the secondary level and the length of instructional time. We are required to implement too much into an already full day. Teachers are overwhelmed with the directives that do not include fiscal assistance.*
- *The impact is significant.*
- *Purchasing interventions programs has cost hundreds of thousands of dollars. Training has been included with most purchases, but that also has required additional expense.*

- *All of the intervention programs have had to be purchased at substantial cost to the district and all the grade levels for reading and math materials have to be purchased over time since these interventions are in addition to the core curriculum.*

***What professional development, guidance, and technical assistance has occurred to support the Rtl framework?***

The PED has provided the following professional development opportunities relevant to the Rtl framework:

- Student Assistance Team (SAT) Train-the-Trainers Academy. The SAT operates at Tier 2 and is at the heart of the framework. In 2007-08, the PED provided training to one designated individual from 30 districts and 5 regional education cooperatives that, in turn, were to become the district's or region's SAT Trainer. The PED gave these trainers four days of training across the school year in basic SAT procedures, addressing student behavior, Section 504, and the overall Rtl framework. Each trainer committed to conducting at least three trainings with local school staff during 2007-08. The Academy was funded through Title 1 and the PED hopes to offer a follow-up training to that group during 2008-09 depending on funding. Nevertheless, the PED is providing the trainers on-going consultation and technical assistance by telephone and email.
- September 2007 and November 2008—Staff from Mountain Plains Regional Resource Center (a federally-funded resource center) based in Logan, Utah offered training to New Mexico district and charter school staff in understanding the procedural requirements of Section 504 of the Rehabilitation Act of 1973 (a Tier 2 procedure). Approximately 100 staff attended each training.
- In September 2008, the PED launched its new Rtl website that can be directly accessed from the PED's homepage at [www.ped.state.nm.us](http://www.ped.state.nm.us). The comprehensive Rtl website features links to information about state rule, policy and guidance, progress monitoring, professional development opportunities, Rtl and learning disabilities, and other web-based resources. The PED is one of a handful of state agencies that currently has a direct link to Rtl resources on its website homepage.
- The PED was invited to present an overview of the Rtl framework at administrative retreats and small conferences—July, August, and November 2008

The PED has published the following guidance and technical assistance documents relevant to the three-tier model of student intervention which have been widely distributed and are also available on the PED's Rtl website at [www.ped.state.nm.us](http://www.ped.state.nm.us) :

- *Response to Intervention: A Systematic Process to Increase Learning Outcomes for All Students* —a guide for schools in how to implement an Rtl framework, conduct progress monitoring, and assess fidelity (December 2006)

- *The Student Assistance Team (SAT) and the Three-Tier Model of Student Intervention* — A manual for schools and parents which includes official state guidance and a comprehensive model for the SAT which operates at Tier 2 (June 2004)
- *Addressing Student Behavior: A Guide for Educators*— a comprehensive technical assistance manual for schools in how to conduct a Functional Behavioral Assessment (FBA) and develop a Behavioral Intervention Plan (BIP) for an individual student. (September 2005)
- *Section 504: Guidelines for Educators and Administrators for Implementing the Rehabilitation Act of 1973*—a procedural guide for the school's Section 504 team which operates at Tier 2 (June 2007)
- Fact sheets—one page facts sheets on each of the topics above developed for schools to reproduce and easily brief parents and others

Survey responses demonstrate that schools have accessed a variety of technical assistance and professional development opportunities related to components of the Rtl through a number of channels. However, survey comments repeatedly expressed the need for time and funds for more professional development at both district and school levels.

***What partnerships has the PED engaged in to support efforts to implement Rtl?***

- The PED is fostering efforts for collaboration between general education and special education in implementing the state's three-tier model of student intervention, as well as nurturing broad ownership in the model internally and with external stakeholders. To that end, the PED has recently formed an Rtl State Advisory Team to serve as an advisory body to the Department relating to the use of the three-tier model of student intervention as the Response to Intervention (Rtl) framework for all students in New Mexico public schools. To accomplish this mission, the Advisory Team will meet to collaborate, problem solve, and provide thoughtful feedback and/or recommendations to the PED on existing and proposed Rtl rules, policies, procedures, and practices. The team is comprised of about 35 members invited by the PED, and consists of a blend of individuals from relevant Bureaus within the PED and external stakeholders, including but not limited to, school district staff, regional education cooperative (REC) staff, institutes of higher education, parent advocacy groups, and professional education organizations. The team is in its first year, has met once in September 2008, and is expected to meet three times a year.
- The National Rtl Center was launched in early 2008. The Center was established by the AIR, as well as researchers from Vanderbilt University and the University of Kansas. Funding has been provided by the U.S. Department of Education's Office of Special Education Programs (OSEP). The Center is led by a team of nationally recognized Principal Investigators and its mission is to provide technical assistance to states

in building their capacity to implement proven models for RtI. Each state has been assigned a liaison from the Center, and designated staff from the PED's Quality Assurance Bureau is currently working with that individual to determine the state's level of need for technical assistance from the Center.

***What is the impact of using an RtI framework on identification of students needing special education and related services?***

The PED's Special Education Bureau reports the following:

- The federal IDEA allows school districts to set aside up to 15% of their IDEA funds to provide coordinated early intervening services (CEIS). These funds are for students who are currently not identified as needing special education services, but need additional academic and behavioral support. In accordance with the IDEA at 34 CFR Sec.300.226 (b) the funds must be used for professional development for teachers and other school staff to enable them to deliver scientifically-based academic and behavioral interventions. The funds can also be used for educational and behavioral evaluations, services, and supports. Prior to budget authority being granted, the local education agency's (LEA's) plan must be approved by the bureau. The budget is tracked through SHARE. Specific fund codes are set up in SHARE to allow the SEB to monitor the use of funds as part of its general supervision responsibilities.
- 34 CFR Sec. 300.226(d) requires the LEA to report the number of children served in CEIS and the number of students who received subsequent special education services. The students receiving CEIS are entered into STARS. The number of students receiving subsequent services can be correlated with the STARS data fields for initial evaluation and initial IEP, by unique identifier.
- In addition, LEAs may be mandated to provide CEIS. In accordance with 34 CFR Sec. 300.646, the State is required to examine data at the LEA and State level to determine if significant disproportionality based on race and ethnicity is occurring in the areas of identification of students for special education services, placement of students with Individualized Education Programs (IEPs) in particular settings, and disciplinary actions. If a LEA has significant disproportionality, the State must mandate that the district set aside 15% of its IDEA funds to provide CEIS, particularly, but not exclusively, to students in those groups who were significantly over-identified. This year, one school district has significant disproportionality in the identification of students who are Hispanic and have a learning disability. The students are entered into STARS and the budget process is the same as above.
- The SEB notes that this data collection is new and, thus, the impact of using CEIS funds for early intervention services on students who subsequently need special education services is not known at this time.

The recent AIR study of RtI implementation efforts in regard to using an RtI process for LD determinations in nine western states notes the following:

- State requirements vary for including data from an RtI process in conjunction with an IQ/discrepancy approach for making SLD determinations.
- New Mexico and one other unidentified state require a dual discrepancy approach by a certain date, while other states presently encourage it only. (In New Mexico, the deadline to use a dual discrepancy model for SLD eligibility determinations in K-3 does not occur until July 1, 2009.)
- The study further noted in those states that only encourage the use of data from an RtI process for eligibility, that implementation was “infrequent or non-existent” or “hindered by a lack of data.”
- Nevertheless, nearly all the states in the study echoed the importance of having solid core programs and intervention procedures in Tiers 1 and 2 in place before mandating the use of data from an RtI process for SLD eligibility.
- Thus, it may be some time before New Mexico and other states have definitive data in regards to the impact that data from using an RtI approach has on informing eligibility determinations for students needing special education and related services.

## **Recommendations**

- The PED will likely need more support and funding in order to achieve capacity to support districts and charter schools in implementing the state’s RtI framework.
  - The PED has submitted an expansion request for an additional FTE to be assigned full time as the Department’s RtI Coordinator. Although RtI requires broad ownership throughout the Department, one individual is needed to coordinate technical assistance and guidance internally and externally, as well as develop and seek funding for possible pilot projects and professional development opportunities. Several other states have already designated such a position.
  - Conversations with the National RtI Center Liaison assigned to New Mexico indicate that the Center may offer the state the possibility of sharing costs to provide presenters and trainers. However, the Center will only agree to do so if the state formally agrees to provide substantial financial and staff resources towards that end.

- The PED will need support to foster collaborative relationships and projects with the New Mexico Higher Education Department and state institutions of higher education so that they may develop curriculums to better prepare teachers and administrators. Competencies in delivering instruction and interventions, and providing organizational leadership within an Rtl framework are essential skills.
- General education teachers deliver core programs and tiered or differentiated instructional programs (interventions) at Tier 1. However, as schools move forward with implementing the Rtl framework, they will need a wider variety of personnel to deliver interventions at all tiers—special education teachers, reading and math specialists, behavioral specialists, full- or part-time SAT members, school psychologists, intervention specialists/coaches, tutors, and/or paraprofessionals.

Staff and administrators will also need ongoing and extensive professional development related to interventions, progress monitoring, data analysis, and making SLD determinations using Rtl data. They will also likely need more sophisticated progress monitoring and implementation fidelity assessment tools, including technological ones. Clearly, in order to effectively implement the overall framework schools will need more state funding soon in addition to the allowable use of federal funds. Survey comments strongly support this view.