



You Asked!

Q12: Student exhibits signs of dyslexia, but school wants to delay assessing in order to see how student first responds to RTI (or is recommending Student Study Team (SST) meetings). Does assessing need to be delayed for special education eligibility?

A: The school cannot delay or deny assessing your child for a suspected disability because of implementation of a Response to Intervention (RTI) strategy. Please refer to our [You Asked Q11](#) on “Child Find” obligations. In a Dear Colleague letter, Office of Special Education and Rehabilitative Services (OSERS) reminds schools that a parent may request an initial evaluation at any time to determine if a child has a disability under IDEA, and the use of Multi-Tiered System of Supports (MTSS), such as RTI, may not be used to delay or deny a full and individual evaluation of a child suspected of having a disability. (Sources: [OSEP Memorandum 11-07 dated January 21st, 2011](#); [OSERS Dear Colleague Letter dated October 23rd, 2015](#))

Convening an SST meeting does not waive a school district’s obligation to refer a child for assessment if there is knowledge of and reason to suspect a disability. It is important for parents to know that they can agree to participate in an SST while special education evaluation is underway, but that unless they agree in writing to delay the evaluation, the legal timelines apply—and, in California, the school district has fifteen days to respond to a request for evaluation, and sixty days from date assessment plan is signed by parents to hold an eligibility determination meeting and create an IEP for eligible students. SST’s can provide important information and accommodations that may actually help the team determine eligibility later—but the parent is not required to participate in these processes, and they cannot delay the special education timelines. (Source: [Student v. Berkeley Unified School District OAH Case No. 2013120159, Page 30](#))

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