

EDUCATION LAW INTO PRACTICE

STATE LAWS FOR MULTI-TIERED SYSTEMS OF SUPPORT*

by

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Multi-Tiered System of Support (MTSS) generally is a broadening of the response to intervention (RTI) approach, which gained legal recognition in the provision for specific learning disability (SLD) identification in the 2004 amendments of the Individuals with Disabilities Education Act (IDEA).¹ A long line of journal articles analyzed the resulting state laws that indicated their choice of either permitting or requiring RTI for SLD identification.²

This article provides the first comprehensive canvassing of state laws that require MTSS generally or for particular issues, including but extending well beyond SLD identification.³ Part I provides a sampling of the professional literature showing the scope of MTSS. Part II identifies the limited provisions for MTSS in federal law. Part III reports the method and results of this systematic tabulation of state laws, including their scope and strength. Part IV discusses the findings along with recommendations for further research and implications for practice.

I. Illustrative Recent Literature

MTSS broadly applies the RTI framework, which includes multiple tiers of interventions and individualized progress monitoring and which the IDEA recognized for the eight

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1. 20 U.S.C. § 1414(b) (providing that states may no longer require severe discrepancy and must permit school districts to use “a process that determines if the child responds to scientific, research-based intervention,” i.e., RTI). For the related IDEA regulations, see 34 C.F.R. §§ 300.307 & 300.309. Both RTI and MTSS were recognized in practice and scholarship before their legal codification. MTSS reportedly started in the 1980s with calls for the elimination of the dual, or silo, separation of special and general education in favor of providing more individualized and responsive instruction to all students. Timothy Morse, *Maximizing Systematic Instruction Throughout a Multi-Tiered System of Supports*, 5 ENCYCLOPEDIA 186, 187 (2025). For

the increasing cross-state shift from RTI to MTSS, see Tessie Rose Bailey, *Is MTSS the New RTI?: Depends on Where You Live*, Center on Multi-Tiered System of Supports (2019), <https://mtss4success.org/blog/mtss-new-rti-depends-where-you-live>.

2. E.g., Perry A. Zirkel, *Lessons in Legal Literacy: State Laws for SLD Identification*, 50 FOCUS ON EXCEPTIONAL CHILD. 1 (2026); Nicholas F. Benson et al., *A National Survey of School Psychologists’ Practice in Identifying Specific Learning Disabilities*, 35 SCH. PSYCH. 146 (2020); Laura Boynton Hauerwas et al., *Specific Learning Disability and Response to Intervention: State-Level Guidance*, 80 EXCEPTIONAL CHILD. 101 (2013); Perry A. Zirkel & Lisa B. Thomas, *State Laws for RTI: An Updated Snapshot*, 42 TEACHING EXCEPTIONAL CHILD. 56 (2010); Sheri Berkeley et al., *Implementation of Response to Intervention: A Snapshot of Progress*, 42 J. LEARNING DISABILITIES 85 (2009).

3. Although the focus here is on mandatory provisions, the tabulation provides an incidental accounting of provisions that are merely permissive, such as identifying MTSS as an express example or encouraged area of authorized activity.

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enumerated areas of SLD,⁴ to varying domains in P–12 education.⁵ A primary example, sometimes referred to as “MTSS-B,” is applying this multi-tiered approach to behavior.⁶ The wide variety of other examples ranges from the core area, which overlaps with SLD,⁷ of reading⁸ and the behavior-related area of social-emotional learning (SEL)⁹ and trauma¹⁰ to special populations, such as English learners¹¹ and racial minorities.¹² Moreover, although generally formulated and implemented in general education, MTSS can also extend to the special education context.¹³

The only previous cross-state surveys of MTSS, similar to some of the corresponding surveys for RTI,¹⁴ were limited to guidance documents on state education websites.¹⁵ These surveys do not provide a current and specific snapshot of state MTSS laws for several

4. For the legally recognized core characteristics of RTI, see Memorandum to State Directors of Special Education, 56 IDELR ¶ 50 (OSEP 2011); Memorandum to Chief State School Officers, 51 IDELR ¶ 49 (OSEP 2008) ((a) high quality, research-based instruction in general education, (b) continuous progress monitoring, (c) screening for academic and behavior problems, and (d) multiple tiers of progressively more intense instruction). For the eight enumerated areas of SLD identification specified in the IDEA regulations, see 34 C.F.R. § 300.309(a)(1) (including three areas of 3 and two of math).
5. However, reflecting in part the overall gradual shift and the overall overlap, the acronyms of RTI and MTSS are not entirely consistent across jurisdictional and chronological contexts. See, e.g., Sheri Berkeley et al., *A Snapshot of RTI Implementation a Decade Later: New Picture, Same Story*, 53 J. LEARNING DISABILITIES 332, 336–37 (2020) (reporting, in a survey of state education agency guidance documents, that some states used RTI interchangeably, others used MTSS without clearly differentiating it from RTI, still others used terminology that was neither RTI or MTSS, Tennessee incorporated behavior into RTI as RTI-B, and New Hampshire considered RTI to be the framework and MTSS to represent the interventions within it).
6. E.g., Amy Briesch et al., *A Review of State-Level Procedural Guidance for Implementing Multitiered Systems of Support for Behavior (MTSS-B)*, 22 J. POSITIVE BEHAV. INTERVENTIONS 131 (2020). For this purpose, various sources have recommended integrating RTI with Positive Behavior Interventions and Supports (PBIS). E.g., Kent McIntosh & Steve Goodman, *INTEGRATED MULTI-TIERED SYSTEM OF SUPPORTS: BLENDING RTI AND PBIS* (Guilford Press, 2016); Rachel Freeman et al., *Integration of Academic and Behavioral MTSS at the District Level Using Implementation Science*, 13 LEARNING DISABILITIES 59 (2015); Orla Higgins Averill & Claudia Rinaldi, *Multi-Tiered Systems of Supports (MTSS): From RTI and PBIS to MTSS* (Urban Special Education Collaborative, 2013), <https://www.researchgate.net/publication/257943832>
7. *Supra* note 4.
8. E.g., Michael D. Coyne et al., *The Effects of Comprehensive and Coordinated Tier 1 Classroom Reading Instruction Implemented within a Multi-Tiered System of Support (MTSS) Framework As Part of a State Reading Initiative*, 125 ELEMENTARY SCH. J. 347 (2024); Kaitlin M. Leonard et al., *Implementing MTSS in Beginning Reading: Tools and Systems to Support Schools and Teachers*, 34 LEARNING DISABILITIES: RES. & PRAC. 110 (2019).
9. E.g., Melissa A. Maras et al., *Developing a Tiered Response Model for Social-Emotional learning through Interdisciplinary Collaboration*, 25 J. EDUC. & PSYCH. CONSULTATION 198 (2015).
10. E.g., Emily Berger, *Multi-Tiered Approaches to Trauma-Informed Care in Schools: A Systematic Review*, 11 SCH. MENTAL HEALTH 650 (2019).
11. E.g., Elizabeth Snyder & Sara E. Witmer, *Including English Learners in Multi-Tiered Systems of Support (MTSS) in Reading*, 69 PREVENTING SCH. FAILURE 34 (2025); Lauren Artzi et al., *Meeting the Language Needs of Emergent Multilingual Students at Risk for Learning Disabilities Through Multitiered Systems of Support*, 37 LEARNING DISABILITIES RSCH. & PRAC. 189 (2022); Sylvia Linan-Thompson et al., *An Examination of MTSS Assessment and Decision Making Practices for English Learners*, 51 SCH. PSYCH. REV. 484 (2022).
12. E.g., Lindsay M. Fallon et al., *Strengthening MTSS for Behavior (MTSS-B) to Promote Racial Equity*, 52 SCH. PSYCH. REV. 518 (2023).
13. Rachel Brown-Chidsey, *MTSS in the Classroom: Special Education Teachers’ Experiences with a Multi-Tiered System of Supports*, 32 EXCEPTIONALITY 349 (2024).
14. E.g., Berkeley et al., *supra* note 2; Berkeley et al., *supra* note 5.
15. Briesch et al., *supra* note 6; Jingyuan Zhang et al., *Response to Intervention (RTI)/Multi-Tiered Systems*

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reasons, including that (a) their focus was on state “guidance” documents, which are not necessarily official policy and which in any event lack the direct force of law; (b) they did not sufficiently target MTSS, as respectively differentiated from RTI¹⁶ or extending beyond behavior (including positive behavioral interventions and supports (PBIS)),¹⁷ and (c) they were not sufficiently up-to-date,¹⁸ since the vast majority of MTSS laws were issued after 2021.¹⁹

II. Federal Framework

The framework for MTSS in federal law is, like that for RTI,²⁰ very limited. More specifically, although the IDEA does not mention MTSS, the Every Student Succeeds Act (ESSA),²¹ which is the successor to the No Child Left Behind Act, provides various explicit authorizing (i.e., permissive but not mandatory) references to MTSS, including the following:²²

- defining MTSS: “a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students’ needs, with regular observation to facilitate data-based instructional decision-making”²³
- authorizing use of Title II LEARN comprehensive literacy grants for “[MTSS] for literacy services”²⁴
- identifying MTSS as one of the possible activities in the definition of “professional development” for teachers and other instructional staff²⁵
- also identifying MTSS as one of the authorized activities for professional development for effectively teaching students with disabilities and English learners²⁶

The corresponding ESSA regulations do not mention MTSS.

Although not having the force of law, agency policy interpretations for the IDEA and Section 504 reference MTSS but only rather tangentially.²⁷

of Support (MTSS): A Nationwide Analysis, 7 J. EDUC. LEADERSHIP & POL’Y STUD. 1 (2023); Amy Briesch et al., *Analysis of State-Level Guidance Regarding School-Based, Universal Screening for Social, Emotional, and Behavioral Risk*, 10 SCH. MENTAL HEALTH 147 (2018) (reporting results of similar state education agency website survey for guidance documents for the period 2005–2015 concerning MTSS, PBIS, and RTI school-based social, emotional-, and behavioral screening practices).

16. Zhang, *supra* note 15, at 5.

17. Briesch, *supra* note 6, at 134.

18. *Id.* (collecting their data in spring 2017); Zhang, *supra* note 15, at 9 (collecting their data in June 2022).

19. *Infra* note 32 and accompanying text.

20. *Supra* note 1.

21. 20 U.S.C. §§ 6301 *et seq.*

22. The ESSA also refers more generally to “schoolwide tiered model” in two other authorizing

sections: 20 U.S.C. §§ 6314(b)(7)(A)(iii)(III) and 6315(b)(2)(B)(ii).

23. *Id.* § 7801(33).

24. *Id.* § 6644(e)(4).

25. *Id.* § 7801(42)(B)(xii).

26. *Id.* § 6633(b)(3)(F).

27. *E.g.*, Dear Colleague Letter (OSEP/OESE 2025), <https://sites.ed.gov/idea/idea-files/building-and-sustaining-inclusive-educational-practices-january-2025/> (mentioning MTSS as one of the examples of inclusive practices); Letter to State Directors of Special Education (OSEP/OSERS 2022), <https://sites.ed.gov/idea/idea-files/letter-to-state-directors-of-special-education-on-ensuring-a-high-quality-education-for-highly-mobile-children-november-10-2022/> (warning against using MTSS, like RTI, to delay the initiation or extend the timeline for evaluating students suspected as eligible under the IDEA); Dear Colleague Letter (OCR 2016), <https://sites.ed.gov/idea/idea-files/ocr-dear-colleague-letter-july-26-2016/>

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III. Method and Results

The data collection was based on the following successive steps: (1) conducting, on June 1, 2026, a Boolean search of the Westlaw database for “all states” first for legislation and then for regulations with search strings of (a) “multi-tier!” alone and (b) separate combinations of “tier!,” or “multi-layer!,” each with “school”; and (2) selecting those statutory or regulatory provisions that require, permit, or prohibit MTSS or its effective equivalent beyond RTI in the context of P–3 public education. Conversely, the exclusions were for provisions limited to (a) RTI in the special education context,²⁸ (b) funding formulas and allocations for MTSS,²⁹ and (c) non-mandatory peripheral references to MTSS.³⁰

The next step was to code the qualifying provisions within the primary context of general education and secondary context of special education.³¹ For the general education context, the pattern that emerged from the scope of the qualifying provisions consisted of definition, implementation, preservice preparation, professional development and technical assistance, and miscellaneous other, whereas those for the special education context were limited to definition, SLD identification, and miscellaneous other.³²

The Appendix provides the resulting state-by-state tabulation. The column headings for the special education and general education contexts are the aforementioned categories, abbreviated as follows: Def.=definition, SLD=specific learning disability, impl.=implementation, pre-serv.=preservice preparation, PD=professional development, and TA=technical assistance. Each entry for states with one or more provisions referencing MTSS was either an “X” as a relatively broad provision or an “x” as a partial provision, except for an incidental “(x)” signifying a very limited provision, such as one only permitting or encouraging the use of MTSS.³³

The first finding, as revealed by subtracting the grey-shaded rows of the Appendix,³⁴ is that forty-one (80%) of the fifty-one jurisdictions had laws that required MTSS for at least

(noting support for MTSS and other evidence-based proactive approaches incidental to the overall focus on children with ADHD); Dear Colleague Letter (OSERS 2015), <https://sites.ed.gov/idea/idea-files/osep-dear-colleague-letter-on-ideaiep-terms/> (mentioning MTSS in tandem with RTI as approaches who students who may need additional academic and behavioral supports to succeed in a general education).

treated as a separate context, the implementation of RTI under the IDEA and, to whatever extent that the corollary state law uses “MTSS” (or, in New Mexico, the “multi-layered” equivalent) for SLD identification, is mostly in general education. Thus, the special education context herein is a rather limited and overlapping category.

28. For the lengthening line of published research on these state laws, see Perry A. Zirkel, *Lessons in Legal Literacy: State Laws for SLD Identification*, 50 FOCUS ON EXCEPTIONAL CHILD. 1, 4 (2026).

29. The funding exclusion extends to grant applications. E.g., GA. CODE ANN. § 20-2-186.1; N.M. CODE R. § 6.30.15.11.

30. E.g., 105 ILL. COMP. STAT. 5/2-3.200 (requiring the development of a literacy plan that, inter alia, “[c]ontextualize[s] the interaction . . . [with] existing laws and regulations that have overlapping components, such as a [MTSS]”); MO. REV. STAT. § 186.080 (requiring a literacy advisory council that, inter alia, “[r]ecommend[s] best practices for tiered literacy instruction within a [MTSS]”).

31. Although special education is often treated as often [4]

32. These categories served, along with the citations for the qualifying statutory and regulatory provisions as column headings for the state-by-state part tabulation that is the Appendix *infra*.

33. These categories are only preliminary indicators subject to the reader’s ultimate interpretation. Although scope was the primary criterion separating the first two categories and strength was the primary criterion for differentiating the third category, the boundaries were imprecise, with specificity being a potentially intervening factor. Moreover, the totals in the last row of the Appendix, which are the principal measure for the findings, represent a conflation of the first two categories, which align with the purpose of showing the legal requirements.

34. The ten states, which do not seem to share any particular commonality as distinct from the other

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one designated area of public school activity.³⁵ The overall shift from RTI to MTSS, with largely but not entirely clear and consistent differences in nomenclature and definitions, and the particularly recent lawmaking phase of this shift warn against the precision and perpetuity of this “snapshot.”³⁶

The second finding, indicated in the bottom row of the Appendix, is that all the most frequent categories of these MTSS laws were in the context of general education, with the leading categories being the following in descending order: implementation (n=29⁺), preservice educator preparation (n=18), definition (n=16⁺); and professional development or technical assistance (n=16⁺).³⁷

The third and overlapping finding, as indicated by the Appendix entries across the various columns for each row, is that these state laws vary widely in their extent. Within the ostensible context of general education, the majority of the laws—unlike those in Alabama and, to a lesser extent, Arkansas—not having entries across the designated aspects of general education. Conversely, a notable group of state laws, starting with Mississippi and extending to the District of Columbia, Indiana, Louisiana, Montana, North Dakota, and Virginia, have only marginal MTSS provisions. Within the heretofore tempered context of special education,³⁸ very few of these laws thus far have converted RTI to MTSS for SLD identification, and only the Delaware law has extended it to be at least a qualified requirement for identification of any other disability classifications.³⁹

The fourth finding, as indicated primarily by the entry in column 7 (i.e., implementation) and its clarification in the Comments column, is that most of these laws are limited to one or more domains of MTSS without a predominance of any particular one of them.⁴⁰ Although reading and math were leading areas, they only accounted for a handful of the identified domains, with variants of behavior (e.g., attendance and behavior) and mental health (e.g., SEL and trauma) being relatively close seconds.

Fifth, examination of the Comments column of the Appendix reveals a few relatively unusual provisions. For example, an implementation provision of Arkansas’s law specific to “each student who exhibits social, emotional, or behavioral difficulty that may escalate, if not addressed, to potentially dangerous behavior” overlaps with the IDEA by requiring functional behavioral assessments (FBAs) and child find.⁴¹ As another example, the pertinent

jurisdictions, are Arizona, Hawaii, Idaho, Kansas, Massachusetts, Nebraska, Ohio, South Dakota, Tennessee, and Wisconsin. The absence of MTSS was clear in most of these states, with very limited exceptions, regardless of varying terminology. Compare OHIO ADMIN. CODE 3301-51-06 (requiring general education interventions but without the key characteristics of MTSS), with TENN. ADMIN. CODE §§ 0520-01-03-.03 & 0520-01-22-.01 (having a relatively robust requirement for RTI but limiting its scope to “academic need” despite the reported (*supra* note 5) extension to behavior in state guidance).

(*supra* note 3) tertiary attention to statutory or regulatory provisions that are only permissive, including those that are understood to amount to “should” rather than “shall.” For the imprecision of these totals and the differentiation of the three categories of the entries in the Appendix, see *supra* note 33 and accompanying text.

35. “Jurisdictions” here serves as a reminder that the generic use of “states” in the title and the rest of the text of this article includes the District of Columbia.

36. The vast majority of these laws had effective dates, signaling enactment or amendment, within the past five years.

37. The superscript “+” indicates the aforementioned

38. *Supra* note 31.

39. As the respective entries in the Appendix show, the qualifier in the Delaware law is “as appropriate,” and the other state laws are those in Illinois, North Carolina, West Virginia, and, as its “multi-layered” equivalent, New Mexico.

40. “Domain” here refers to the various academic and behavioral areas. *Supra* text accompanying notes 6–12.

41. ARK. CODE ANN. § 6-18-2404 (requiring (a) the

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preservice requirements in Georgia's law expressly apply to not only the preparation programs for various roles, such as teachers, school psychologists, and literacy coaches, but also the certification endorsements in PBIS and for "MTSS facilitator."⁴² As a final example, the Vermont MTSS law expressly provides for not only an individual learning plan but also, more remarkably, that the failure to implement its comprehensive P-12 requirements is not subject to enforcement via litigation.⁴³

IV. Discussion

This section briefly interprets each of the foregoing findings, discusses their overall implications, and provides illustrative recommendations for further research.

The first finding, which reveals that 80% of the fifty-one jurisdictions have enacted legislation and/or issued regulations requiring MTSS in one or more P-12 activities, with the vast majority of these laws appearing in the past five years,⁴⁴ reflects the shift in the professional propriety from RTI to MTSS.⁴⁵ The preceding surveys as to state education agency guidance documents do not provide a parallel baseline for this shift, because these sources do not provide comparable strength or scope.⁴⁶ As a legal matter, this expansion of the multi-tiered framework from SLD identification to various other domains and special populations may be viewed as importing the individualized conception of multi-level services from special education to general education or providing a more integrated, rather than compartmentalized, public education system.

The second finding, which revealed the predominance of the provisions in the implementation category, is understandable, but the scattered scope of these implementation provisions and the corresponding lack of coordinated training requirements is subject to question.⁴⁷

The overlapping third finding of the variety among these states' laws as to the extent of their provisions shows that their approach has not been comprehensive or even systematic. Indeed, most of the states do not have one MTSS law but rather diffuse provisions in legislation and/or regulations that do not carefully align with each other in terms of their definition, implementation, and training requirements.

Moreover, the fourth finding, which reflects the predominance of "x" rather than "X" entries in every column of the Appendix, is another indication of the prevailing piecemeal approach in these MTSS laws. Moreover, the limited scope in most of these provisions, especially in the critical implementation column, does not reveal any predominant priority as to the cross-state selection of domains to be required.⁴⁸

MTSS team professionals "to work with the teachers . . . to complete a [FBA] of the student" and (b) the school to follow applicable child find procedures "[i]f a student is suspected of having a disability that relates to behavioral concerns").

42. GA. COMP. R. & REGS. 505-3.109 (PBIS); 505-2-.180, 505-3-.103 (MTSS facilitator).

43. 7-1 VT. CODE R. §§ 2:2120.5 ("personalized learning plan"); VT. STAT. ANN. tit. 16, § 2902(d) ("No individual entitlement or private right of action is created by this section"). The other state laws do not expressly address whether they provide a private right of action.

44. *Supra* note 36 and accompanying text.

45. *Supra* note 1 and accompanying text.

46. *Supra* text accompanying notes 16-17.

47. *Supra* note 37 and accompanying text. "Training" here refers generically to preservice preparation, professional development, and technical assistance, which are separately represented as sequential columns in the Appendix.

48. *Supra* note 40 and accompanying text.

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Finally, one of the unusual provisions identified in the fifth finding merits particular attention. Specifically, the express disclaimer of a private right of action in the Vermont MTSS legislation⁴⁹ serves as a reminder of increased judicial resistance to inferring a right to sue in federal laws, including the predecessor of the ESSA,⁵⁰ as well as in state laws in various areas of general education, such as bullying,⁵¹ child abuse,⁵² and gifted programs.⁵³ Thus, unlike under the relatively accessible adjudicative system in special education, which starts with a due process hearing under the IDEA, parents face an uphill slope to get into court to enforce MTSS laws.⁵⁴

Overall, these cumulative findings raise the larger issue of whether lawmaking is the most effective way of shifting the systemic paradigm to an MTSS approach. First, the aforementioned issue of private enforcement via litigation poses not only an uphill slope but also, if the court finds a right to sue, the daunting transaction costs and ponderously belated decisions of our congested judicial system. With or without litigation, issuing legislation or regulations in education may well not result in the expected outcomes, as evidenced by the passage of state dyslexia laws.⁵⁵

Second, the bloat of statutory and regulators specific to public schools makes implementation an increasingly difficult matter in light of not only the insufficient extra funds but also the limited time for instruction. Although this analysis did not extend to funding provisions in MTSS laws,⁵⁶ many of the identified provisions lacked any corresponding statutory fiscal allocation, and an occasional provision was expressly dependent on “existing budgetary constraints.”⁵⁷ Similarly, as with the various preservice requirements for colleges and universities under the rubric of education program approval or educator certification specifications, the limited instructional period cannot effectively cover the constantly expanding content requirements.

49. *Supra* note 43 and accompanying text.

50. *E.g.*, *Gonzaga University v. Doe*, 536 U.S. 273, 165 Educ. L. Rep. 458 (2002) (ruling that there is no right to sue under FERPA alone or via Section 1983 due to its lack of an unambiguous provision of a private right of action; *Newark Parents Ass’n v. Newark Pub. Schs.*, 547 F.3d 199, 238 Educ. L. Rep. 548 (3d Cir. 2008) (ruling that the No Child Left Behind Act did not confer a private right of action enforceable through Section 1983).

51. *E.g.*, *C.S. v. Bridgewater-Raritan Reg’l Sch. Dist. Bd. of Educ.*, 2023 WL 1807750 (N.J. Super. Ct. App. Div. Feb. 8, 2023); *Motta v. Eldred Cent. Sch. Dist.*, 36 N.Y.S.3d 239, 241, 333 Educ. L. Rep. 355 (App. Div. 2016); *Dornfried v. Berlin Bd. of Educ.*, No. CV064011497S, 2008 WL 5220639 (Conn. Super. Ct. Sept. 26, 2008).

52. *E.g.*, *Marquay v. Eno*, 662 A.2d 272, 278, 102 Educ. L. Rep. 609 (N.H. 1995); *N.C. v. Westchester Cnty. Child Prot. Serv.*, 222 N.Y.S.3d 920 (Sup. Ct., Westchester Cnty. 2024).

53. *Doe v. Richland Sch. Dist.*, 2015 WL 3885922 (S.C. Ct. App. June 24, 2015).

54. The most likely limited area of litigation is at the

intersection with the IDEA. As with RTI, this intersection is primarily at the IDEA’s child find obligation. *See, e.g.*, Perry A. Zirkel, *The Law on RTI and MTSS*, 373 EDUC. L. REP. 1, 15–16 (2020) (finding that the relatively sparse predominance of MTSS decisions have focused on child find per the pattern for RTI decisions). For one of the relatively rare such cases, *see Q.H. v. Scranton Sch. Dist.*, 2026 WL 510800 (M.D. Pa. Feb. 24, 2026) (concluding that MTSS amounted to affirmative steps rather than delay in evaluation of second grader with attendance problems and low grades).

55. *See, e.g.*, Eric Hengyu Hu et al., *Assessing the Impact of Dyslexia Laws on Identification and Reading Achievement: An Empirical Analysis*, 75 ANNALS DYSLEXIA 637 (2025) (finding that only 9% of the forty-seven states with dyslexia showed a significant increase in reading achievement); B. Ann Barbour Phillips & Timothy N. Odegard, *Evaluating the Impact of Dyslexia Laws on the Identification of Specific Learning Disability and Dyslexia*, 67 ANNALS DYSLEXIA 356 (2017) (finding no change in the rates of SLD identification after passage of state dyslexia laws).

56. *Supra* note 29 and accompanying text.

57. N.H. REV. STAT. ANN. §§ 135-F:5.

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Third, implementation of the MTSS requirements with fidelity is a complex and difficult matter of institutional change. The professional literature makes increasingly clear this complexity and difficulty.⁵⁸ Moreover, the relationship of implementation fidelity and student outcomes is not at all automatic.⁵⁹

The alternative, which must be considered in relation to its comparative advantages and disadvantages, is a professionalized system for MTSS based on evidence-based best practice norms, state education agency guidance, collaborative trust and transparency, prioritized state funding, and rigorous state and local accountability.

This comprehensive tabular analysis and compact discussion section provides the springboard for individual and organizational deliberation and decision-making. Illustrative recommendations for further research to facilitate this process include systematic analyses of (a) the extent and nature of funding provisions in MTSS laws; (b) the definitions of MTSS in these laws both in relation to the federal definition in the ESEA and as aligned with their implementation and training (i.e., preservice, PD, and TA) provisions; and (c) the relationship among the scope of these various MTSS provisions, the fidelity of implementation, and the targeted student outcomes.

58. See, e.g., Shannon K. Dulaney et al., *Superintendent Perceptions of Multi-Tiered Systems of Support (MTSS): Obstacles and Opportunities for School System Reform*, 10 AASA J. SCHOLARSHIP & PRAC. 30, 42 (2013) (finding, in a case study in a single state, that system change for MTSS is a “messy process”); Susan G. Forman & Chana T. Crystal, *Systems Consultation for Multitiered Systems of Supports (MTSS): Implementation Issues*, 25 J. EDUC. & PSYCH. CONSULTATION 276, 282 (2015) (“Successful implementation of MTSS is a complex, iterative process that requires

continual planning and evaluation”).

59. See, e.g., Rachel T. Santiago et al., *Examining an Integrated Factor Structure of Schoolwide MTSS Implementation Measures*, 27 J. POSITIVE BEHAV. INTERVENTIONS 39, 46 (2016); Terrance M. Scott et al., *An Examination of the Association between MTSS Implementation Fidelity Measures and Student Outcomes*, 63 PREVENTING SCH. FAILURE 308 (2019) (finding mixed results).

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Appendix: Tabulation of State Laws for MTSS in the P-12 Public School Context

1 State	2 Citation	3	4	5	6	7	8	9	10	Comments
		Def.	SLD	Other	Def.	Impl.	Pre-Serv.	PD/TA	Other	
AL	ALA. CODE §§ 16-16H-2, 16-16H-3, 16-16H-4, 16-16H-6; 16-16H-8; 16-16H-10, 16-16H-11 & 16H-15; ALA. ADMIN. CODE tit. 290-3-3-.01, 290-3-3-.04, 290-3-3-.06, & 290-3-1-02	x			(X)	X	X	X	x	3-for math proficiency and educator prep.; 6--should ... all programs"; 7-for lowest performing elem. schools in math + broad RTI w. PSTs; 8-in all ed. prep. programs; 9-by SEA; 10-support for math improvement + for K-5 administrators' leadership framework
AK	ALASKA STAT. § 14.30.765; ALASKA ADMIN. CODE tit. 4, §§ 06.390, 06.405, 06.490, & 06.495	x			x	x				3, 6, 7-for K-3 reading
AZ										
AR	ARK. CODE ANN. § 6-18-2404; 5 ARK. ADMIN. CODE R. §§ 28.59-2.00, 28.59-4.00, & 28.59-500, 28.75-4.0; 5 ARK. ADMIN. CODE R. 28-54-4.03.2; 6 ARK. ADMIN. CODE RR. §§ 248-103, 248-105, 248-106, & 300-604				x	x	x	x		6-for school counseling; 7-for school counseling + students at risk of dangerous behaviors, incl. FBA and possible IDEA child find; 8-for career tech. ed.; 9-for school counseling (by SEA)
CA	CAL. EDUC. CODE §§ 49055, 49428.1, 49414.4, & 53008; CAL. CODE REGS. tit. 5, §§ 80067.2 & 80067.3; CAL. CODE REGS. tit. 6, § 80613					(x)	x		x	7-permissive as alternative for opioid misuse + encouraged for restorative justice; 8-for educational specialist & early childhood ed.; 10-for model referral protocols for addressing pupil behavioral health concerns (voluntary use) + panel criteria for dyslexia screening

EDUCATION LAW REPORTER

1 State	2 Citation	3		4		5		6		7		8		9		10		Comments
		Def.	SLD	Other	Def.	Impl.	Pre-Serv.	Def.	Impl.	Def.	Impl.	Pre-Serv.	PD/TA	Other				
CO	COLO. REV. STAT. §§ 22-7-304, 22-7-1203(7.5), 22-7-1206, 22-102-105, 22-108-102, 22-108-104, & 27-50-804; 1 COLO. CODE REGS. §§ 301-8.3.01, 301-92.2.00, 301-92.6.01, 301-92.7.01, 301-101.4.01(2)(b), & 301-101.5.05			x	x	x	x											5-for sp. ed. admin. units; 6-for students in juvenile justice system + school-based mental health support program (inc. pilot schools) + parent involvement + K-3 reading; 7-for reading & early childhood ed.; 8-for gifted ed. endorsement
CT	CONN. GEN. STAT. § 10-222v																	10-standards for social/emo. learning in gr. 4-12
DE	DEL. CODE ANN. tit. 14, § 158; 14 DEL. ADMIN. CODE §§ 508, 525, 600, 922, 925.6, & 1517.6.2.3.4	X	X	x*	X	X*	x											3,6-same for both; 4-replaces RTI option; 5-also required for mild ID and "as appropriate" for ED, OHI, and SLI; 7-for 5 SLD areas + K-3 reading; behavior + social/emo. skills + career tech. ed. incl. detailed implementation specs; 8-for paraeducators
DC	D.C. CODE § 38-2581.02																	9-SEA guidance for reading
FL	I. FLA. STAT. § 1008.365; FLA. ADMIN. CODE ANN. rr. 6A-1.099811(r), 6A-6.0331, 6A-6.0531, 6A-6.0533, & 6A-6.0982				x	x							x	(x)				6-for deficient and failing schools; 7-for prereferral w. connection to child find (including gifted) + math deficiency; 9-TA for reading & sp. ed. evaluation, incl. dyslexia; 10-"should" for online course providers
GA	GA. CODE ANN. §§ 20-2-153, 20-2-270.3, & 20-2-742; GA. COMP. R. & REGS. 160-4-2-.40, 160-4-8-.15, 505-2-.180, 505-3-.01, 505-3-.69, 505-3-.103, & 505-3-.109				x	x	X											6-for discipline, reading, & PBIS endorsement; 7-prior to suspension in grades P-3 + for K-3 reading; 8-for ed. prep. programs + school psychologist + literacy coach + PBIS endorsement + MTSS facilitator
HI																		
ID																		

STATE LAWS FOR MULTI-TIERED SYSTEMS OF SUPPORT

1 State	2 Citation	3 Special Education			4 General Education			5 Other			6 Comments		
		Def.	SLD	Other	Def.	Impl.	Pre-Serv.	PD/TA	Other				
IL	105 ILL. COMP. STAT. 5/3-11, 5/14-802h, & 5/26-18; ILL. ADMIN. CODE tit. 23, § 226.130(b)		X		x	(x)		x			4-alternative to RTI for requirement; 6-synonymous w. RTI; 7-"encouraged" for students at risk of chronic absenteeism; 9-for trauma awareness		
IN	IND. CODE § 20-32-6.5-3					x					7-for K-8 students at risk of not achieving math proficiency		
IA	IOWA ADMIN. CODE tit. 281-14-12(256), 281-14-13(256), & 281-14-16(256)					x		x			7-for social, emb., behavioral health; 9-standards & guidance for imminent threats to bodily harm		
KS													
KY	KY. STAT. §§ 158.305, 158.791, 158.840(12), & 158.8402, 704 KY. ADMIN. REGS. 3.095				X	X		X			6-including social and behavior; 7-K-12 w. detailed specifications (reg.), especially K-3 reading/math + gr. 3-12 math (leg.); 9-by SEA (broad scope)		
LA	LA. ADMIN. CODE tit. 28, pt. XXXV, §§ 107, 109, & 111 & pt. CXLIX, § 501					x					7-for approved alternative ed programs + indirectly more generally		
ME	125 ME. CODE R. § 5.18				X	X					6,7-for K-12 w. detailed specifications		
MID	MD. CODE REGS. 13A.03.08.05, & 13A.07.01.04, 13A.07.06.13, & 13A.08.01.05				x	x	x	x			6-for attendance + students at risk in reading; 7-for attendance + supplemental reading instruction; 8-for ed. prep. in literacy; 9-for LEA teacher induction		
MA													
MI	MICH. COMP. LAWS §§ 380.1280f & 380.1531e					x	X	x			7-for K-3 reading; 8-in teacher prep.; 9-for reading personnel		
MN	MINN. STAT. §§ 120B.12, 120B.115, 120B.119, & 120B.124				(x)	(x)		x	x		7-"strongly encouraged" (for reading); 9-in initial pilot implementation (for reading); 10-for regional center		
MS	7-41 MISS. CODE Pt. 3, R. § 41.1					(x)					7-"strongly suggested" for school safety		
MO	MO. REV. STAT. § 186.080; MO. CODE REGS. ANN. tit. 5, § 20-100.25					x		(x)			7-standard for SEA accountability program; 9-for state literacy council recommendations		
MT	MONT. ADMIN. R. 10.58.707						x				8-for school psychologists		

EDUCATION LAW REPORTER

1 State	2 Citation	3		4		6 Def.	7		8		9		10 Other	Comments
		Def.	SLD	Other	Other		Impl.	Pre-Serv.	PD/TA	Other				
NE														
NV	NEV. REV. STAT. § 388.1333; NEV. ADMIN. CODE §§ 391.095 & R021-22 § 1						x	x						7-for restorative justice discipline; 8-for elementary teachers
NH	N.H. REV. STAT. ANN. §§ 135-F:5; N.H. CODE R. PSYCH. 305.05 & 508.02						x	x		x				7-for state ed. commissioner as partner in mental health system and within "existing" budgetary constraints"; 8-for school psychologists; 10-for school psychologist practice
NJ	N.J. ADMIN. CODE §§ 6A:16-1.3, & 6A:16-8.1, 6A:30 App. A, 18A:6-44.4					X	x				x			7-alternative to RTI model for intervention & related services (I&RS) system + for district perf. review; 9-for school counselors
NM	N.M. STAT. § 22-15G-4; N.M. CODE R. §§ 6.29.1.7, 6.29.1.9, 6.30.15.7, 6.30.17.7, 6.30.17.9, & 6.31.2.10		X			X	X							4-MLSS; 6-"multi-layered system of supports" (=MTSS), with detailed specifications; 7-for all students, including K-3 math & reading difficulties + K-1 students w. characteristics of dyslexia
NY	N.Y. COMP. CODES R. & REGS. tit. 8, §§ 19.5 & 100.2(ii)					x	x							6-for aversive interventions; 7-RTI (marginally equivalent)
NC	N.C. GEN. STAT. § 115C-83.6B; NC 1500-2.25 & 1503-3.1(a)(1)*	X	X				(x)							4-"RTI/MTSS" required; 7-permissive for individual reading plans
ND	N.D. ADMIN. CODE § 67-01-01-01.1									x				9-by SEA
OH														
OK	OKLA. STAT. tit. 70, §§ 6-185, 1210.508B, 1210.508B-1, 1210.508D, & 1210.508H; OKLA. ADMIN. CODE §§ 218.10-5-3 & 210-15-27-4					x	x	X	(x)					6-for core literacy; 7-for K-3 reading (at least partially subject to funding); 8-in teacher prep. + indirectly for literacy coaches; 9-permissive only
OR	OR. REV. STAT. § 329A.600; OR. ADMIN. RR. 581-029-0001, 584-245-0200, 584-420-0015, & 584-435-0200						x	x						7-for early childhood suspension/expulsion prevention + safety; 8-for school psychologists + teacher prep. in literacy

STATE LAWS FOR MULTI-TIERED SYSTEMS OF SUPPORT

1 State	2 Citation	3	4	5	6	7	8	9	10	Comments
		Special Education			General Education			Other		
Def.	SLD	Other	Def.	Impl.	Pre-Serv.	PD/TA				
PA	PA, CONS. STAT. §§ 12-1205.7 & 17-1703C					(x)		x		7-for expired dyslexia pilot program; 9-for trauma-informed approaches (by LEA)
RI	16 R.I. GEN. LAWS § 16-21-40; 200-20 R.I. CODE R. §§ 20-20-1.3, 20-30-3.2, 20-30-3.5 & 20-30-3.6				x	x	X			6-for multilingual learners; 7-for trauma-informed schools implementation plan + multilingual learners; 8-in teacher prep.
SC	S.C. CODE ANN. §§ 59-33-510 & 59-33-520	x				x		x		3,7-for K-3 dyslexia screening; 9-dyslexia "training and support" (by SEA)
SD										
TN										
TX	TEX. EDUC. CODE §§ 21.044 & 26.0081(d); 19 TEX. ADMIN. CODE § 89.1011(a)			x			X		x	5-prereferral; 8-in teacher prep.; 10-notice to parents (for tier 1 info.)
UT	UTAH CODE ANN. § 53-22-109; UTAH ADMIN CODE tit. 277-304-2, 277-304-4, 277-304-7, 277-305-4, & 277-622-2				x	x	X			6-for teacher prep.; 7-for trauma-informed practice + school safety; 8-in teacher prep. + special ed. teachers + school leaders
VT	Vt. STAT. ANN. tit. 16, §§ 2902 & 2904; 7-1 Vt. CODE R. §§ 2-1-130, 2-2120.5, 13-5440-08, 13-5440-73, & 13-5540-79					X	x		x	7-"tiered system of support," incl. ed. support team, personalized learning plan but no private right of action; 8-for school psychologists + career technical education counseling coordinators + PE + specialized literacy professional; 10-standard in district evaluation process & SBE program review
VA	8 VA. ADMIN. CODE § 20-743-630									8-school social worker
WA	WASH. REV. CODE §§ 28A.155.225, 28A.155.270, & 28A.320.260; WASH. ADMIN. CODE §§ 392-401-045 & 392-401-					x		x		7-for attendance + K-2 students with signs of dyslexia; 9-SEA PD & TA for disproportionality in sp. ed. identification

EDUCATION LAW REPORTER

1 State	2 Citation	3 Special Education			4 General Education			5 Other			6 Pre-			7 PD/TA			8 Other			9 Comments		
		Def.	SLD	Other	Def.	Impl.	Pre-	Def.	Impl.	Other	Def.	Impl.	Pre-	Def.	Impl.	Other	Def.	Impl.	Other			
WV	W. VA. CODE § 18-2E-10; W. VA. CODE R. §§ 126-16-3, 126-30-2, 126-30-4, 126-42-7, 126-67-1 – 126-67-5, 126-81-2 – 126-81-4, & 126-99-ch. 2	X	X			X														3,4-required (by incorporation); 7- for K-3 reading & math + attendance + school counseling + “should” for various other enumerated areas (e.g., bullying); 9- for school counselors; 10- qualification for student assistance team members		
WI																						
WY	WYO. STAT. ANN. § 21-3-401; 206-2.56 WYO. CODE R. § 3; 206-2.6 WYO. CODE R. §§ 3 & 5					X														7-for K-3 reading; 10-as accreditation criterion		
Total	41 (of 51)	6 3+3	5 5+0	3 0+3	16⁽⁶⁾ 5⁽³⁾41⁽¹⁾	29⁽⁷⁾ 7+22⁽⁷⁾	18 7+11	16⁽⁷⁾ 2+14⁽⁷⁾	9⁽⁷⁾ 0+9⁽⁷⁾													

Headings: Def=definition; SLD=specific learning disability; impl.=implementation; pre-serv.=preservice; PD=professional development; TA=technical assistance

Entries (in alpha order): ED=emotional disturbance; elem.=elementary; eno.=emotional; FBA=functional behavioral assessment; ID=intellectual disability; K=kindergarten; LEA=local education agency; OHI=other health impairment; PBIS=positive behavioral interventions and supports; PD=professional development; PE=physical education; prep.=preparation; PST=problem solving team; RTI=response to intervention; SBE=state board of education; SEA=state education agency; SL=speech or language impairment; TA=technical assistance; tech.=technical

* N.C. STATE BOARD OF EDUCATION, NC POLICIES GOVERNING SERVICES FOR STUDENTS WITH DISABILITIES (2021), <https://ec.ncpublicschools.gov/policies/nc-policies-governing-services-for-children-with-disabilities>.