



Keeping Focus on Improved Student Outcomes: MTSS as an Interdependent System with Special Education Eligibility Determination

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Introduction

State education agencies have long had the freedom to determine how they meet the requirements of the Individuals with Disabilities Education Act (IDEA). This federal law requires provision of a free and appropriate public education to students with disabilities with the intention of improving their educational outcomes (Education of the Handicapped Act 1975; Individuals with Disabilities Education Act 2004). Simply put, the law and regulations tell states WHAT they must do for students with disabilities, but does not tell them HOW they must do it (Bellamy, 1987; Hehir, 1996; Tilly, 2002). That part is left up to individual states.

The purpose of this paper is to suggest how state education agencies can reconsider how they meet the IDEA *special education eligibility determination* requirements. Specifically, the paper describes how districts can use their multi-tiered system of support (MTSS) as an interdependent system for meeting these requirements while maintaining a coherent, steadfast focus on improved student outcomes. An integrated approach elevates the full humanity of children and their belonging in their school and community. Further, it promotes an evaluation process that prioritizes educators' knowledge, experience, expectations, and natural environments as the context for understanding student performance and planning for effective instruction.

The Issue

State education agencies who receive IDEA special education funding are accountable for, among other things, ensuring a responsible process

for identifying which students have a disability and are eligible to be served under the law.

Several issues arise with historical special education referral and evaluation systems. First, traditional referral and evaluation are deficit oriented. They place the problem within the child rather than recognizing that educational problems result from a complex interaction between student, curriculum, instruction, and environmental factors. The process denies students their full humanity and learning capacity. Second, these processes too often do not capitalize on teachers as central participants who can provide knowledge of the general education context and foster understanding of a student's needs and how they might be addressed. Third, referral and evaluation processes have become equated with placing the responsibility with *someone* else to do *something* else *somewhere* else, resulting in categorical programming in the name of a "least restrictive environment" placement. In essence, the process moves problems, it does not solve them. From an equity perspective, too often students are denied a rightful presence in the school community, access to general education curriculum, and to all that school has to offer (Calabrese Barton & Tan, 2020; IDEA 1997). Students of color are disproportionately affected (Blanchett, 2014). These denials can be based on systemic and personal biases about student ability, race/ethnicity, language, culture, family economic status, (im)migration status, and a host of other intersecting characteristics. Taken together, MTSS allows us to disrupt and address systemic inequities related to historic and prevailing evaluation practices so that adult mindsets,

resource allocation, and plans to meet individual student needs are rightfully centered in the general education context. Special education entitlement within an MTSS system becomes a problem-solving, learning-accelerating extension of the general education system.

In light of these issues with *independent* referral and evaluation processes, the authors encourage districts with well-functioning MTSS to extend their assessment and decision making practices into an *interdependent* evaluation and eligibility process. This approach is centered in the day-to-day instruction and support system that first works to meet student needs and, when a disability is suspected, results in data that can be carried forward into the evaluation and eligibility decision-making process. This position paper is organized to provide a brief orientation to Equity-based MTSS, share important assessment implications related to the evaluation and eligibility decision-making process, and concludes with implications for district policies and schools.

Equity-based Multi-Tiered System of Support

MTSS is a coherent, aligned system for making educational decisions that consider the interaction among students' academic, behavior, social and emotional learning needs,

If a local educational agency creates an interdependence between robust, Equity-based Multi-Tiered System of Support practices and special education evaluation and eligibility decisions, then this interdependent system will produce more coherent instructional decision making and practice, better student outcomes, less educator burden, and improve equity for all involved.

without regard to whether a student has been identified with a disability (Batsche, 2014; McCart & Miller, 2020; McIntosh & Goodwin, 2017; Sailor, McCart, & Choi, 2018).

In an Equity-based MTSS, the first assumptions are that the educators will make decisions that uplift the rightful presence and true belonging of students in their school and grade-level environment, and advance their achievement in the general curriculum. Further, Equity-based MTSS flexibly brings together all resources in a school so that no single educator or service provider bears the full weight of serving students with intensified support or instructional needs. The iterative process of determining how instruction needs to be intensified generates a significant amount of data that becomes part of an interdependent system of instruction and evaluation. When a disability is suspected, educators can use their knowledge and data about student strengths and needs in each domain of comprehensive evaluation (i.e., academic, cognitive learning, communication, interdependence and self determination, physical and health, social and emotional learning). By leveraging these existing instructional data, teams can focus their time and energy on determining what questions remain and what additional data could help answer those questions. Then, rather than doing a full battery of assessment, only those necessary to answer the remaining questions are administered.

In Equity-based MTSS, determining what a student needs is done by continuing to ask and understand what intensification of universal instruction and/or additional support is likely to bring about the desired

results for the student. In an interdependent system, special education evaluation becomes a dynamic continuation of this routine process.

Assessment Implications for Eligibility Decision Making within Equity-based MTSS

To ensure the interdependent system meets the federal requirement for a comprehensive eligibility system, several considerations for how a district designs an approach to assessment are described below.

1. “Form following function” as a design element for Equity-based MTSS.

In an interdependent evaluation system, Equity-based MTSS needs to promote true belonging for all involved. From an assessment perspective, this means that data are used to understand the whole child without judgment nor a search for pathology. The “function” of the assessment—creating a narrative of the student that maintains focus on what has been learned and advances thinking about what to do next—must be the primary focus. The “form” of the assessment then follows this function and is directly linked to the remaining assessment implications. A focus on “function” first prevents schools from following a process that may or may not actually aid in instruction.

2. The primary purpose of assessment is determining appropriate support.

While it may be necessary to assess student performance for

administrative reasons (e.g., disability identification, reporting prevalence of students with disabilities by category), an underlying premise of Equity-based MTSS is that data are collected to assist in improving human performance. In some systems, administrative assessments have supplanted functional assessments; in Equity-based MTSS, functional assessments are primary. The only administrative assessments administered are in circumstances where the functional information cannot meet both educational and administrative purposes.

3. Needs are defined functionally, using low level inferences.

Student support needs are defined in ways that describe the impact that their present capability or performance has on critical life functions (e.g., education). These definitions are directly observable and typically describe the difference between a student's current performance and some environmentally defined expectation (e.g., grade-level standards, classroom expectations, family expectations). The requirement of low-level inferences typically means selecting constructs for measurement that are directly measurable (e.g., rather than assessing for differential reading *abilities*, assess functional reading *skills*).

4. Assessment instruments and procedures assess the individual's performance in the naturalistic environment, under naturalistic circumstances.

Assessment data need to be an accurate reflection of the individual's typical performance of critical functions. If student needs are defined functionally and assessments are direct, assessment results usually can be analyzed functionally to determine the amount and type of resources that might be needed to result in performance improvement.

5. Assessments are multi-dimensional.

In an Equity-based MTSS, data are collected from multiple settings, using multiple sources of information, with multiple types of data, as appropriate to the specific nature of student need. Major decisions are not made based on any single data source. Instead, major decisions, such as eligibility for special education services, are made based on the convergence of evidence from multiple sources. Heavy emphasis is placed on progress monitoring that examines a student's performance over time in relation to a specific goal or benchmark.

6. Disability identification

To qualify as an individual with a disability under the IDEA, an evaluation must satisfy a two-prong test: 1. Does the student *have* a disability? and 2. Does the student *need* specially designed instruction in order to receive a free and appropriate education (34 CFR §300.8(a)(1))? The law specifies that these two prongs must be met, but does not dictate an order in which they must be examined. Historical evaluation and eligibility systems

typically answer the disability question before addressing the need question. Eligibility decisions made within an Equity-based MTSS flips the order, focusing first on understanding the student need within the structures of day to day instructional decisions, and then determines if the indicators of performance would be characteristic of a student with a disability. Likewise, when a student already identified with a disability comes into an MTSS, educators maintain focus on the individual student, not their diagnosis. The school culture is one in which educators genuinely and routinely ask: What do we need to do for this student to be successful in universal instruction? What additional support or intensification of the general curriculum do they need? By the end of this kind of “evaluation,” the educators have a plan for student learning, not only a categorical label. Importantly, the plan can be carried forward regardless of eligibility determination, be it an IEP, 504 plan, or other individualized plan for the student.

Implications for District Policy

When the work of MTSS is approached as the (re)creation of one system for all students, for the purpose of disrupting and addressing systemic inequities, the process and practices involved in the disability identification process are naturally included. In addition to the recommendations for designing an assessment process provided above,

districts are encouraged to incorporate the following recommendations into practice.

1. Equity in special education eligibility determination

A shift to a system of special education eligibility determination that is interdependent or within an equity-based MTSS is one avenue for working toward a district's equity goals. Districts' equity aims can likewise elevate the importance of making a shift in their systems.

2. Compliance with federal law, federal regulations, and case law remains imperative.

The foundational requirements set forth in federal law, federal regulations, and case law must be upheld in the process of redesigning the special education eligibility determination process. As such, local education agencies should consult with their legal teams, at least on a consultative basis, to ensure that redesign efforts meet legal requirements.

3. Ensure MTSS is a validated, effective every-education decision-making system.

The emergence of significant new knowledge, technology, tools, and support for Equity-based MTSS can ensure a validated, effective "every-education" decision-making system that is interdependent with the special education eligibility determination process. District redesign teams should include individuals who are fluent in evidence-based practices and the operation of MTSS in practice as they revise their special education entitlement decision-making process.

4. Policy Enhanced Practice (PEP) / Practice Informed Policy (PIP) Cycles

Any effort to redesign how special education eligibility is determined should be continually evaluated to determine effectiveness. States should establish a protocol that allows districts to communicate (a) the degree to which state policies and guidance are enabling the interdependent system, and (b) what implementers are learning that might inform state policy enhancements. This protocol would help provide assurance that districts are meeting the intent of IDEA and that the state is moving toward the IDEA charge of achieving effectiveness of efforts to educate children with disabilities 20 U.S.C. §1400(c)(4).

5. Lead Policy and Practices With A Focus on Determining What Will Address Needs

Leading the evaluation process with a focus on the second prong related to understanding a student's need and specially designed instruction is a central lever that is needed to orient our system toward rightful presence. This approach honors inherent value and learning capacity of students, and maintains their belonging in the school community through efforts to intensify universal and/or additional support.

Implications for School Practices

The remainder of this position paper offers schools guiding practices that can help ensure that their evaluation and eligibility process can meet both the spirit and intent of IDEA law. Most importantly, the process should

improve student outcomes for individuals with disabilities while doing so in a way that creates and preserves their rightful presence in their educational community. Recommendations are organized to include the teaming structures and purpose for decision making, crafting and conducting the evaluation, and making eligibility decisions.

MTSS Teaming Structures and Purpose

1. Universal support is designed so that every student is supported and experiences belonging in general education. Additional support is provided at the earliest identification of need for any student, regardless of disability or other identities. Universal and Additional support are intensified based on need and focused on the *what* and the *how* as opposed to *where* and by *whom* the instruction or other services are provided.
2. MTSS articulates well-defined levels of support that includes evidence- or research-based curriculum and instruction across the tiers. To be confident that they are implemented as intended, decisions about which practices may be used are agreed upon in advance.
3. Teaming structures are centered in the general education context and have membership that expands and contracts depending on needed expertise. Data are used to answer questions and ensure that technically sound data are paired with data that represent a full narrative about student learning.

4. Grade-level or department teams schedule times to engage in Universal data routines and subsequent resource (re)allocation to continuously strengthen Universal support. These include data about academics, behavior, and social-emotional learning.
5. Data routines designed to address students needing additional support are also scheduled, and allow expanded teams to understand and respond to student needs in a timely manner with formative monitoring systems. These routines allow for Additional support to be removed, adjusted, or intensified, as warranted.
6. Intensified support data routines also have a place on the calendar. If needed, they allow expanded teams that are flexible and led by the classroom teacher(s) to plan, monitor, and adjust Intensified support. Intensification has a defined purpose, which is to determine what is needed to meet student needs in a manner that preserves rightful presence in the educational community. Its goal is to find what works rather than prove what does not work. Educators may suspect a disability in the light of what works, recognizing that it may require a high level of support over time that cannot be maintained by general education alone. This is when the interdependent system would dynamically extend into an evaluation and eligibility process.
7. Students and their families or caregivers are integral in the process. This means they are involved so that student needs are understood and decision making is collaborative.

Crafting and Conducting the Evaluation

1. Comprehensive evaluations are individually customized based on what is known about the student and what questions remain, with a focus on questions that allow educators to understand what is needed to maintain or improve student growth and determine whether the data support the conclusion that the student meets criteria for one of the IDEA disability categories.
2. Additional evaluation data may not be warranted if successful instructional support has been identified. In that case, the grade-level or department team may seek additional information if it is needed to be able to determine eligibility.
3. If the team has not found “what works” for a student, a plan to further customize Universal and/or Additional support is developed and becomes part of the evaluation.

Eligibility and Decision Making:

1. Holistically, teams review multiple data sources that allow them to address questions in four central domains. Results allow teams to confidently address both IDEA prongs, indicating whether the student can be considered a student with a disability and in need of specially designed instruction. The four domains are:
 - ◆ **Exclusionary Factors:** For this domain, team members ensure that the student has had ample opportunity to learn what is expected in the areas of concern.

- ◇ **Progress:** For this domain, team members have a clear understanding of the student’s progress over time and the conditions under which learning was, or was not, enabled.
 - ◇ **Discrepancy:** While progress data keep teams focused on what enables meeting student needs, this domain helps teams understand the context of student performance in relation to their peers or a standard.
 - ◇ **Instructional Needs:** This final domain ensures that the discussion and decision making around specially designed instruction is not a dichotomous response of “yes” by virtue of the referral and indicators of a disability. The team discussion is squarely on the curricular, instruction, and environmental needs that may require specially designed instruction.
2. The result of an evaluation process will always be a plan designed to meet a student’s identified needs. While the plan may not be an IEP if the culminating decision is that the student is either not considered a student with a disability and/or in need of specially designed instruction, the plan will have been developed to ensure that the presenting concerns will be addressed, implemented, and monitored in the school’s existing MTSS data routines and adjusted.

Conclusion

This paper makes the case for districts and schools with well-functioning Equity-based MTSS to shift to an interdependent system of special education evaluation and eligibility determination that is a dynamic continuation of routine Equity-based MTSS processes. As originally conceived, special education was designed to create specially designed instruction, supports, and related services to mitigate the effects of an individual's disability *so that* they could access the general curriculum and benefits of schooling. Equity-based MTSS did not exist at the time, and a dual system of education was created: general and special education. Fortunately, knowledge and technology has advanced to a point where the original vision of a continuous system of equity-embracing instruction and supports across the continuum of needs is now firmly within reach. This paper encourages educators to embrace this new knowledge and the flexibility accorded to them by Federal and State law to recreate a coherent, equitable, and effective system of supports for all students.

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