

# **Bills related to Special Education**

## **Testimony**

**Agency of Education response request from  
Senate Education Committee to provide special  
education overview**

**Integrated Support for Learning Director**

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## Legislation

### H. 859

## Special Education Overview

### Definitions

*Special education* is specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.

*Related Services* means developmental, corrective and other supportive services required to assist a student with a disability.

*Accommodations* means changes to evaluation procedures, curricula, instructional materials or approaches, behavior management or other supplemental aids and services that are necessary for an eligible student to benefit from his or her general education and participate in extra-curricular activities.

**Categories of Disability:** Defined by federal law; change as modifications to the law are made at the federal level. Local evaluation teams make the determination for which disability, if any, a student meets. Each have specific criteria as defined by special education rules.

- Autism
- Deaf-Blindness
- Emotional Disturbance
- Hearing Loss
- Intellectual Disability
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment

### Vermont Child Count

In 2014 16.17% of Vermont students were eligible for special education. This is slightly above the national average of XX%. The identification rate in Vermont ranges from a low of 5.12% to a high of 23.21%. Many factors affect identification rate such as demographics of the community, size of the school and services available outside of special education. At this time, there are no clear patterns of over or under identification that we have been able to identify.

Refer to the attached graphs to see identification rate over time and by disability.

### Core Principles of Special Education

- Child find - obligation to locate, evaluate and identify any child, birth – 21, who might be eligible for special education.

- Nondiscriminatory evaluation – requirements for full and fair evaluation by qualified evaluators with informed consent of parents.
- Free, appropriate, public education (FAPE) – special education and related services that address functional and academic needs of eligible child both to access and succeed in the general curriculum and to address needs stemming from the disability.
- Individualized education program (IEP) – plan developed by team that includes parents, general education teacher, special educator and others that sets out special education and related services an eligible child with a disability will receive, must be reviewed annually, provides the basis for placement decisions.
- Least restrictive environment (LRE) – requirement that, “to the extent appropriate”, an eligible child is educated with children who are not disabled and that removal from the regular classroom takes place only when the needs of the child are such that the child can’t be educated in the regular classroom with necessary supports.
- Procedural due process – protections for families and children throughout the special education process, dispute resolution options available to both families and schools that include resolution sessions, mediation, administrative complaints, due process hearings and appeal to court system.
- Parental participation – Parents are members of any group that makes that makes important decision about the special education of their child and have rights throughout the special education process.
- Zero reject – Schools must educate all students with disabilities regardless of the nature or severity of the disability.

### **Legislative History**

On November 19, 1975, Public Law 94-142 was enacted into law. Public Law 94-142 was called the Education for All Handicapped Children Act of 1975. When the law was reauthorized in 1990, it was renamed the Individuals with Disabilities Education Act (IDEA).

Among the findings that led to the passage of P.L. 94-142 (1975) were the following:

- Of the estimated more than 8 million children with handicapping conditions requiring special education and related services, only 3.9 million such children were receiving an appropriate education
- 1.75 million handicapped children were receiving no educational services at all
- 2.5 million handicapped children were receiving an inappropriate education.

Initially the focus of special education was on making sure children and youth with disabilities had access to education. Over time the focus has shifted to quality of education and outcomes for students.

### **Amendments to P. L. 94-142, Education for All Handicapped Children Act of 1975**

Each reauthorization reflects new areas of emphasis in the law. These are listed below.

1983 – Research in transition and early intervention, establishment of parent training and information centers

- 1986 – Expanded special education to 3-5 year olds, provided incentives for birth to 3 year old special education
- 1990 – Changed name to Individuals with Disabilities Education Act, required transition services, added autism and traumatic brain injury as distinct categories of disability, funded special education for infants and toddlers, added social work and rehabilitation counseling as related services
- 1992 – Added state option for special education for infants and toddlers
- 1997 – Required services that allowed access to and success in general curriculum, required inclusion in state assessments, added new discipline requirements, strengthened role of parents, added regular educators as required members of IEP teams, required IEP teams to consider assistive technology needs when developing IEPs, required states to offer mediation services
- 2004 – Focus on student outcomes, required highly qualified special education teachers, requirements for scientifically based instruction, new dispute resolution options, changes in identification of students with specific learning disabilities