



To: The Vermont House Education Committee
From: Mary Lundeen, Past President and Jessie Spencer, President Elect
Date: February 3, 2022
Re: Special Education Rule 2360 Series (Specific Learning Disability and Adverse Effect) Testimony

VCSEA presented testimony on February 2, 2022 to the House Education Committee to request a one year delay for the implementation of the special education 2360 rules, specifically determination for a Specific Learning Disability and Adverse Effect. There is no conflict with the federal Individuals with Disabilities Education Act (IDEA) in requesting this delay.

Simply, Vermont school districts are not ready to implement such complex rule changes within 5 months without deep professional training developed collaboratively by VCSEA and the Vermont Agency of Education. Without the necessary training for school psychologists, special educators, and special education administrators, interpretation of how to implement these rule changes will be made by local school districts creating inconsistency across the state. This is concerning for many reasons. Here are a few:

- This practice will be in direct conflict with the system we are strengthening through the implementation of ACT 173- enhancing the effectiveness, availability, and equity of services to all students.
- Districts that are smaller with less resources will be further impacted by the inability to carry out this change in practice which, due to a lack of clear process, will most likely lead to the overidentification of students.
- Districts without personnel such as school psychologists will be further disadvantaged because there will not be a strong understanding of cognitive profiles required to determine eligibility and the need for specialized instruction under the specific learning disability category. In addition, there is a new basic skill area of functional performance which adds another layer of complexity to eligibility. As a result, special educators will be tasked with interpreting cognitive profiles without having the depth of knowledge required. This method of interpretation requires robust training. It cannot be attained in 5 months.
- The lack of clarity related to these new rule changes will make the special education evaluation process, which is already very detailed and complicated, more confusing and frustrating for parents and families. This will possibly lead to an increase in strained relationships with the schools and families they serve resulting in a lack of trust.

The House Education Committee requested that VCSEA provide follow up information on the specific sections of the 2360 rules where delay is being requested. Those sections are as follows:

Pages 88 - 90 of the Draft Rules:

Rule 2362 - Eligibility for Children Ages Six Years through 21 (34 C.F.R. Section 300.306)

1. Rule 2362 (a) (2)
2. Rule 2362 (a) (3)
3. Rule 2362 (d) (1)
4. Rule 2362 (d) (2)
5. Rule 2362 (d) (3)
6. Rule 2362 (g) (1) (ix)
7. Rule 2362 (g) (4)

Pages 106 - 107 of the Draft Rules:

Rule 2362.2.5 - Additional Procedures for Identifying Children with Specific Learning Disabilities (34 C.F.R. Section 300.307-300.311)

1. Rule 2362.2.5 (a)
2. Rule 2362.2.5 (a) (1)
3. Rule 2362.2.5 (c) (2)

In closing, VCSEA supports the 2360 Rule Changes, but the timeline for the implementation of these changes, specifically regarding SLD identification and Adverse Effect, is not reasonable. These rule changes are very complex and will require at least a school year to allow preparation. Without delay this will compound existing challenges related to staffing, special education compliance, school budgets, and instructional services for students.

VCSEA would like to propose that the state convene a stakeholder group to work collaboratively on the development of the SLD Identification guidelines and implementation guidance for the new rule for adverse effect. VCSEA would welcome the opportunity to participate in a thoughtful and inclusive process for developing guidance and training. The Agency of Education has long used a stakeholder approach for development of large-scale guidance (e.g., the MTSS field guide and associated revisions; IEP form changes; previous Adverse Effect guidance). In fact, there was a large-scale effort to develop a user-friendly and evidence-based guidance document for SLD identification, aligned with the state's MTSS field guide. We notice none of that work integrated into the current draft. Rather than attempting to move quickly, VCSEA believes strongly that a more prudent approach would be to use the additional rule implementation time for the joint development and roll out of guidance and training.