

# Administrative Procedures – Final Proposed Rule Filing

## Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Special Education Rules, Parts B (Ages 3-22 ) and C (Birth to Age 3)**

/s/ John Carroll

(signature)

, on 4/2/2021

(date)

Printed Name and Title:

John Carroll

Chair

State Board of Education

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

**RECEIVED**  
APR - 7 2021

BY: .....

1. TITLE OF RULE FILING:

**Special Education Rules, Parts B (Ages 3-22 ) and C  
(Birth to Age 3)**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

20P-012

3. ADOPTING AGENCY:

State Board of Education

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Judy Cutler

Agency: Education

Mailing Address: 1 National Life Dr., Davis 5, Montpelier,  
VT 05602-2501

Telephone: 802 828 - 0079 Fax: 802 828 - 6430

E-Mail: judy.cutler@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://education.vermont.gov/state-board-councils/state-board/rulemaking>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Emily Simmons

Agency: Education

Mailing Address: 1 National Life Dr., Davis 5, Montpelier,  
VT 05602-2501

Telephone: 802 828 - 1518 Fax: 802 828 - 6430

E-Mail: emily.simmons@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA); see also applicable exemptions from public records law: 1 V.S.A. § 317(c)(1) (records designated confidential by law), (c)(2) (may only be

disclosed to specifically designated person), and  
(c) (11) (student records).

**PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:**

Educational records are confidential under federal law (FERPA). The requirement to keep educational records confidential applies to any agency, school, or institution that collects and maintains or uses personally identifiable information or from which information is obtained under Part B of IDEA (Individuals with Disabilities Education Act).

**7. LEGAL AUTHORITY / ENABLING LEGISLATION:**

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

16 V.S.A § 164(7); 16 V.S.A § 2959; 2018 Acts and Resolves No. 173, section 16, as amended by 2019 Acts and Resolves No. 72, section E.502.1.

**8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

16 V.S.A § 164(7): "The State Board shall . . . adopt rules pursuant to 3 V.S.A. chapter 25 as necessary or appropriate for the execution of its powers and duties and of the powers and duties of all persons under its supervision and control." 16 V.S.A § 2959(a): "The State Board shall adopt rules governing the determination of a child's eligibility for special education, accounting and financial reporting standards, program requirements, procedural requirements, and the identification of the supervisory union or agency responsible for each child with a disability." 2018 Acts and Resolves No. 173, section 16, as amended by 2019 Acts and Resolves No. 72, section E.502.1 (directs the AOE to recommend rules to the SBE necessary to implement the Act).

**9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.**

**10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.**

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.
12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.
14. **CONCISE SUMMARY (150 WORDS OR LESS):**

Act 173 of 2018 shifts the funding mechanism of special education from a reimbursement system to a block grant system by 2025. The new model aims to simplify administration of funds at both state and local levels, and align with policy priorities around special education service delivery. These rules will separate special education funding requirements from programmatic and service delivery requirements. Additionally, this amendment aligns with state and federal regulations, improves clarity, and makes technical corrections. Substantive revisions include: revising the definition of "special education services" to correspond with the federal definition, adding available interpreting services, clarifying and updating Essential Early Education rules, revising the Initial Evaluation rule for conformity with Act 173, and adding a special education monitoring rule.

These rules are written with an effective date of July 1, 2022.

15. **EXPLANATION OF WHY THE RULE IS NECESSARY:**

These rules are directly impacted by the Act 173 (2018). Revisions are necessary to implement the Act as directed by the General Assembly.

16. **EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

This rulemaking is being done at the specific direction of the General Assembly.

17. **LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Supervisory Unions (SUs)/School Districts (SDs); school staff; parents; children with disabilities or children

Final Proposed Coversheet

being evaluated for disabilities; advocacy groups; and the Agency of Education (AOE).

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This rule anticipates minimal financial impacts and no negative impacts on schools as a result of this rule change. This rule revision removes the special education funding portion of the current rules, which will be established as a separate rule series.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 4/22/2020

Time: 04:00 PM

Street Address: Virtually via Microsoft Teams

Zip Code:

Date: 5/6/2020

Time: 04:00 PM

Street Address: Virtually via Microsoft Teams

Zip Code:

Date: 5/20/2020

Time: 04:00 PM

Street Address: Virtually via Microsoft Teams

Zip Code:

Date: 10/21/2020

Time: 02:00 PM

Street Address: Virtually via Microsoft Teams

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

12/31/2020

Final Proposed Coversheet

**KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).**

Special education

Act 173

census-based funding

IDEA

Free appropriate public education

FAPE



State of Vermont  
1 National Life Drive, Davis 5  
Montpelier, VT 05620-2501  
[education.vermont.gov](http://education.vermont.gov)

[phone] 802-828-1130  
[fax] 802-828-6430

State Board of Education

April 7, 2021

Legislative Committee on Administrative Rules  
c/o Charlene Dindo

RE: Final Proposed Rules 1300 and Rules 2360

Dear Members of the Legislative Committee on Administrative Rules,

The Legislative Committee on Administrative Rules' 4 February decision to extend the State Board of Education's time to file Rules 1300 and 2360 was helpful in allowing more input from stakeholders, parents, and students to further improve the State Board's final proposed Rules 1300 and 2360.

Following the close of the public comment period at the end of 2020, the Board appointed a subcommittee of Board members to meet in open, warned meetings with stakeholders who represented schools, LEAs, families of students with disabilities, and the State. There were no suggestions offered with regard to Rule 1300, but there were many improvements advocated for Rule 2360. Through many meetings, all the interested parties were able to come to consensus on needed improvements to the original revisions of Rule 2360. These consensus improvements have been incorporated into the final proposed Rule 2360, the most important of which are described in detail below.

### **Rule 2362 Eligibility for Children Ages Six Years Through Twenty-One**

Several changes were made to Rule 2362 to address ways the original proposal (in this case, the underlying rule) was overly rigid and caused students to be found not eligible for special education services on a technical or formulaic basis, rather than the well-informed judgement of qualified special educators. The comments also identified that federal law is more flexible than the original proposal with regard to the identification process for two categories of disability, Deaf-Blindness and Specific Learning Disability. Finally, the comments requested that a new area, Functional Skills, be added to the basic skills areas, which are important criteria that a student's IEP team must assess for impacts caused by the student's disability.

In response to these comments, Rule 2362 was amended in the following ways:

1. The final proposal removes the categories of Deaf-Blindness and Specific Learning Disability from the categories that must be evaluated under the adverse-effect rule. (Rule 2362(a)(2)).
2. The final proposal substantially amends the definition of “adverse effect.” In summary, the final proposal’s definition relies more on the professional judgement of special educators and allows for multiple methods of documenting an adverse effect. (Rule 2362(d)).
3. The final proposal adds a new skill to the basic skills area. (Rule 2362(g)(1)(ix)). Functional Skills are defined as the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social, and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for post- secondary and other life-long opportunities. (Rule 2362(g)(4)).
4. The final proposal updates the underlying rule to comply with a change in federal regulation. An evaluation for specific learning disability may no longer rely on what is called a “discrepancy model.” The rule is updated to reflect federal regulation, which allows two models, one based on whether the student responds to scientific, research-based interventions (the RTI approach) or one based on other, alternative research-based procedures for determining whether the child has a specific learning disability. (Rule 2362.2.5(a)).
5. The final proposal makes a conforming amendment to reflect the change also made in number 1, above, regarding adverse effect. (Rule 2362.2.5(a)(1)).

### **Rule 2363.7 Content of IEP**

Almost all of the comments opposed to one or more provisions of the original proposal made a request for additional parent input to be represented in a student’s written individualized education program (IEP). In response, the final proposal includes the following new language in Rule 2363.7(j):

(j) Parent Input. The IEP shall contain a section for parents to provide written comments regarding their child’s IEP. Following an IEP meeting to write or amend an IEP, the LEA shall send the IEP to the parent together with prior written notice of decision. The parent shall be provided 10 days to complete and return the parent input section of the IEP. The purpose of the parent input section is to facilitate feedback from families to ensure they have an opportunity to express any opinions about the IEP or the IEP process. Upon receipt of the parent input, the LEA may, but is not required to, schedule a meeting to discuss parental concerns.

All of these changes and associated language were vetted and supported by stakeholders and attorneys representing the Agency of Education, the Vermont Council of Special Education Administrators, and the Vermont Disability Law Project before they were presented to the State Board’s subcommittee on Rule 2360 and 1300, and then finally adopted by the full State Board of Education.





We look forward to presenting the State Board's final proposed Rule Series 1300 and Rule Series 2360 to the Legislative Committee on Administrative Rules. At that time, we will be available to address any questions or concerns you may have about the Board's process and/or the substance of the final proposed Rules.

Sincerely,

/s/ John Carroll

John Carroll  
Chair, State Board of Education



# Administrative Procedures – Adopting Page

## **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

**Special Education Rules, Parts B (Ages 3-22 ) and C  
(Birth to Age 3)**

2. ADOPTING AGENCY:

State Board of Education

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Special Education Rules, Parts B (Ages 3-22 ) and C  
(Birth to Age 3), October 17, 2018, Secretary of State  
Rule Log #18-034



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** March 9, 2020, Pavilion Building, 4<sup>th</sup> floor conference room, 109 State Street, Montpelier, VT 05609

**Members Present:** Dirk Anderson (serving as Chair), Diane Bothfeld, John Kessler, Matt Langham, Clare O'Shaughnessy, and Shayla Livingston and Jennifer Mojo via phone

**Members Absent:** Chair Brad Ferland, Ashley Berliner, and Steve Knudson

**Minutes By:** Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the February 10, 2020 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-5 to follow.
  1. VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA, Department of Labor, page 2
  2. Underground Storage Tank (UST) Rules, Agency of Natural Resources, Department of Environmental Conservation, page 3
  3. Special Education Finance and Census-Based Funding, Vermont State Board of Education, page 4
  4. Special Education Rules, Part B (Ages 3-22) and C (Birth to Age 3), Vermont State Board of Education, page 5
- Next scheduled meeting is April 13, 2020 at 2:00 p.m.
- 2:38 p.m. meeting adjourned.

**Proposed Rule: Special Education Rules, Part B (Ages 3-22) and C (Birth to Age 3), Vermont State Board of Education**

**Presented by John Carroll, Emily Simmons and Judy Cutler**

Motion made to accept the rule by Matt Langham, seconded by John Kessler, and passed unanimously except for Clare O'Shaughnessy who abstained, with the following recommendations:

2. Adopting Page, page 1, #4: Include title.

DRAFT

# Administrative Procedures – Economic Impact Analysis

## **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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### 1. TITLE OF RULE FILING:

**Special Education Rules, Parts B (Ages 3-22 ) and C  
(Birth to Age 3)**

### 2. ADOPTING AGENCY:

State Board of Education

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

SUs/SDs; school staff; parents; children with disabilities or children being evaluated for disabilities; advocacy groups; and the Agency of Education.

### 4. IMPACT ON SCHOOLS:

Economic Impact Analysis

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

This rule anticipates minimal financial impacts and no negative impacts on schools as a result of this rule change. This rule revision removes the special education funding portion of the current rules, which will be established as a separate rule series. The change in the definition of "special education services" may provide additional flexibility in how special education services are delivered to eligible children.

5. *ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Maintaining current rules could be interpreted as inconsistent with federal law.

6. *IMPACT ON SMALL BUSINESSES:*

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

None

7. *SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Not applicable

8. *COMPARISON:*

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

Not applicable

9. *SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

Not applicable

# Administrative Procedures – Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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### 1. TITLE OF RULE FILING:

**Special Education Rules, Parts B (Ages 3-22 ) and C (Birth to Age 3)**

### 2. ADOPTING AGENCY:

State Board of Education

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*  
None

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*  
None

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*  
None

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*  
None

Environmental Impact Analysis

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

Not applicable



# Administrative Procedures – Public Input

## **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Special Education Rules, Parts B (Ages 3-22 ) and C  
(Birth to Age 3)**

2. ADOPTING AGENCY:

State Board of Education

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO  
MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE  
PROPOSED RULE:

The SBE and AOE will continue to involve stakeholders to seek input on the rule, post the rule on the AOE website with opportunity for public comment, and hold three (3) public hearings.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO  
COMPLY WITH THAT STRATEGY:

The SBE was advised by the AOE and the Census-Based Funding Advisory Group, which is a stakeholder group established by Act 173. Prior to proposing draft rules to the SBE, the AOE and the Census-Based Funding Advisory Group met monthly from September 2018-March 2019. During this time, the AOE also engaged other stakeholders via more informal conversations in seeking feedback on proposed rules. The SBE reviewed the proposed rules at its monthly meetings in November 2019, December 2019 and January 2020. The SBE provided opportunity for public comment and solicited specific comment from the Census-Based Funding Advisory Group at each of these meetings. The SBE has worked to develop a proposed rule that has the consensus of the education

## Public Input

community prior to pre-filing. At the time the SBE pre-filed these proposed rules with ICAR, it intended to hold three (3) public hearings to provide opportunities for public comment. Shortly after pre-filing, the COVID-19 pandemic significantly altered the SBE's method of conducting business. Instead of holding hearings in various geographic parts of Vermont as planned, the SBE held a total of six (6) public hearings virtually. In addition, in recognition of the upheaval to daily life and the Statewide shutdown of schools, the SBE requested an extension of the time period for public comment on these rules from 5/29/2020 to 12/31/2020, to ensure adequate time for parents and educators to engage in the public comment process.

### 5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Agency of Education

Census-Based Funding Advisory Group

Center for IDEA Fiscal Reporting

Council of Independent Schools

Federal Education Group

Susan Marks - Special education consultant

Vermont Association of School Business Officials

Vermont Coalition of Independent Schools

Vermont Council of Special Education Administrators

Vermont Department of Mental Health

Vermont Independent Schools Association

Vermont Legal Aid

Vermont National Education Association

Vermont Principals' Association

Vermont School Boards Association

Vermont Special Education Advisory Council

Vermont Superintendents Association

Various school business managers



## **Vermont State Board of Education**

### **Administrative Procedures – Final Proposed Rule Filing**

**Title:** Special Education Rules, Parts B (Ages 3-22 ) and C (Birth to Age 3)

**Proposed # Assigned by Secretary of State:** 20P-012

**Supplemental Page:** Complete list of Public Hearings Held

- 1) Date: 4/22/2020  
Time: 4:00 PM  
Location: Virtual Mtg. via Microsoft Teams
- 2) Date: 5/6/2020  
Time: 4:00 PM  
Location: Virtual Mtg. via Microsoft Teams
- 3) Date: 5/20/2020  
Time: 4:00 PM  
Location: Virtual Mtg. via Microsoft Teams
- 4) Date: 10/21/2020  
Time: 2:00 PM  
Location: Virtual Mtg. via Microsoft Teams
- 5) Date: 11/18/2020  
Time: 12:45 PM  
Location: Virtual Mtg. via Microsoft Teams
- 6) Date: 12/16/2020  
Time: 2:00 PM  
Location: Virtual Mtg. via Microsoft Teams

<u>Date</u>	<u>Name</u>	<u>Town or Organization</u>	<u>Written Testimony?</u>	<u>Summary of Requested Rule Change</u>	<u>Tag to Rule Series</u>	<u>Clarifying Questions?</u>
4/22/2020	Karen Price	Vermont Family Network	Yes, to be emailed to SBE	Fully supports positions presented by Vermont Disability Law Project (DLP). Parental rights and parental consent issues. Prior written notice currently "a reasonable time," but VFN would like to see 14 day period. Add a process for parents to indicate they disagree in whole or in part with IEP. Place limit on re-evaluation timeframe to same as initial evaluations (60 days). Transition planning age should be 14. Adverse effect should be removed from eligibility criteria.	2360	Carroll: This is in support of the DLP proposal that was not adopted by the CBAG? (Karen: Yes).
4/22/2020	Philip Eller	Chair of Vermont Autism Taskforce, Special Education Advocates Coalition	Yes, sent via email	Supports DLP proposal. Adverse effect should be removed from eligibility criteria. Stakeholders have requested AOE to remove adverse effect since the enactment of IDEA. The adverse effect rule is not in compliance with IDEA. Other states, including NH, have a consent form that allows a parent to "agree" "agree partially" or "disagree" with the IEP. This approach gives parents meaningful input into the process and leads to better process for resolving differences.	2360	
4/22/2020	Greg VanBuiten	Milton	**wants to schedule for next session, May 6			
4/22/2020	Katie Ballard	Member of Decoding Dyslexia; Essex	Plans to present additional comments in May	Requesting extension of public comment period. As a parent of children with disabilities and an advocate for other parents, it is challenging for many parents to participate remotely in the public comment process for a number of reasons at this time, including lack of internet access. Also supports prior testimony (Price; Eller) advocating for the removal of the adverse effect portion of Vermont's eligibility rule.	2360	

5/6/2020 Greg VanBuiten

Attorney, practice Yes  
representing parents  
of children with  
disabilities

This is the first time Mr. VanBuiten has seen Vermont special education rulemaking that did not involve a collaborative stakeholder process. AOE has not tried to sponsor a process like that. Has attended the CBFAG meetings, but there was never a conversation where the group looked at proposed language and solved problems. Agrees with changes to definition of "special education"; that "related services" definition should track federal law. The adverse effect gate should be removed. NH has just two gates. Rule 2362(g) - in order to be eligible, students must show adverse effect in basic skill area. All skill areas are academic, so they do not address functional skills. This should be added in accordance with new language in IDEA, added in 2004. Agrees fully w/ VLA draft on parental consent issue; in NH, the process makes parent feeling more clear. Fully supports VLA language on MTSS policy requirement. 5 day before IEP meetings parents should be provided all documents. Transition should be allowed at age 14. Item 9 - (partially missed) LEA should only choose if parent and independent school cannot agree. Item 10 based on NH charter school arrangement - services follow the student to the charter/independent school. Burden should not be placed just on the independent school to provide the service. Residential placements - see written testimony; 16 VSA 2958 states what the SBE policies need to include. When disagreement between AOE and Secretary disagree, the Secretary is to initiate a due process hearing. What AOE is proposing, the burden shifts to LEA.

2360

5/6/2020 Marilyn Mahusky

Vermont Legal Aid no

Echo what Greg said about participatory process in the past. The CBFAG did not discuss programmatic rules in detail. There should have been other stakeholder groups, plus many on the CBFAG who would have helped draft the proposed rule. Vermont's rules should mirror the federal rules as much as possible. In 2362.1 (definitions for disability categories) are not consistent with the federal definitions. Will add more detail when written comments are submitted. MTSS rule; DLP has not had an opportunity to ask the legislature to amend the statute, which requires policies and procedures. Rules are stronger than policies. VCSEA concurs with the proposed MTSS rule. Texas lost eligibility for IDEA as a result of problems with its MTSS system not having adequate monitoring procedures to ensure child find. Rule 2360.h, language should be added to say child find also applies to students receiving support under MTSS. (long discussion between Chair Caroll and Mahusky regarding MTSS being part of general education obligations of districts) Adverse effect - not required under federal law. A child could be found eligible in one district and not in another because of adverse effect element. Just because a child has a disability does not mean that the child needs special education. This really impacts kids with emotional disabilities and kids on the ASD spectrum. We have talked to parents whose children have been discriminated against in independent schools, so we are addressing the programmatic aspects of that. Parental access to information in time for IEP meetings. Parental consent to elements of IEPs allows a district to move forward with parts of

5/20/2020 Jana Osmond

The Stern Center no

Worked at the Agency back in 2000, when adverse effect was first operationalized. Prior to the inclusion of this language, the language in the IDEA (determine whether the disability has an adverse effect) was less impactful. Vermont took it and decided to operationalize, i.e. maybe not everyone needs to be in special education if it isn't affecting their ability to learn. It became clear early on that there were students who needed specialized instruction, but did not experience an adverse effect, or only partially met adverse effect. In 2004, we were asked to focus on present levels of achievement and functional performance. However, functional performance is not part of eligibility because of adverse effect rule. Eligibility rule should be changed to accomplish a consideration of functional performance.

5/20/2020 Rachel Seelig

Vermont State  
Advisory Panel on  
Special Education

yes

IDEA tasks us with providing public comment on proposed rules. 2360  
Even though the rules have been out there in their pre-  
comment form, our group has really started contemplating our  
comment since March of this year. I anticipate coming back with  
more comments later on, but here are four points. Definition of  
special education is a good change. That same concerning  
language, however, still shows up in othe places in the rules. We  
do not agree with reference back. The rule should be repeated  
in each place. There are very specific definitions of each  
disability, but we do not have a lot of specific defintion on  
"need" for special education. Also has language on continuing to  
be eligible for other tiers of MTSS. Need language about not  
delaying evaluation becuae of MTSS. We agree that there  
should be a seperate rule series on MTSS. There is a thick field  
guide, but it does not have the force of law.

5/20/2020 Katie Ballard, Sandra  
Chittenden

Ballard - Parent of No  
children with  
disabilities, advocate  
for families,  
Decoding  
Dyslexia/Chittenden-  
parent of children  
with disabilities,  
COPPA, VFN

No

Adverse effect is an issue for many parents in Vermont because 2360  
it requires a student to fail before a student can receive services.  
Interpreted and applied inconsistently. The rule does not allow  
for meeting adverse effect for social/emotional skills. Significant  
discrepancy is used for determining SLD, and should be  
eliminated. Add a definition of the term "dyslexia" to the rules.  
House Education committee attempted to address literacy this  
session. Review the rules around identification and include an  
annual screener for elementary grades. Emotional disturbance -  
Vermont has an inaccurate identification of SLD, which leads to  
higher rates of ED. The language of "emotional disturbance" is  
not ideal, and urge the board to adopt alternate language, such  
as "mental health impairment" that is not stigmatizing.  
Placement - review and update the language of placement due  
to challenges of least restrictive environment. Many parents feel  
that the rule around continuum of alternative placement are  
never followed. In Vermont, there is limited access to  
alternative placements, especially for SLD. Parent consent and  
participation rules need review, including more input from  
parents. We find ourselves struggling to participate as equal  
members in IEP team meetings. Change the language in the  
rules to enable parents, similar to NH rule. Other: IEP  
facilitation training and positions at AOE that parents can  
access free of cost, local parent teacher advisory councils,  
training for teachers, create a literacy task force for dyslexia best  
practices.

Carroll: In your written  
documentation, the  
more that you can point  
out language and  
suggest improvements  
to language, the better.



5/20/2020 Cynthia Gardner Morse	Literacy Tutor	Yes	Students are not identified until 3rd grade or later, which is not early enough. Reading is not intentionally taught in the later grades. Very few students are identified as SLD in K or 1st, 2nd grade. This is because we are not screening dyslexia in kindergarden or first grade. It should come under child find. The discrepancy model for eligiblity is not appropriate. We should use RTI instead of the discrepancy model. The criteria are too restrictive. It only catches students in the lower 7%, but we know that 10%-12% of students have dyslexia. Also, adverse effect is known as the "wait to fail" model. Three of the six measures are subjective, and one problem with this is because so many students are not taught to read, the peer group is also behind on reading. Concerned about special education funds being given in block grants. To see special educators intentionally floated to assist non-special education students is concerning. We should not diffuse the attention of special services to students without disabilities.	2360, 1300	Carroll: Will you identify the place in the rules that address this request?
5/15/2020 Nicole Szigeti	Parent and special educator	Yes, written only	Describes moving to Vermont from Connecticut to obtain smaller and specialized instruction for her son. Her son was determined to not be eligible for special education in Vermont, because of the adverse effect gate. Asks for adverse effect to be eliminated.	2600	
5/20/2020 Traci Sawyers	Traci Sawyers, VCSEA	Yes, written only	Supports the current draft of the rules. Feels the amendment to the definition of special education is crucial to implementation of Act 173. Opposes elimination of adverse effect rule. Vermont's rules are in alignment with the federal rules on this issue. Functional performance is an express element to be included in evaluations. Opposes amendment of parental consent rule. Feels that the requested changes would delay delivery of services and constitute a denial of FAPE while awaiting parent signature. Similar provisions were included in the rules in the 1990s and were deemed ineffective. See written testimony for additional comments.	2360	

10/21/2020 Richard Smith	Associate Director of Special Service for North Country SU; VCSEA member	Oral	Supports 1300 and 2360 as proposed - developed over a year's work with the AOE, the Census-Based Funding Advisory Group and various stakeholders around the state and incorporates the FEG recommendations. Supports changing definition of "special education" to align with federal definition. Noted desire for rules to reflect flexibility of spending envisioned by Act 173. Does not feel that any additional changes to child find or adverse effect are required to implement Act 173. Does not agree with adding an Multi-tiered System of Supports (MTSS) within the special education rules as MTSS is a framework for general education and not special education. Disagrees that eliminating Vermont's definition of adverse effect is necessary to achieve implementation of Act 173.	2360
10/21/2020 Stacy Rice	Director of Special Services at Kingdom East	Oral	Urged the SBE to consider the UVM weighting study, particularly statics regarding poverty rates, when considering special education funding calculations. Having the money shared equally would not represent the students in poverty.	1300 and 2360
11/18/2020 No comments				
11/25/2020 Crista Yagjian	Special Educator/Reading Specialist, member of the Vermont Special Education Advisory Panel, and parent	Oral	She spoke of her experience as a special educator, parent of a student accessing special education services, Advisory Panel member, and in support of removing the adverse effect third gate, considering the parent comment form and inclusive IEP practices, and referencing MTSS in rules.	2360
12/16/2020 Susan Aranoff	Policy Analyst for the Vermont Developmental Disabilities Council	Oral and written	Aranoff said that the areas the Council were most concerned about were adverse effect and parental consent. The way the State has been doing things was not working for a lot of people. The parents of students with disabilities need a process that they can participate in, understand and be able to say yes or no. Parental engagement is key. She asked the Board to please take public comment on parental consent and adverse effect seriously.	2360
12/16/2020 Crista Yagjian	Special Educator/Reading Specialist, member of the Vermont Special Education Advisory Panel, and parent	Oral	Yagjian asked the Board to consider changing the rigid criteria for adverse effect established by Vermont and to include social-emotional skills as part of the section and to consider allowing parents to give consent or partial consent to IEPs.	2360

**From:** R. Alex Reutter  
**To:** SBE - Public Comment  
**Subject:** public comment on the Special Education Rules  
**Date:** Wednesday, November 18, 2020 2:37:09 PM

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Reading <https://education.vermont.gov/sites/aoe/files/documents/edu-series-2360-special-education-rules.pdf>.

In 2362 Eligibility for Children Ages Six Years through Twenty One (34 CFR §300.306), the guidelines for determination of adverse effect discriminate against twice exceptional students.

The guidelines should compare an individual student's expected performance with that student's actual performance. Comparing an academically gifted student to grade-level averages denies them needed supports and interventions even when there is a clear, documented disability. Students should be evaluated as individuals, not compared to a statistical norm.

As examples:

-- Our older son is dyslexic, dysgraphic, and has issues with sequential processing and test-taking anxiety. He has had a college-level reading and comprehension level since grammar school, and showed promise in mathematics until he could no longer do all the problems in his head, at which point his dysgraphia + sequential processing disorder + test taking anxiety hampered his ability to do more complex math under artificial test pressure. When he is evaluated in an area such as writing, he will score 99% in areas of strength (such as sentence combining), and 18% in areas of weakness (such as phonological processing, because he is clearly dyslexic). Because his score on this type of evaluation will average all of the subtests, he will score around the 50% mark---average. A truly "average" child could show a discrepancy of 36% in ability levels and still score under Vermont's arbitrary "must be in the lowest 15%" rule and thus qualify for an IEP. My son shows more than an 80% discrepancy between his highest and lowest scores in the subtests, and he will still not qualify under the current rules because his top scores are at the very top of the scale. My son has the ability to understand and master the material in Honors classes. He excels when the teacher follows his 504 Plan, but struggles when teachers are unsympathetic and seem to resent a student with a disability being assigned to their Honors class. A 504 Plan can be helpful, but there are no goals and no accountability. Students can and are assigned to 504 Plan coordinators who have no background in special education, placing the burden of updating and researching accommodations entirely on the student's parents.

-- Our younger son has Autism Spectrum Disorder, high-functioning, what is sometimes called Asperger's Syndrome. He has no academic disabilities (a straight-A student, and well above grade level in math), but has issues with emotional regulation which have, on more than one occasion, brought his entire classroom to a halt when he breaks down. We are currently struggling to make his school see that he needs an IEP---because, again, the arbitrary "lowest 15%" barrier makes it hard for him to score low enough in his areas of weakness, given that he consistently scores in the 98-99% in measures of academic ability. We are still in the middle of the IEP evaluation process, but at the initial meeting the person running the meeting made

noises about him not qualifying for even a 504 Plan----even though he has received a lifelong, serious psychiatric diagnosis.

Since our older child can not qualify for an IEP, we have paid a private special educator to provide remediation for his dyslexia and dysgraphia for the last eight years. We now face having to pay a private SLP to help our younger son. The emotional and financial stress on our family is considerable, because the school is not a source of help under this system---it is a source of frustration and anxiety. Instead of receiving help from the school, as is the intent of IDEA, we instead have to fight and struggle for our children to thrive as they should.

Vermont should compare students to their own expected performance when determining "adverse effect," and not continue to compare gifted children with a statistical norm. This current system is discriminatory, inadequate, and cruel.

Thank you,  
Alex

**To:** Vermont State Board of Education  
**From:** Vermont Council of Special Education Administrators (VCSEA)  
**Date:** October 15, 2020  
**Re:** Supplemental Public Comment, SBE Rules Series 1300 & 2360

On May 20, 2020, the VCSEA Rules and Regulations Committee provided written comments to the State Board of Education regarding the draft SBE Rules (series 1300 and 2360). Subsequently, the public comment period for the draft rules was extended through December 2020 as a result of the general assembly acting on an additional one-year delay of implementation of Act 173.

The following comments are submitted to the Board as additional, supplemental public comment, as they expand and extend on our original comments and specifically address issues identified by other stakeholder groups during the public comment period. We ask that the Board consider both documents as part of VCSEA's public comment.

**VCSEA continues to support the current draft Rules (series 1300 and 2360) as proposed by the State Board of Education.** These Rules were developed after more than a year of discussion with the Agency of Education, the Census-Based Funding Advisory Group (CBFAG), and various stakeholders in the state, including VCSEA. These discussions included input from a number of stakeholders as well as specific advisement from the Federal Education Group (FEG), a nationally-recognized law firm with expertise in special education funding (please refer to the May 20th commentary for an overview of the recommendations of the FEG).

VCSEA continues to support the following “guiding principles” used by the Agency in the development of their draft:

- **Only changes necessary to implement the Act should be proposed:** The specific charge outlined in Act 173 is “...the development of proposed rules to implement this act...” The 1300 series draft is a new rule series that specifically addresses special education funding in a census-based funding model. Technical changes were also made to the 2360 series to align with the 1300 proposal and to adjust relevant definitions. VCSEA does not believe that additional Rule changes are required to implement Act 173.
- **Ensuring alignment with Federal Special Education regulations:** Act 173 was designed to strengthen the system of supports for all students; it was not, however, intended to replace or expand entitlements created by federal law. **The approach taken in development of the current rules was to ensure alignment with Federal regulations - not to expand entitlements.**

VCSEA believes it is important to reiterate the purpose and goals of Act 173. The Act was designed to strengthen a school's ability to respond to *all students who struggle*, including those with disabilities. It provides schools with *more* flexibility to respond to struggling learners - not less. Many of the sweeping changes

recommended by stakeholders are focused specifically on perceived compliance-related special education issues, which are outside the scope of 173.

### Comments

VCSEA has had the opportunity to review proposals crafted by the Disability Law project along with proposals provided in public comment by the Vermont Family Network and the Special Education Advisory Panel. In response to those proposals requesting specific changes to Part B, VCSEA offers the following comments:

- Proposal to eliminate Vermont's definition of Adverse Effect (Rule 2362 (d) and (f)): VCSEA disagrees that the elimination of Vermont's definition of Adverse Effect is necessary to achieve the implementation of Act 173. Vermont's current rules are already in alignment with Federal special education regulation, which includes the construct of "adverse effect". Therefore, Vermont Rule could not fully eliminate the construct as requested. Frequently, the assertion is made that Vermont districts do not uniformly implement the adverse effect portion of the comprehensive evaluation process. This is not an issue with the rules governing special education eligibility; rather, it is an issue with the application of the rules. Oversight of district compliance with special education rules is the responsibility of the Agency of Education. We do not believe a rule change is necessary, but would support a recommendation to the Agency to address specific issues of noncompliance. Further, we disagree with the assertion that Vermont's adverse effect requirements do not include an analysis of a student's functional performance - in fact, functional performance is already an express requirement to be addressed during the evaluation.
- Proposal to develop new MTSS rules: It has been proposed that a set of rules governing a school's Multi-tiered System of Supports (MTSS) be added to the special education rules, specifically, a rule requiring schools to develop MTSS policies. VCSEA disagrees that there is a need to develop "MTSS rules" within the special education rules. MTSS is not a path to special education eligibility. It is a framework for general education that includes all children. Existing language in Act 173 requires the development of statewide policies and procedures to ensure that districts effectively implement the framework. As the Act is implemented this will be sufficient to ensure implementation.
- Rules to prevent delay of special education evaluations: Public comments by other stakeholder groups suggest that changes are needed to prevent schools from delaying required special education evaluation (Child Find) while they are implementing MTSS. VCSEA disagrees. Federal law, current rules and Act 173 already specifically state that schools cannot use the implementation of a MTSS to delay an evaluation. Further, Act 173 does not require an additional Child Find responsibility in order to implement the law. VCSEA strongly disagrees that schools should be required to conduct an evaluation to rule out a disability *prior to* beginning the Educational Support Team process. Such a requirement would unduly delay the ability of schools to quickly respond to struggling learners, and teams would waste unnecessary time and resources in conducting an evaluation for students who may only require short term intervention. The current rules already address the need to evaluate a student *when a disability is suspected*.
- Use of a Response to Intervention Approach to SLD identification: Comments have been made suggesting that the special education rules should require schools to use a Response to Intervention (RtI)

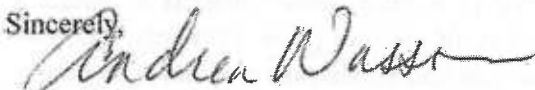
advance of the 3 year date so that they won't be up against the 60 day timeline. This would be adding unnecessary paperwork should we need to request a delay, to remedy a problem that VCSEA does not agree exists.

- Rule 2363.7 Content of IEP: Transition Age: This proposal seeks to lower the age at which IEP teams begin to discuss transition needs for students with disabilities. VCSEA disagrees with this change, as current rules already align with Federal requirements. Further, Act 77 and Personal Learning Plans strengthen transition for all children, including those on IEPs.
- Additional Parent Participation: Advocacy groups have proposed a number of additional measures be added to the rules, all of which exceed existing Federal requirements for parental participation. Specifically, they have asked to mandate IEP meetings last for more than 60 minutes, require additional data be shared prior to the meeting, and require additional training for special educators in the area of collaboration. In our concluding comment to this section (below), VCSEA strongly advocates to limit additional compliance-related rules in the Vermont 2360 and 1300 series. The time and energy of our special education professionals should be focused on instruction to students, and not in the implementation of additional compliance rules that are not necessary to align with Federal requirements.
- Monitoring & Enforcement Rules: As noted above VCSEA feels strongly that additional regulatory and compliance-related rules are unnecessary. We agree with the Agency of Education's assertion that our existing rules comport with Federal requirements and provide students and families with the services and decision making allowed to them by law. Adding unnecessary and significant compliance-related rules requires that districts turn their attention away from the most important element of special education: providing essential services and supports to children.

VCSEA reiterates that with the proposed rules, the definition of Special Education is being broadened and expanded in Vermont. This is a very important step forward in realizing the intent of Act 173 and meeting the needs of more children. Additional changes to the special education rules are not necessary to implement Act 173.

Please don't hesitate to contact us if you have additional questions.

Sincerely,



Andrea Wasson, Chair

VCSEA Rules and Regulations Committee and  
President-Elect

Cc: Traci Sawyers, VCSEA Executive Director  
VCSEA Executive Officers

approach to determining eligibility as a student with a specific learning disability. VCSEA supports the existing movement by the Agency to encourage the use of an RTI Approach for identifying SLD. We believe the current Rules already allow for this approach, and that the AOE is in the process of revising formal guidance to schools. Revision of the Rule is unnecessary.

- **Apply the MTSS Framework to Behavioral Support:** VCSEA believes that the Agency of Education's current understanding of MTSS already applies the MTSS framework to behavioral supports. PBIS, the evidence-based approach that the Agency has supported in Vermont for more than a decade, is built on an MTSS framework.
- **Changes to decision making for placement of students on IEPs:** The IEP process and existing Vermont (and Federal) rules outline how IEP teams will determine placement of students on IEPs, including full consideration of the continuum of alternative placements. Public comment by other stakeholder groups have proposed the addition of what we believe is unnecessary language specific to this process, including a requirement that the IEP team collectively make a determination about the specific location of services. Currently, LEAs are responsible for determining the location of a placement, a decision that necessarily should remain with LEAs who are responsible for contracting with outside providers. VCSEA strongly believes that existing rule already comports with Federal requirements and provides families appropriate participation in decision making.
- **Proposal for additional parental input/regulatory rules:** Within the stakeholder comments, there are several proposals to increase requirements for a number of special education regulatory processes. VCSEA feels strongly that these changes are both unwarranted **and** not required to implement Act 173. It would also create a need for additional regulatory and compliance professional development for districts. It is our position that training and professional development for special educators should focus on instruction and intervention topics, not increased compliance training. We offer the following comments to address each specific proposal:
  - **Rule 2365.1.1 Content of Notice:** Current Vermont Rules require that school districts provide prior written notice at least 10 days before a proposed IEP change will go into place. VCSEA disagrees that there is a need to increase that time period as proposed. Our current rule of 10 days is reasonable and assures flexibility in making timely decisions for children while still providing families adequate prior notice.
  - **Rule 2365.1.3 Parental Consent:** There is a proposal to require school districts to obtain a parent's signature of agreement to any IEP before it could go into place. Presently, Vermont rules are in alignment with federal requirements for parental participation in the IEP process which does not require parental consent for IEPs. Parents have clear dispute resolution options when they are in disagreement with a district; a signature of agreement on an IEP is not necessary in order to assure parent agreement. In fact, we are concerned that services would be unduly delayed for children if districts are required to wait for a signature.
  - **Rule 2362.2.3 Re-evaluation Requirements:** VCSEA disagrees with a proposal to add a 60-day timeline for re-evaluations (currently teams have until the due date of the re-evaluation to complete the evaluation, regardless of when it begins). Teams conscientiously schedule well in



**To:** Vermont State Board of Education, Rules 1300 & 2360 Committee  
**From:** Vermont Council of Special Education Administrators (VCSEA)  
**Date:** December 8, 2020  
**Re:** Response to Questions from SBE Rules 1300 & 2360 Committee

VCSEA continues to be engaged with the rulemaking process for the SBE Rules 1300/2360 Series. We are pleased the SBE has created a subcommittee that would look more closely at the various public comments, and appreciate this opportunity to provide input to that committee. The questions raised by the subcommittee, as well as our ongoing review of public comments to date (including those of the Special Education Advisory Panel) and our own organization's input via survey and meetings, has prompted VCSEA to revise our position. The shifts reflected here are indicative of a thoughtful and inclusive process that sought to engage a broad representation of our membership, and the following comments reflect VCSEA's formal position on the issues raised.

Specifically, we offer our amended comments on the following points:

1. Adverse Effect in the context of special education eligibility,
2. The role of the discrepancy model in the identification of SLD,
3. Development of rules for implementation of MTSS.

### **Adverse Effect**

On October 15, 2020, VCSEA offered the perspective that eliminating the construct of Adverse Effect in Vermont's Special Education Rule is not necessary in order to implement Act 173. And in fact, our concern was that the construct was necessary in order to have as much consistency as possible in the special education eligibility process across districts. While we maintain the belief that change is not *required* to implement Act 173, we do believe that adjustments to the construct of Adverse Effect could be made as described below. The following is offered as an amendment to those comments:

The Federal Rules do not require a demonstration of Adverse Effect for the categories of Deaf-Blindness or Specific Learning Disability. **VCSEA supports a Rule change that Adverse Effect only be applicable to those disabilities that require it in federal law.** We recommend that the Vermont process for determining Adverse Effect be maintained for the following disability categories: Autism Spectrum Disorder, Hearing Loss, Emotional Disturbance, Intellectual Disability, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment, Speech or Language Impairment, Traumatic Brain Injury, and Visual Impairment. This change will further align Vermont's Special Education Rules and Regulations with the federal rules, an approach we believe is important and has guided our recommendations throughout this rule process..

However, VCSEA continues to believe that complete removal of the definition of Adverse Effect from the Vermont Rules will leave the decision of what is and is not Adverse Effect to individual teams and the LEA which could have the unintended consequences of inconsistent application across the state.

## **Discrepancy Model in the Determination of Specific Learning Disability (SLD)**

VCSEA agrees with the Special Education Advisory Panel that the discrepancy model of determining the presence of a Specific Learning Disability (SLD) is not in keeping with established best practices. We recommend that Vermont schools move to the implementation of a Response to Instruction (RtI) within a Multi-Tiered System of Support (MTSS) Framework to determine eligibility for SLD.

We believe that in order to solidify this shift across the state, the Agency will need to take a more prominent role in developing guidance for implementation. It is VCSEA's understanding that the Agency already has draft guidance specific to the issue of SLD identification using an RtI/MTSS model, and that the guidance is aligned with the Vermont MTSS Field Guide. We would respectfully recommend that the Agency move that work forward in support of districts.

## **Development of Rules for Implementation of MTSS**

While VCSEA is highly supportive of high quality implementation of MTSS and agree that this high quality implementation is necessary to shift from a discrepancy model to a model of determining SLD through RtI, we also firmly believe that MTSS is a function of general education. It is critical that MTSS is not written into rule as a part of the 2360 series. Doing so would falsely suggest that MTSS is a pathway to eligibility for special education, rather than a structure designed to ensure that general education meets the needs of all learners. In addition, VCSEA has reservations about the inclusion of Rules governing MTSS because the nature of a high quality MTSS requires flexibility in implementation. Overly rigid rules can have the negative effect of prompting a poorly implemented system. **VCSEA does not support the inclusion of MTSS rules as part of the 2360 series.**

Please don't hesitate to contact us if you have additional questions.

Sincerely,

Andrea Wasson, Chair  
VCSEA Rules and Regulations Committee and  
President-Elect

Mary Lundeen  
President

Meagan Roy  
Past-President

Cc: Traci Sawyers, VCSEA Executive Director

**From:** [Angela Gowans](#)  
**To:** [SBE - Public Comment](#); [Carroll, John](#); [O'Farrell, Jennifer](#); [Gleason, Kimberly G](#); [Pena, Angelita](#)  
**Subject:** Special Education Rules  
**Date:** Thursday, December 10, 2020 12:34:10 PM

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December 10, 2020

To whom it might concern:

I am writing to as a Vermont resident that works as an educational advocate in Vermont, New Hampshire, Maine, Rhode Island, and Massachusetts. I work closely with school teams, parents, attorneys, and professionals in all five states. Currently, I have a caseload of 75-80 families across the five states and attend on average 2-3 IEP meetings a day throughout the school year. Vermont's special education rules and how they are implemented at the district level does the most disservice to students and families. As a result, I have seen students that would easily and regularly receive specialized services in the other four states be found ineligible in Vermont.

In my practice, I find the following as major barriers to meaningful parent participation in the special education process.

- Not receiving the evaluation reports prior to the eligibility meeting. The parents or their surrogates cannot meaningfully participate in the eligibility process without reading the findings before the meeting. In other states, districts are required to provide reports at least 48 hours before the meeting.
- Changing to a two-step streamlined eligibility process; does the student have a disability and if so, do they need specialized instruction? This will also free-up special educators and staff to service students instead of lengthy processes and forms. For example, a Vermont eligibility meeting for a student with SLD would take about 90 minutes without writing an IEP. In comparison, in Massachusetts for the same student, the eligibility process would take about 45 minutes, and then the team would immediately write an IEP at the same meeting.
- Parents should be able to disagree with the IEP or placement. In NH and MA, parents have the right to accept, partially accept and reject, or reject the IEP and placement. This rule change would improve equity between the school and the parents. Then the IEP team can come together to resolve the issues collaboratively.
- Placement decisions should include the parents. Parents are an important part of the educational team.

Thank you for your consideration.

Angela Timpone Gowans  
*Educational Advocate, Parenting Coach and Harvard Law School Mediator*

New England Educational Advocacy  
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[Click here to check-out my latest published article: Funding Special Education Benefits Us All](#)

"My grandfather once told me that there were two kinds of people: those who do the work and those who take the credit. He told me to try to be in the first group; there was much less competition." ~Indira Gandhi

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**From:** [Karen Price](#)  
**To:** [SBE - Public Comment](#); [Carroll, John](#); [Gleason, Kimberly G](#)  
**Subject:** Testimony regarding Rule 2360  
**Date:** Monday, December 21, 2020 9:52:59 AM

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Hi – I’ve been copied on emails to the SBE and AOE where the question of submitting anonymous testimony was asked and the answer was that people could do this and submit it though a third party like Vermont Family Network (VFN). So I am submitting this on behalf of an individual who is choosing to remain anonymous.

Karen Price  
Co-Director of Family Support - Education  
Project Director, Parent Training & Information Center  
[Karen.price@vtfn.org](mailto:Karen.price@vtfn.org)  
[VermontFamilyNetwork.org](http://VermontFamilyNetwork.org)

Testimony for Vermont State Board of Education on Vermont’s Special Education Rules from an Anonymous Vermont Educator

December 18, 2020

1. The "wait to fail" model loses critical time when science-based and additional instruction could prevent failure.

2. The discrepancy model to qualify for special education has been removed in other states, such as Massachusetts, which has resulted in greater equity and access to much-needed services and supports. In addition, students with a reading disability, such as dyslexia, “the relationship between reading and intelligence is bidirectional in the sense that IQ scores can improve for good readers and can go down among poor readers” (Joshi, 2019, p. 4). This leaves some students without services who need them, particularly those with low cognitive performance. Further students who struggle with literacy may be diagnosed with Emotional Disability, ADHD, Depression, and/or Anxiety due to the lack of explicit, targeted instruction needed during the critical years of PK-3. Their feelings of ineptitude can result in trauma and discipline problems, and puts them at much higher risk of school failure, destructive behaviors, and incarceration, with dire implications for individuals, communities, and the nation.

3. The vision of MTSS and RTI systems has not been realized due to limitations of special-education funding, staff, and services. Educators lack the training necessary to accurately assess, diagnose, identify, and teach students who struggle to learn. Students from low-income families who rely heavily on school programs of all kinds (school-based interventions, preschool, after-school, summer programs, etc.) for their academic growth are over-represented in special education, when their deficits should be prevented and addressed in general education.

4. Performance outcomes for special-education students continue to be very low in comparison to their general-education peers at all grade levels. This trend provides longitudinal evidence of Vermont's current poor practices that require significant change. The few schools that have made progress in closing the gap between students with disabilities and their non-disabled peers should be closely examined and replicated.

5. The stigma of special education frightens many parents and students. As early as first grade, students become acutely aware of the division between general and special education. Parents and teachers can view eligible children as permanently disabled without recourse or remediation. Eligible students feel the stigma acutely which warps their self-concept and aspirations for themselves to become independent learners and fully-capable adults.

6. There is so much emphasis on the special-education eligibility process that students may go for months or years without interventions or supports, because they are assumed not to qualify for special-education services, or that their parents will not agree to the testing process.

7. Designating special educators for identified students only and excluding those who could also benefit from these educators' expertise is indicative of current special-education law and funding constraints, which harm children.

8. The pandemic has brought about extreme mental-health issues and reduced learning among students. Will special-education regulations prevent them from getting the help they need? Will only the loudest, savviest, most privileged families get what their children need, leaving so many others behind?

## Reference

Malatesha Joshi, R. (2020). The componential model of reading (CMR): Implications for assessment and instruction of literacy problems. In Kilpatrick, D. A., Malatesha-Joshi, R. and Wagner, R. K., *Reading development and difficulties*. Springer.

**From:** [Cathie Ely](#)  
**To:** [SBE - Public Comment](#); [Carroll, John](#); [O'Farrell, Jennifer](#); [Gleason, Kimberly G](#); [Pena, Angelita](#)  
**Cc:** [Cynthia Gardner-Morse](#)  
**Subject:** Vermont Special Education Rules / Testimony  
**Date:** Wednesday, December 30, 2020 10:44:08 AM

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

To Our State of Vermont Policy-Makers,

Before I begin, thank you for taking the time to ask for input regarding this very important realm of education. Clearly, we are failing a population of our students but now we have the chance to bring our educational practices up to date, based on the most recent brain research.

I am a veteran Vermont class teacher of over twenty years in both public and private schools, spanning grades one through five. I have had extensive training in the Orton-Gillingham approach from the Stern Center and work with dyslexic children. Currently, I serve as an administrator at the Orchard Valley Waldorf School in East Montpelier.

I have worked with struggling students, special education departments and learning specialists throughout my teaching years. I have watched students fail to understand and practice basic reading skills needed for the ultimate goal of comprehension. I have seen students incapable of writing coherent sentences with proper spelling, capitalization, or grammar. When these students were assessed, many did not yet qualify for services. If they did qualify, it was not until third grade, or later, making remediation an extremely slow and difficult process. These students rarely caught up to their classmates, leaving them feeling incapable and "less than". Sometimes this led to becoming the class clown, often combined with a sharp decrease in their desire and work ethic to overcome literacy challenges.

What if literacy assessments were done in kindergarten or the fall of first grade? There is a lot we can tell about children's readiness to learn reading skills at that time (i.e., their level of phonemic awareness and understanding of their alphabetic principle) and remediation could be swift and effective, not requiring a long, protracted -and expensive - period of failure? We now have relatively new brain research (within the last 10-15 years) that informs us that early intervention is the more effective route. We know how the brain works when learning how to read and write - we have this information.

Let the experts guide us in ways that will make a true difference in the lives of our Vermont children. I am more than happy to roll up my sleeves and to work with special education policy makers, aligning our practices with research that was not previously available.

Most Sincerely,  
Cathie Ely  
802/477-2477  
1 Scenic View Drive  
Barre, Vermont 05641



**From:** [Cristi Green](#)  
**To:** [SBE - Public Comment](#)  
**Subject:** Public Comment for Changes in VT Special Education  
**Date:** Friday, December 11, 2020 5:44:30 AM

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To Whom It May Concern:

I am Cristi Davis, a special educator in the Bennington Rutland Supervisory Union. I have been a special educator for 16 years, the last 3 have been in the state of Vermont. Some challenges I have experienced are with the use of the discrepancy model. Both of these parameters have affected a child's ability to receive specialized instruction when the team believes that they should have qualified due to intervention data. Another challenge I have faced is with gate 2 of adverse effect. At times, the special education testing in a 1:1 environment does not reflect what is expected of a child in a classroom setting with content area curriculum in middle school. Again, adverse effect was not met in enough areas since the child is good at testing but does not produce work otherwise in the classroom. Negative behaviors seen in the classroom is not reflected in gate 2, therefore, decreasing a child's ability to qualify for specialized instruction in VT. I would really like to see these rules go away so we can provide support to those who need it according to MTSS data. If you have further questions, please feel free to email me back.

Sincerely,  
Cristi Davis

CYNTHIA GARDNER-MORSE, M.Ed.  
LITERACY TUTOR  
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(802) 223-5738  
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Testimony for Vermont State Board of Education

8 December 2020

Thank you for opening these Rules for improvement. Vermont's Special Education outcomes indicate great need for change.

I am a literacy tutor, the parent of three well-educated, successfully employed, tax-paying dyslexics, and a concerned citizen.

I am writing in support of the changes proposed by Vermont Legal Aid to Vermont's Special Education Rules. To those changes, I would add a **mandatory literacy skill screening** (including phonemic awareness) of all Pre-Kindergarten through Third Graders for dyslexia (Specific Learning Disability in reading). Since Specific Learning Disability is the most common disability, shouldn't Vermont screen for this early, while literacy instruction costs less to implement and is more effective? Screening should continue for any child not reading on grade level. Other testimonies have referenced studies that document this.

As a literacy tutor, I have worked with many families. Special Education as currently implemented in Vermont is not effective. The proposed changes are critical to meaningful improvement!

Imagine that you are a child in a Vermont school. You know reading is important; you've been read to since you were a baby. Rhyming is hard for you, and you can't remember the months of the year or the days of the week in order, even though you practice chanting them. You watch your classmates as they make sense of letters and start to read books. They learn so many new ideas and vocabulary words by reading! People tell you to try harder, but you are already trying very hard. The idea that particular letters make particular sounds (the alphabetic principle) doesn't make sense to you. People begin to call you lazy and you feel stupid. Knowing you should be able to read, you begin to be a clown, or a bully. This is so no one will notice that you really can't read. As you get older, you get into trouble academically. Homework takes you twice as long as your peers, because you process letters and sounds slowly. Teachers can't read your papers because you spell phonetically. Not having read books, you don't use conventions like capitalization and punctuation. Perhaps you are diagnosed in middle school, or perhaps you are just pushed from grade to grade, until you drop out. Once you finish with school, poor reading skills influence your choices. Half of prison inmates struggle to decode words.

As a literacy tutor, I see this scenario played out over and over. I work with many students from middle school through high school. Structured literacy improves their decoding skills, but

smooth, rapid, automatic reading (fluency) remains a huge stumbling block. Learning to read accurately after Third Grade is possible, but reading rates remain slow.

Right now, Vermont's implementation of IEP support to our students "needs intervention" according to the letter Secretary French received (dated June 25, 2020) from the Federal Office of Special Education Programs (OSEP). How can the Agency of Education recommend no changes to Vermont's Special Education Rules?

What if the proposed changes are made to Vermont's Rules?

If you are screened for dyslexia in Pre-Kindergarten as part of **Child Find**, if your literacy skills are monitored specifically with well-implemented **MTSS** as you progress in school, and if you receive instruction based on the science of reading, you will be a successful reader. Teachers trained in the science of reading teach you sequentially, using explicit phonics rules. You practice working with letters and sounds until they are automatic as you learn to read and spell. The younger you are when you are diagnosed and begin receiving instruction, the more likely you are to become a successful, fluent reader. You avoid emotional disturbance. Remediating your literacy problems early costs taxpayers less money.

Costs less? Yes, the proposed changes to the Rules will save money over time. Schools like Williamstown, Vermont, began screening and explicitly teaching structured literacy skills a few years ago. They have far fewer special education referrals than before changes were made. High school graduation rates have improved dramatically. These are precisely the issues where Vermont "needs intervention" according to the OSEP letter rating Vermont's Special Education.

Vermont is the only state requiring that a child show an adverse effect over time before receiving special education services. Time wasted in seeking an adverse effect, called "Wait to Fail," hurts children and families. It hurts all of us! Both emotionally and financially this is poor practice.

Vermont is using **Adverse Effect** as a gate, effectively preventing students from getting Special Education services. Adverse effect should be modified to change eligibility to the two gate system as outlined in **IDEA**.

I agree with Vermont Family Network's **Timelines for Re-Evaluations**. I have seen re-evaluations drag on, even though current testing could lead to providing more effective instruction or services.

The proposed five (5) day requirement for **Access to Documents Before Meetings** allows parents, some of whom may be dyslexic themselves, time to review paperwork and prepare for meetings, reducing stress for parents.

Reducing the **Transition Services Age to 14** will allow students time to learn technology and shadow professionals in a given field of a student's interest (through Vocational Rehabilitation).

One of our children worked with Dan Gilman of Vermont Vocational Rehabilitation in Rutland before her first year of high school to learn how to use Dragon Naturally Speaking (voice-to-text software) and Kurzweil (text-to-speech). Dan recommended a noise-canceling microphone and showed her a number of keyboard shortcuts. He also worked with her to build her voice file for Dragon Naturally Speaking. Dan commented, "I wish I could help all my clients before they graduate so they could practice their skills before having to apply them on the job or in college." Our child used both Dragon Naturally Speaking and Kurzweil extensively through out high school and college years and continues to use them to compensate for severe dyslexia both at home and at work.

Children should have the benefits of supportive technology starting in middle school, and along with and/or after structured literacy instruction.

The Board of Education is in a unique position to improve daily life, and long term financial and emotional outcomes for Vermont students. Please use your leadership to enable each student to be successful.

Please contact me if you have any questions about this testimony.

Cynthia Gardner-Morse, M.Ed.  
Elementary Educator/Literacy Tutor  
Parent  
Concerned Citizen

Vermont State Board of Education,

We are the parents of a child who currently has an IEP and attends school in the Barre City district. Our child was identified as having dyslexia at the end of seventh grade. We have struggled with the school system to get the services our child needs.

In first grade, we noticed our child was struggling with reading and we had him retained with the hope that this would help. When we noticed that he was not progressing as expected and that he had trouble with letters, sounds and attention, we requested a screening, An Occupational therapy screening was completed. The report stated, *"he seems to have difficulty organizing and processing information, specifically thru his vestibular or movement systems, visual and auditory systems"*. This was the year that our son started the Reading Recovery program at school.

During first thru third grade we did not see any improvement in his reading even though he was in the Reading Recovery program. With our concerns and those of his teacher, we again requested screening and another speech language test was performed. The recommendation from this language test was that our son *"have a comprehensive speech language evaluation to determine whether or not his difficulties are consistent with a specific learning disability in the areas of oral expression and listening comprehension which could impact his ability to successfully access the 3<sup>rd</sup> grade curriculum."* A comprehensive speech language evaluation was not completed.

Our concern grew when we noticed our son still struggling with simple reading, sounding out words, missing words or substituting words while reading. When we attended parent teacher conferences, we were told our son was doing well even though he was reading at an early fourth-grade level in sixth grade. Even though our son was still in the Reading Recovery program he was still struggling. We decided to find help for our son through the Sylvian Learning Center but felt this did not help him either.

In sixth grade, we hired a private tutor that was certified in OG and in seventh grade another tutor who had experience with Wilson. In talking to our sons' tutor, she recommended that we should have him tested for a learning disability. Halfway through seventh grade, his tutor performed an informal assessment in reading fluency and comprehension and his words per minute and accuracy were still at a fourth-grade level. We made the request to the school for a Special Education evaluation and it was determined he had dyslexia. During the IEP discussion, it was determined the Reading Recovery program was not the most appropriate reading program for our son. The school provided our son with ESY services with a certified OG tutor. We asked that our son receive instruction in Wilson or OG and the school hired a para that took a three-day overview course in Wilson. He received this instruction from the beginning of eight grade until the beginning of the pandemic in March. He has not received any instruction since.

We have experienced many challenges working with the school system to address our son's disability.

- Heard that "we can't offer that service", "we do not have someone trained to do that" or the "school doesn't have this in the budget to offer these services"
- IEP's not having S.M.A.R.T or attainable goals
- IEP not having metrics for measuring if the goals are being met (eg, steps in Wilson)
- Wilson instruction given in small group not individualized
- Heard many times "compared to his peers, he is doing well"
- Very vague goals on IEP and not clearly defined. This is very difficult to determine if progress was being made. We asked if Wilson steps could be used as measurable goals in his IEP, but were told "they do not put teaching methodologies in the IEP"
- In the IEP the progress boxes were never filled in with progress codes
- The school system does not have certified instructors in an evidenced based program (eg Wilson / OG)
- The IEP objective for reading was fluency, but does not address his weakness with "Decoding"

Our son is now a freshman and we are facing the same challenges in High School. We have asked that our son receive instruction in Wilson or OG but we were told his disability is not severe enough to qualify for these services, so we have obtained an independent evaluation from the Stern Center.

The changes we would like to see is that schools identify kids with disabilities earlier. Our son was not identified until the end of seventh grade, only after we again voiced our concerns that our son may have a learning disability. Early detection would help these children be successful. The school also needs to provide kids with dyslexia instruction thru a certified instructor in an evidence base program (eg, OG or Wilson) or a Multisensory Language program. The school seemed to be restricted or do not offer these services.

The school system has failed our son by not identifying his disability earlier. We trusted that if our son had a learning disability the school would have identified it. We have felt overwhelmed and frustrated in watching our son struggle through the years and fall behind. The school told us that our son was doing well but we could see he was still struggling so we took him to the Sylvian center, hired private tutors and had an assessment done by the Stern Center. We have had to fight for our son to receive a phonics-based program that has scientifically been proven to work, even though he has not received this. We have seen the instruction of whole language and the Reading Recovery program fail our son.

Sincerely

Deb and Paul

**From:** [Dr. Margaret Overman](#)  
**To:** [SBE - Public Comment](#)  
**Subject:** Special Ed Rules: Students with Hearing Disabilities Public Comment  
**Date:** Monday, December 21, 2020 1:41:47 PM

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Good afternoon,

I'm submitting my public comment as it relates to Vermont's Special Education Rules.

**Who I Am/Why I care about these rules:**

I am an educational audiologist that currently works with students with hearing loss and auditory processing disorder in several Vermont schools and in private practice. I am also the parent of a child in the Burlington School District who receives special education services through an IEP.

**Three Areas of Concern for Your Consideration:**

1.) As a professional who has worked with over 250 Vermont education teams for students with hearing loss, **I'm especially concerned about how Vermont's rules around Adverse Effect limit the school's ability to support students with hearing loss as called for within IDEA, ESSA, and the National Association of State Directors of Special Education 2018 guidelines** (<http://www.nasdse.org/docs/nasdse-3rd-ed-7-11-2019-final.pdf>). Direct instruction is required for **all** students with hearing loss to access FAPE and to ensure that these students have access to communication at school similar to their typically hearing peers, as called for within IDEA. The current language on adverse effects prevents the majority of these kids in our state from receiving the instruction they need in several areas, including advocacy. Hearing loss is a low incidence disability that has unique impacts on education and learning, most directly related to access- we must be able to meet these student needs unique needs as has been done in other states and in order to comply with IDEA.

2.) I'm also concerned that the majority of Vermont's districts don't have access to the full scope of audiology services as called for as a "related service" under IDEA and these rules. Historically, in Vermont, "hearing consult services" have been provided through contracted external providers/private companies and a large grant from the Agency of Education to one company. At this time, many districts believe those 'hearing consult services' and occasional contracts with clinical audiology providers (UVM/Dartmouth, etc.) meet the standard required by IDEA and Vermont's rules and they *don't always*. *Many of these 'hearing consult providers' do not have the qualifications as an audiologist (state licensure)*. **I request that the special ed rules amend the description of Audiology as a related service (page 26 of rules) to include the language that services be provided by a qualified audiologist. Just as the language in the same section, for Occupational Therapy, reads "provided by a qualified occupational therapist".**

3.) I also would like to see Vermont officially recognize the need for the identification of students with both hearing loss **and** auditory processing disorders under the description of Audiology services (related services provider section, p. 26). **Schools have a responsibility to identify and support students with an auditory processing disorder, who are frequently lumped into the "hard of hearing" category;** however, students with this disability have challenges related to problems in the central nervous system versus the

ear/peripheral hearing, as currently defined in the rules. Only an audiologist is licensed to diagnose auditory processing disorders. Many students in Vermont are unable to receive support for this disability even though it is listed as a disability under the speech-language impairment - listening/learning comprehension - auditory processing. Many districts are supporting these students with this disability even though the language is vague as it is written; however, because it isn't clearly defined in the 'rules' under the description of services provided by the related service provider (Audiology), support is not widely sought or available through the company currently receiving the AOE grant to support schools with services for hard of hearing children. This leaves the schools stuck without support for this disability.

**Thank you** for your time and commitment to reviewing these public comments and the State rules. As both a professional and a parent of a child working within the special education system in Vermont, I believe in our education system and our unique ability to change and adapt to meet the needs of our students as compared to many other states.

SincEARly,  
Margaret

*NOTE: My work days/hours are very different than many others. I do not expect a response or reply to this message, if requested, during your off-hours.*

*\*This email was typed on an iPad and occasionally with speech-to-text technology. I apologize for any errors.*

**Margaret Overman, Au.D., CCC-A** (She/Her)

Educational Audiologist | Vermont HEARS, LLC

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Mack Gardner-Morse  
8197 County Road  
Calais, VT 05648-7517  
30 December 2020

To: Vermont State Board of Education

Re: State of Vermont Special Education Rules 2360 *Special Education in Vermont*

I am struck by the inconsistencies in Vermont's special education rules for IDEA Part C (birth up to age three, Rules 2360.3 and 2360.5-2360.7) and IDEA Part B (age three to twenty-one, Rules 2361-2363). The rules for IDEA Part C emphasize identification "at the earliest possible age" and include explicit rules for screening children for potential developmental delays. This emphasis for early identification for developmental delay carries over into Early Essential Education (EEE) for children age three to six.

The District Management Group (DMG) report noted, "Across the state of Vermont, approximately 45% of students did not score proficient in ELA [English Language Arts] on the state assessment grades 3-5 for the 2015-2016 school year." Just as early identification is important to help children with developmental delays, it is important to identify struggling readers "at the earliest possible age". The table below shows the current Child Find rules for IDEA Part C and IDEA Part B along with suggested rules for screening all children in Pre-Kindergarten (age four) to Grade Three for the foundational reading skills of phonemic awareness, phonics and fluency as outlined in the Agency of Education's Vermont Early Learning Standards (August 2015, relevant section attached). The National Council on Teacher Quality's State Literacy Instruction Guidelines (June 2020, attached) provides a list of potential screening tools.

With the emphasis on early identification, the IDEA Part C rules allow forty-five days for evaluations. Yet, the IDEA Part B rules allow sixty days. To be consistent, I suggest changing the IDEA Part B rules to allow forty-five days. See the table below for a comparison of the rules and suggested rule change.

In the IDEA Part C rules, parents are allowed to bring a family member and an advocate or someone outside of the family to IFSP/One Plan meetings. However, the IDEA Part B rules do not allow parents to bring any support to either the Evaluation Planning Team (EPT) or Individual Education Program (IEP) Team meetings. I know from experience that it can be daunting to enter a room full of educators without any support. I suggest changing the rules to explicitly allow parents to bring a family member and someone outside of the family such as an advocate.

I also noted that evaluation in the IDEA Part C rules includes both the child's "strengths and needs". Best practice is to teach to a child strengths. But how do we know what the strengths and needs are if we do not do a comprehensive evaluation? The table below compares the rules for evaluations and suggests changes to the IDEA Part B rules.

These rule changes will help identify students in need of services at the earliest age possible, the evaluations are done to assess all the strengths and needs of the child in a timely manner and ensure the full participation of the parents in the child's education. Incorporating these changes into the special education rules makes sure these changes are done uniformly for every child across the state. Adapting a screening rule will allow services to begin when they are most effective. Special education student literacy outcomes will improve saving special education money.

Thank you for your consideration of these suggestions.

Respectively submitted,

Mack Gardner-Morse  
(802) 223-5738

Attachments:

Vermont Early Learning Standards (pp.62-67)  
National Council on Teacher Quality's State Literacy Instruction Guidelines

Part C Birth up to Age Three Children's Integrated Services/Early Intervention (CIS/EI)		Current Part B Ages Three through Twenty-one Essential Early Education (EEE)/Special Education		Proposed Part B Ages Three through Twenty-one Essential Early Education (EEE)/Special Education	
Rule #	Rule	Rule #	Rule	Rule #	Rule
2360.3 (6)	Each LEA shall act as a primary referral source to identify, locate and screen children who may be in need of early intervention services and refer identified children to regional CIS/EI programs. Children who are found to be typically developing based on screening results shall not be considered identified children requiring referral. (i) For children birth up to age three, the Child Find system shall employ specific elements of public awareness, screening and referral to regional CIS/EI programs.	2360.3 (7)	Each LEA shall identify, locate and evaluate all children and students, who may be eligible for special education and related services, ages three through twenty-one residing within the jurisdiction of the responsible agency. (i) Annually each LEA shall submit to the AOE, in the specified electronic format, data requested regarding children and students ages three through twenty-one who have been found eligible for special education under the IDEA.	2360.3 (7)	Each LEA shall identify, locate, screen and evaluate all children and students, who may be eligible for special education and related services, ages three through twenty-one residing within the jurisdiction of the responsible agency. (i) For children and students age four through grade three, the Child Find system shall employ specific elements of public awareness and screenings for struggling readers who may be in need of early intervention services. (ii) Annually each LEA shall submit to the AOE, in the specified electronic format, data requested regarding children and students ages three through twenty-one who have been found eligible for special education under the IDEA.
2360.5. 1(a)	(21) Screening is a process using State approved screening tools and appropriate methods implemented by qualified personnel and/or primary referral source to identify, at the earliest possible age, a child suspected of having a developmental delay and/or disability and in need of an initial evaluation.	2361.1	<b>Part B Definitions</b>	2361.1	(33) Screening. Screening is a process using State approved screening tools and appropriate methods implemented by qualified personnel to identify, at the earliest possible age, a child suspected of having a specific learning disability and in need of an initial evaluation.
2360.5. 3	<b>Screening</b> (a) As co-lead agencies, AOE and AHS have adopted procedures				Screening (a) LEAs are to conduct screenings for children age of four to grade three at

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outlined in the Part C Interagency Agreement and are specified in regional CIS/EI and LEA agreements, to conduct screenings for children under the age of three suspected of having a disability and may be in need of early intervention services. For children with established diagnosed conditions set forth in §2360.5.5(a)(2) screening is not necessary because records establish that the child has a disability and is eligible for Part C services. For children undergoing the screening process, and based on regional agreements, the following must occur:

- (1) Provide the parent notice of the intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an initial evaluation at any time during the screening process;
  - (2) Parental consent is obtained prior to conducting screening; and
  - (3) Notice must be provided to the parent if the screening or other available information indicates the child is suspected of having a disability.
- (b) The 45 day timeline begins upon receipt of referral to the regional CIS/EI program. CIS/EI must appoint a service coordinator and contact the family within two working days of referral.
- (c) CIS/EI will review and/or conduct a screening, and if warranted, an initial

least annually for potential struggling readers and specific learning disability who may be in need of early intervention services. For children undergoing the screening process, the following must occur:

- (1) Provide the parent notice of the intent to screen the child to identify a possible specific learning disability and include in that notice a description of the parent's right to request an initial evaluation at any time during the screening process;
  - (2) Parental consent is obtained prior to conducting screening; and
  - (3) Notice must be provided to the parent if the screening or other available information indicates the child is suspected of having a specific learning disability.
- (b) LEA will conduct a screening, and if warranted, initiate an evaluation of the child or student as outlined in §2362.2.
- (c) If the child is not suspected of having a disability, the LEA must ensure that written notice of that determination is provided to the parent, and that the written notice describes the parent's right to request an evaluation.
- (d) If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted, even if the LEA has determined that the child is not suspected of having a disability.
-

evaluation of the child and assessment of the child and family. The IFSP/One Plan meeting must be held within 45 days from the date the regional CIS/EI program receives the referral for the child.

(d) If the child is not suspected of having a disability, the CIS/EI provider must ensure that written notice of that determination is provided to the parent, and that the written notice describes the parent's right to request an evaluation.

(e) If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted, even if the CIS/EI provider has determined that the child is not suspected of having a disability.

2360.5.	<b>Screening</b>	2363.2.	<b>Initial Evaluations</b>	2363.2.	<b>Initial Evaluations</b>
3	(c) CIS/EI will review and/or conduct a screening, and if warranted, an initial evaluation of the child and assessment of the child and family. The IFSP/One Plan meeting must be held within 45 days from the date the regional CIS/EI program receives the referral for the child.	1	(c) The initial evaluation shall be completed and the report issued within sixty days from either: 1. The date parental consent has been received by the LEA. 2. The date on the LEA's Notice, which informs parents that it will be reviewing existing data as the sole basis for the initial evaluation.	1	(c) The initial evaluation shall be completed and the report issued within sixty-fourty-five days from either: 1. The date parental consent has been received by the LEA. 2. The date on the LEA's Notice, which informs parents that it will be reviewing existing data as the sole basis for the initial evaluation.
2360.5.	<b>IFSP/One Plan Meetings and Reviews</b>	2362.2.	<b>Evaluation Planning Team (EPT) – Membership</b>	2362.2.	(6) The parent(s), guardian or educational surrogate parent of the student/child who shall be given meaningful opportunity to contribute information to the development of an evaluation plan; and; (7) Other family members, as requested by the family;
6.1	(6) Also attended by or otherwise include the participation of: (i) Other family members, as requested by the family; (ii) An advocate or person outside the family as requested by the family;	2	(4) At the discretion of the parent or the school district, other individuals who, in the opinion of the parents or school district; have knowledge or special expertise regarding the student/child, including related services personnel, as appropriate;	2	

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(6) The parent(s), guardian or educational surrogate parent of the student/child who shall be given meaningful opportunity to contribute information to the development of an evaluation plan, and  
(7) If appropriate, the student/child.

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(8) An advocate or person outside the family as requested by the family and  
(79) If appropriate, the student/child.

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2360.5. 4(c) (2) Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility and includes the assessment of the child, and the assessment of the child's family. Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP/One Plan meeting.

2362.2. 4 (6) Ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been found eligible.

2362.2. 4 (6) Ensure that the evaluation is ~~sufficiently comprehensive~~ to identify the child's strengths and all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been found eligible.

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2360.5. 6.1 **IFSP/One Plan Meetings and Reviews**  
(6) Also attended by or otherwise include the participation of:  
(i) Other family members, as requested by the family;  
(ii) An advocate or person outside the family as requested by the family;

2363.3 **Individualized Education Program Team**  
(4) At the discretion of the parent or the LEA, other individuals who, in the opinion of the parents or LEA, have knowledge or special expertise regarding the child, including related services personnel, as appropriate;  
(6) The parent(s), guardian or educational surrogate parent of the child;  
(7) If appropriate, the child;

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2363.3 **Individualized Education Program Team**  
(6) The parent(s), guardian or educational surrogate parent of the child;  
(7) Other family members, as requested by the family;  
(8) An advocate or person outside the family as requested by the family;  
(79) If appropriate, the child;

**December 10, 2020**

## **Testimony regarding changes to special education in Vermont**

I am so proud of Vermont for recognizing early education as key to success. My older son got to attend State supported playgroups starting as a baby, play-school as soon as he turned three years old, preschool at 4, and then kindergarten. Amazing.

When my second child came along, he did the same. However, it became clear he struggles with reading. He can not remember which direction many letters go. He can't tell the difference between a B and a D or a P and a Q. Sometimes he pronounces words from right to left. Experts estimate 15 to 20% of the population has dyslexia. It's estimated 80% of those who have trouble reading have dyslexia.

My son began falling behind in every subject area because he can't read the directions of any subject. He does not seem to have any intellectual disability. He understands when we read to him.

His Kindergarten teacher hoped he would catch-up.

I went to his first 1st parent teacher conference in the first grade expecting his teacher to recommend disability screening. While she recognized his struggle, she recommended waiting until the end of the second trimester to see if he can catch up. She informed me that he would not be eligible for any disability screening until he is below grade level and in the bottom of his class, which cannot be determined till the end of the year.

His self-esteem went down the drain as he got further and further behind. He cried to me, "mom, I'm stupid".

I requested the school to screen him for dyslexia. To my astonishment, the school informed me Vermont does not provide dyslexia screening. In disbelief, I looked into this and found that although Vermont has legislation recognizing dyslexia as a specific disability, Vermont has no legislation for dyslexia screening and no legislation for dyslexia treatment.

I see headline after headline about the decline of reading scores scores on Standardized tests in Vermont.

Why do Vermont lawmakers refuse to identify and help children who struggle with dyslexia?

His teacher told me dyslexia screening and treatment is available at private places like Stern Center, but that it's quite expensive. Stern Center only does in-person testing which takes an entire day. Treatment requires regular appointments. Plus they were about to shut down for Covid so they would not make an appointment for my son.

My son began the second grade below grade level in reading. We live an

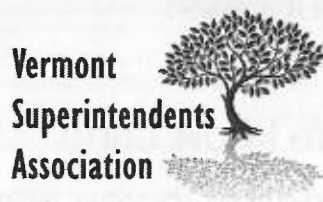


hour and a half away from the Stern Center. My income is very low and I am sad that socio-economic status is a barrier to his success.

Can you please help him get screened for dyslexia? We know early education is key to success. Do you want him to succeed? Do you want Vermont reading test scores to improve?

I plead for you to write legislation to screen for and treat dyslexia.

Thank you for your consideration.



To: Members of the State Board of Education

From: Jeffrey Francis, Executive Director, Vermont Superintendents Association  
Sue Ceglowski, Executive Director, Vermont School Boards Association  
Jay Nichols, Executive Director, Vermont Principals' Association

Re: State Board of Education Proposed Rules 1300 and 2360

Date: December 23, 2020

On behalf of our respective Associations, we are writing to support the comments submitted by the Vermont Council of Special Education Administrators (VCSEA) on Proposed Rules 1300 and 2360. VCSEA has submitted comments dated May 20, 2020, October 15, 2020 and December 8, 2020.

In addition to conveying the support of our Associations for the comments submitted by VCSEA, we wish to emphasize our agreement with the following specific points made by VCSEA:

- 1) Our Associations support the current Draft Rules proposed by the State Board of Education (see VCSEA comment May 20, 2020 and October 15, 2020 - page 1).
- 2) Our Associations agree that only changes in Rules necessary to support the implementation of Act 173 should be considered.
- 3) We agree with VCSEA's observations that "Act 173 was designed to strengthen the system of support for all students; it was not, however, intended to replace or expand entitlements created by federal law. The approach taken in development of the current Rules was to ensure alignment with Federal regulations - not to expand entitlements."
- 4) We agree that Vermont's definition of Adverse Effect does not need to be eliminated in order to accomplish the effective implementation of Act 173 and that "Vermont's current rules are already in alignment with Federal special education regulation, which includes the construct of "adverse effect".

- 5) Multi-tiered Systems of Support (MTSS) - Our Associations agree that regulating MTSS through Rules would establish a course for overly restrictive implementation. Strict regulation of MTSS would constrain the flexibility intended in Act 173 and would likely reduce, rather than encourage, inclusive practices benefitting all students, and especially those who struggle. Additionally, creating 'MTSS Rules' is redundant with existing statute that requires schools to implement MTSS with fidelity. MTSS is an overarching education framework - special education is one element of this framework. MTSS does not belong within special education rules as the framework exists outside of special education not within it. To include MTSS within special education rules would create confusion and undermine the comprehensive nature of an effective MTSS system.
- 6) Rule 2365.1.3 Parental Consent - An interested party has proposed a requirement that school districts obtain a parent's signature of agreement for any Individual Education Plan (IEP) before it can be enacted. Our Associations do not agree with the proposal nor does VCSEA. There are well-established federal requirements for parental participation in the IEP process, including clear processes for dispute resolution. Like VCSEA, our Associations believe that requiring parental signature on an IEP developed with their full participation is redundant. Furthermore, providing for differentiated acceptance of provisions of the IEP weakens the ability of an LEA to offer and ensure a Free Appropriate Education (FAPE). An additional step in the IEP approval process could reasonably be expected to delay services for students and add costs
- 7) Adverse Effect - We know that there is a difference of opinion between VCSEA and the Vermont Disability Law Project with respect to Adverse Effect. The difference of opinion centers on the utilization of Adverse Effect as one "gate" in special education eligibility within the current Rules. VCSEA supports the utilization of Adverse Effect and the Disability Law Project is advocating for the removal of Adverse Effect in eligibility considerations. In supplemental comments provided by VCSEA on December 8, 2020, it is now recommending the following approach:
- Continue to require adverse effect documentation as it is currently defined for all disability categories that require it in Federal law.
  - Eliminate Adverse Effect documentation in the two disability categories where it is not required under Federal law (Specific Learning Disability (SLD) and Deaf-Blindness).
  - Recommend a more formal move to the use of a Response to Intervention method to determine SLD eligibility rather than a severe discrepancy model.

- Formally request that the State Education Agency (SEA) provide specific, formal guidance on the shift to an RTI model for SLD eligibility.

Our Associations support VCSEA's proposal for addressing Adverse Effect.

Finally, while it may go without saying, we wish to convey that our Associations have confidence in the VCSEA's collective expertise and perspective with respect to this rulemaking process. Special education administrators generally, and the VCSEA specifically, work diligently to understand and respond to laws, rules and best practices in the delivery of public education in Vermont.

On behalf of our respective Associations, we thank you for the opportunity to provide these comments.

cc: Vermont Council of Special Education Administrators

**From:** [Jeff Leake](#)  
**To:** [SBE - Public Comment](#); [Carroll, John](#); [O'Farrell, Jennifer](#); [Gleason, Kimberly G](#); [Pena, Angelita](#)  
**Subject:** The Vermont Special Education Rules- Public Comment Submission  
**Date:** Thursday, December 10, 2020 1:06:31 PM

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### ***Who am I?***

Jeffrey Leake, Parent and School Board Member  
257 Birch Hill Rd  
Shaftsbury VT 05262  
802-442-6918

### ***Why do I care about special education in Vermont?***

As a parent of a child with “deep” dyslexia as identified by a Neurodevelopmental Speech-Language pathologist, The Sterns Center and Boston Children’s Hospital. I have watched my child struggle with reading and writing. Over the years I have seen this gap widen compared to her peers. Putting her at a disadvantage compared to her peers. I have seen how the “wait and see approach” with MTSS had put my child further behind. My child deserves a scientific, peer-reviewed reading program that meets her unique learning needs. Verses the single "one size fits all" program approach that districts tend to use I have a child that loves books on tapes and often listening to them at home, sadly she is unable to sit and read the same book. As a board member, I have noticed that many children are being left behind in their ability to read and write in the state of Vermont. How can we as a state justify the cost of educating our children and still accept the fact that 67 percent of Vermont 4th graders are reading at the basic level or below with 33 percent of those children reading below basic reading level.

### ***Challenges that I as a parent have experienced?***

As a parent of a child in special education in the State of Vermont. I have watched as my child fall further and further behind in her ability to read and write. At the age of three-year-old, my child was identified with speech articulation issues, three years later she was identified with a specific learning disability in reading and writing. Independent evaluations showed a child with “deep” dyslexia and possibly

dysgraphia.

As we move forward with her education in the school our child received one on one services daily for an hour each school day in the second grade. She was making painfully slow reading gains, leaving her further behind compared to her peers. As parents, we pointed out the intervention was not closing the reading gap but allowing it to widen. We requested a change in programming to better meet her unique learning needs due to her "deep" dyslexia. Sadly the district refused a change in program leaving us as parents to look into other options. For her Third Grade year, we cash in some retirement accounts, and our family bought a house in a district 20 minutes away. It was here that the IEP team made a decision based on the evaluations and our child's unique needs and chose a program with a methodology that best fit the needs of our child to gain reading and writing skills versus a "one size fits all" approach that was used in second grade. . Sadly, due to our child's emotional needs, we sold this house and move back to the prior district. With the data that we now had as parents from her 3rd-grade year, we were hopeful the prior district would see the benefit of using another methodology/intervention. In 4th Grade the district once again used a "one size fit all" approach to reading intervention, my child was placed right back at the start of the program she started in 2nd grade. Refusing to use another methodology at the district level that would benefit our child's unique learning needs. We decided to pay for a private tutor 3 days a week before the school day to continue to use a program that was proven to work for our child. We have continued using this tutor in the 5th grade as well.

As a parent, we learned that we are not an equal part of the IEP team. Data is often not shared, even when asked. When we asked for data to back up progress monitoring goals in the IEP, often nothing was able to be provided. We found that even when the whole IEP team determines what is best for the child it can easily be overturned by the LEA or Director of Education. It is in these two positions that ultimate power for approving or disapproving what's best for the child occurs (not the parents or the individuals working with the child). These decisions are often based on cost, staffing, and resources the district has or doesn't have. Even as a parent at the table and being a member of the IEP team your voice is often lost in the educational decisions for your child. (Placement as an IEP Team Decision Rule 2364.3). Sadly, we have been told by the LEA, they can just change services that the child can receive when they feel like it, easily overturning the IEP team's wishes.

As parents, we have spent tens of thousands of dollars providing services for our child outside of the school day on our own dime. We had paid for educational evaluation, advocates, lawyers, tutors, and educational in-services and conventions about dyslexia. Bought a second home to try a different program to see if it was effective. As parents we have spent hours reviewing the federal and state law, only to be told that our interpretation of the law is incorrect by the district after speaking to their legal counsel.

As parents, we researched our child's disability, educated ourselves on her disability, and are strong advocates (teachers have often commented on us knowing more about dyslexia than they do). Only to continue to watch her fall behind compared to her peers. Our child loves her current school and her friends and our home. Sadly her unique educational needs are not being met by the supervisory union, as they use "a one size fits all" approach for children with SLD in reading/dyslexia.

Often, we have requested data on her current progress for our child before IEP meetings only to be given at the IEP meeting and not able to see raw data, but only the summarization of the data. How can we be an equal member of the IEP team when we don't have access to what the teachers are looking at for data to determine what is the best services for the child. We have been told that the IEP Teams had a pre-planning meeting before the IEP team meeting with the parent, to review the data and to discuss the IEP beforehand.

It is truly a struggle to have a child with a disability in the state of Vermont

### ***Changes you would like to see in the rules?***

I would like to see the adverse effect gate be removed. Removing the "Second Gate", would create a fair and inclusive system for students with one or more of the disabilities described in Rule 2362.1. This would provide my child with reading service early. Students in need of special education services would benefit from educational programs and this support cannot be provided through the educational support system, standard instructional conditions, or supplementary aids and

services provided in the school. IEP teams could look at any issues impacting a student's ability to benefit from education(interpersonal relationships, independence, school work self-initiation, and completion), fair and inclusive to allow these children to have access to educational opportunities. Currently, districts in Vermont states determine these adverse effects differently. Often this leads to the child failing to have services, allowing for the child to fall further behind compared to their peers. Many hard-working children are not given the extra help that would allow them to succeed due to the adverse effects of the "second gate".

I would propose that our children be screened early for dyslexia/ reading issues at an earlier age to catch them in kindergarten early first grade to provide intervention at a time with a Neuroplasticity of the brain that is at the greatest for developing/acquiring the skills needed to learn to read. Hopefully closing the reading gap before it becomes too large and costing more taxpayer money to close this gap later when the students are older, often taking more time to learn/acquire the skills to read. Commonly, dyslexia is genetic and a simple screener questionnaire if a *parent has dyslexia*, then a child may be identified sooner.

Currently, the state does not require teachers to have any formal training on dyslexia in college coursework and many teachers had a poor understanding of the complexity of this disability. I would recommend teachers be provided coursework on dyslexia in college to be able to obtain a new license in the states of Vermont and the need for continuing education on dyslexia for all educators to maintain their license.

In the state of Vermont, parents have some great resources to reach out to. But, in the end, the day many Vermonters can't afford the lawyers or advocates, to understand the law and what is best for their children. This leaves many of us at an unfair advantage when dealing with school districts. Districts have unlimited public funds to access lawyers. As a taxpayer in the state of Vermont, I would like the same opportunity as the district to use public funds to use a lawyer or educational advocate to better understand and advocate for the unique learning needs of our children when things are not working. Thus, allowing the parents to truly become equal members of the IEP team.

Lastly, I feel that it is important to follow some of our neighboring states in



having a Special Education Parent Advisory Council (SEPAC). I would like to see every public school district in Vermont to establish a SEPAC. A SEPAC is a public body that serves as an adviser to the School Committee on matters that pertain to the education and safety of students with disabilities. Besides, the SEPAC has a duty to meet regularly with school officials to participate in the planning, development, and evaluation of the district's special education programs. The SEPAC is a self-governing body (creates its own by-laws and operational procedures) and is open to all parents of children with disabilities and other interested parties. A SEPAC is different from a PTA, PTO, or School Council – it does not represent families from one school, but serves all families of children with special needs from the entire school district

Vermont rules should follow those set forth by the Federal Government. As a small state, we need to identify and intervene early and provide the opportunity for our children with disabilities to flourish. I would personally like to thank you for all the time you are dedicating to the children of Vermont. It's important to provide a strong educational foundation for our children with disabilities. Hopefully, my comments and sharing my family struggle will help you make the system better for our children.

Sincerely,

Jeffrey Leake

**From:** [Jessica Dion](#)  
**To:** [SBE - Public Comment](#); [Carroll, John](#); [O'Farrell, Jennifer](#); [Gleason, Kimberly G](#); [Pena, Angelita](#)  
**Subject:** Testimony for Special Education rule changes  
**Date:** Thursday, December 10, 2020 12:12:34 AM

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12/10/2020

Jessica Dion

Thank you for this opportunity to be heard. I am a resident of Jericho, VT and a mother of two children. My son is a senior at MMU, and my daughter is a sophomore. Though my son sailed through his educational experiences, my daughter struggled from day 1 and continues to struggle. In spite of being a bright, compliant and hard working student, she fell further and further behind through elementary school, reading significantly below grade level in fourth grade and struggling with writing and spelling. Although she is a poster-child for dyslexia, that word was never used. Teachers just kept suggesting that she needed to work harder and read more - shaming her and blaming her were easier than admitting that they were failing her. She was never offered a professional evaluation. The extra help offered was inappropriate for a dyslexic learner, and resulted in more trauma from being pulled out of class, than gains from additional "reading practice". She developed regular migraines and stomach aches, came home from school in tears, and spent long afternoons and evenings struggling with homework that took her peers mere minutes to complete.

We finally realized that there was no way we could do any worse than this, and home schooled her through her middle school years. I have been a strong advocate for public education for decades. It was heartbreaking to give up and pull my kid out. I put my personal and professional life on hold for years - most people do not have this option. Public education completely failed my child. They did not see her as a capable, hard-working student with great potential. They were content to have her fill out the bottom 20% of the bell curve. Once she was out of public school and was no longer feeling constantly humiliated and "stupid", her migraines and stomach aches disappeared. Her confidence rebounded and she thrived. We finally paid \$2,000 to have her evaluated by a professional, and many more thousands of dollars to have her tutored. She made extraordinary strides with appropriate evidence based, science based instruction, jumping in reading levels. In 8th grade, she started to pick up books for pleasure for the first time. How different would her life be, if she had not had to fall years and years behind, before anyone did anything to help her?

There is no reason that this evaluation and instruction could not happen within the umbrella of the public school system. She and every other dyslexic student deserves a fair and equal education. How could it be that in this day and age, the school could not teach my child to read, write and spell? There is nothing remarkable about my daughter. There are thousands of students like her in schools across the state. Dyslexia is more common than left-handedness. When Vermont schools treat the word "dyslexia" as taboo, when 1 in 5 kids falls off of the reading bandwagon and are left in the dust, there is something seriously wrong with our system. It is time to stop blaming families and students, for not having the neurological wiring that our schools teach to.

We need robust early screening. We need teachers to be trained in the science of reading. Reading

programs need to be selected that work for all learners. Most programs that work for dyslexic students also work well for non-dyslexic students, so this is a win-win. Dyslexic students do not need to be stigmatized and most do not need to be pulled out of classrooms. We need the word dyslexia to be used and understood.

Dyslexia has often been described as a weakness surrounded by a sea of strengths. Most dyslexic kids present as intelligent, articulate, creative and quite capable of learning. When a child like this mysteriously doesn't learn to read on schedule, the child and family are often held responsible. We hear:

Read to your child every night.

Make sure your child is reading every day.

S/he should spend extra time reading over the summer.

It's all a matter of finding the right book.

If the child is motivated enough, s/he will learn to read.

S/he needs to work harder on reading.

Give it time - s/he's so smart, I'm sure it will click.

For the 1 in 5 students who struggle with reading, this is NOT ENOUGH. Every year, a new group of kindergarteners enters our school system. Will each of them have an equal access to education, or will 20% of them not get the reading instruction they need?

We have known about dyslexia since the 1800s. Dyslexia is a variety of human - a natural variation. We have decades of solid research data on how to strengthen reading and literacy skills for dyslexic kids. Most of these methods work very well for all children, making them easy to implement in the classroom.

What we are doing now has a massive hidden cost. The population of American prisons has a disproportionately high number of people with dyslexia. Illiteracy is very expensive to society - far more expensive than implementing evidence-based early literacy education. In each Vermont high school graduating class, there is a group of individuals who struggled their entire academic life. They think they must be stupid, because their dyslexia was never recognized, diagnosed, or addressed in school. They were called lazy, unmotivated and incapable. We are doing a grave disservice to these students. Our failure to act, to implement science based, evidence based reading programs, is crushing the spirits of these children and sending them out into life with a negative, distorted perception of their abilities.

There are also countless examples of people with dyslexia who have achieved great success, as actors, inventors, CEOs, authors (yes!), scientists, artists, lawyers, etc. Some of them succeeded despite an arduous childhood of humiliation and shame. For the rest, early identification, strong support from family and schools, and \*appropriate evidence-based education\* made all the difference. Right now in Vermont, parents have to do their own research, pay thousands of dollars

for independent testing, and take time off work for private tutoring outside of school, for their child to learn to read and write fluently. This means that only children from affluent families have the opportunity to close this gap.

Reading is the gateway to learning. A delay in reading fluency compounds quickly, is hard to recover from, and impacts every part of a child's life. We must give every Vermont child a strong start, with literacy instruction that is backed up by science.

Changes in education are often glacial and involve a lot of pushback. I urge you to ACT in the interest of our students. Please do not decide that, because things are going along ok, or because you haven't heard from many families (If you want to hear from families, reach out to families involved in IEP and 504 plans - they have a lot to say, but they have no idea this is happening right now), or because you aren't an expert, that it is best to not rock the boat. Parents are not dyslexia experts either, but right now 100% of the burden is on them. The boat is sinking. Children are being lost every year.

I strongly encourage you to read the transcripts of the testimonies submitted on 1/29/2020. Bring a box of tissues. There are many, many families who are living a nightmare, because the school will not evaluate or teach their child. Hear those stories - believe those parents and students. The heartbreak is real and ongoing. These are amazing, bright, brilliant and wonderful students who are demoralized because their school does not understand how they learn, and has slammed the door on their future. My daughter is slogging through MMU high school at the moment, but even with a 504 plan, it is utterly exhausting for her and for us, as her advocates. Sometimes it feels like she is the first dyslexic student the school has ever seen. I used to believe in public education, but I am getting bitter, after years of advocacy seems to get us nowhere.

The "gates" students have to pass through to qualify for services are often insurmountable road blocks. Navigating special education as a parent is a nightmare right now. It requires a massive amount of time, background reading, self-confidence and advocacy skills that not all parents have, especially when it feels like the administration is against them. It also often involves paying out of pocket for an evaluation. Why? It doesn't have to be this way. Right now, a parent has to be wealthy and have a lot of time on their hands, in order to get their student's needs taken seriously. This inequity is deeply immoral.

Imagine a Vermont where dyslexic kids don't fall through the cracks. Imagine schools where teachers understand what dyslexia is, and how to teach to students who have it, at all grade levels. Imagine how different my daughter's childhood would have been, if she had not spent so much time feeling like the "stupidest person in the school". Imagine a high school experience that did not box out dyslexic students from upper level classes, by requiring them to read and write a massive amount of material, with very meager accommodations that have to be fought tooth and nail for, in each subject, for each assignment. We have an obligation to serve all students, to pay attention to science, and to use the best data available, when training teachers. This is a fixable problem. If students are screened and offered appropriate services from an early age, in school, in the classroom, it would be transformative for thousands of students across the state. Please don't drop the ball. We need all of our kids to have the opportunity to grow into lifelong learners - and in this society, that means life-long READERS and WRITERS.

Jessica Dion  
63 Alpine Drive  
Jericho, VT 05465  
[jessica@dinsaunti.org](mailto:jessica@dinsaunti.org)



[The following text is extremely faint and illegible, appearing as a series of light gray lines across the page.]



April 22, 2020

Public Comment to the State Board of Education on the Special Education Rules

Provided by Karen Price, Co-Director of Family Support, VFN

I am providing comment to you from the Vermont Family Network (VFN), a state-wide non-profit organization that has been helping Vermont families for more than 30 years. In my role as a project director, I am responsible for our state's only federally designated Parent Training and Information Center (PTI). Our charge is to provide support, information, and training to parents of children with disabilities and the professionals who support them. One of our focus areas is to provide Technical Assistance in the areas of special education and parental rights/procedural safeguards under IDEA (Individuals with Disabilities Education Act), the federal law that mandates special education. In addition to our technical expertise, we ourselves are parents of children with disabilities. We have almost daily contact with many parents of children with disabilities all over Vermont and record around 4,000 contacts with over 1,000 parents each year. I am a parent of a 22-year-old son with an intellectual impairment who was on an IEP through his entire school career. I am also a member of SPEAC (Special Education Advocates Coalition), a group of public and private advocates convened by the Disability Law Project of the Vermont Legal Aid.

VFN fully supports the Rule 2360 proposal that has been presented to the SBE by the Disability Law Project of Vermont Legal Aid. While Act 173 is an education funding law, our position is that funding changes cannot occur without corresponding changes in practice. The breadth of the Vermont Special Education Rules must be reviewed and adjusted in tandem with funding changes.

I would like to speak specifically to a few areas of proposed changes. The first is Parental Rights and Parental Consent. The IDEA is clear that parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. The reality is that we hear daily from parents who do not feel meaningfully included in the special education process. Parents feel that their input is not considered when decisions are made about their children's IEP and that there is a basic power imbalance at the IEP table. These proposed changes would help provide parents a more equal place at the table:

### **2365.1.1 Content of Notice**

Currently, there is no specific time period in which a parent must receive prior written notice when a school proposes to initiate or change, or refuse to initiate or change, a student's identification, evaluation, educational placement or the provision of a free appropriate public education. The guidance calls for a "reasonable" time, but practice has been variable including times involving decisions the school is aware the parent does not agree. The proposed 14-day period provides the parent adequate time to decide whether the change is one with which they will agree, or, if not, to pursue dispute resolution options, e.g., mediation, administrative complaint, due process.

### **2365.1.3 Parental Consent**

Currently, there is no process that a parent sign off on an IEP that they agree fully with, agree partially with, or disagree with. There is a lack of clarity about what parents can do if they disagree with part of the IEP and how to ensure that the services that they agree with will continue. Often, because there is no finality of a signed document, multiple versions of the IEP will exist in which that nobody can recall which version is the most current, or the version that everyone has agreed to. The proposed changes will provide parents clear documents that indicate consent, refusal of consent or partial consent to the IEP as well as a process to work out a resolution of outstanding issues.

### **2362.2.3 Re-evaluation Requirements**

The second area is the IEP timeline. Currently, there is no time limitation regarding special education re-evaluations when the re-evaluation is done prior to the three-year re-evaluation due date. The proposed change would limit the timeframe for re-evaluations to the same timeline as initial special education evaluations, i.e. 60 days. We have seen families wait for months for the completion of re-evaluations, which delays the receipt of any additional or different services that may have been identified as a need.

### **2363.7 Content of IEP**

The third area is transition age. Transition planning is a process mandated by IDEA to facilitate a student's move from school to post-school activities. Currently, the Vermont Rules state that a transition plan be in effect in the first IEP in which a student turns 16, a student's junior year. We propose that the transition age be 14, as some other states have chosen for their Rules. Many students with learning disabilities can benefit from transition planning activities that begin in middle school. This change would also conform with the reauthorization of the Workforce Innovation and Opportunity Act (WIOA) 2014, whereby federal funding through Vocational Rehabilitation (VR) is available for students starting at the age of 14. Furthermore,

changing the transition age would more closely align with Act 77, where all students in grades 7 through 12 are required to have Personalized Learning Plans.

### **2362 Eligibility ages 6-21**

The fourth area is adverse effect. The proposed change will help to bring Vermont into line with the way 49 other states determine eligibility for special education. When IDEA was reauthorized in 2004, it was clear that educational performance is more than academic performance, upon which Vermont's definition of adverse effect is based. Our work with parents shows that the adverse effect criteria in Vermont's Rules exclude children with functional deficits from being eligible for special education services. The children affected the greatest are those with mental health diagnoses and those diagnosed with high functioning autism. These are children with normal to above average IQs, and who may have few to no learning problems but struggle with understanding social norms, behaving appropriately, and/or communicating with peers and/or adults. During the eligibility process, information regarding functional deficits are often not documented or considered. This leaves many children with emotional behavioral disabilities and Autism Spectrum disorders with no access to specialized instruction to meet their unique educational needs.

Thank you.

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My name is Lana Metayer. I am a parent of two autistic children who currently receive special education. This is my written testimony in favor of changing the current adverse effect rule.

My sons CM (11 years-old) and JM (8 years-old) were diagnosed with autism shortly after their second birthdays. Both received intensive services leading up to pre-school and beyond, in school and outside of school. Both made unbelievable progress in large part due to these programs. My kids are lucky to have no cognitive impairments, average IQ and age-appropriate language skills. They do, however, present with executive functioning (e.g., organization, time management), sensory, behavioral and communication differences. Their continued success is conditional on their ability to access the services and supports they need, and special education is key!

My older son was re-evaluated for special education eligibility last year. One of his special ed team members memorably said that although CM continued to greatly benefit from the special education services, it was difficult to qualify him due to the narrowness of the adverse effect definition. All team members strongly agreed that discontinuing special ed services for CM would not only lower his level of achievement, it would reverse progress in certain areas all together. This is an example of a disconnect in Vermont special education rules. CM has a need for specialized instruction, yet he barely fits through the adverse effect gate!

Vermont does so much for the special education students, yet we “kick them out” the first chance we get! In my opinion, the 15<sup>th</sup> percentile threshold is an example of just how low we set the standards for students with disabilities! It shows the systemic nature of discriminatory treatment of people our society simply deems not worthy of meaningful success.

Some argue that 504 plans are just as good as IEPs, but that is simply not accurate. 504 plans are required to provide accommodations only (e.g., extended testing times, special seating arrangements); while IEPs include educational goals and achievement benchmarks; they hold educators accountable for student success! Parents are told that kids who phase out of special ed can always be brought back in if their performance begins to suffer. Although this sounds like a simple idea, in reality, it is a long process that effectively requires a student to *fail*, not falter.

Adverse effect rule disregards certain issues that are known to negatively impact education, including executive functioning, sensory issues and social skills. My older son has many great ideas, but he has tremendous difficulties organizing them in writing. My younger one is unable to focus when his body gets overheated or itchy; he gets easily distracted by background noises such as working fans or people walking in the hallway. Both struggle socially due to their communication and behavioral differences.

Skills such as organization, time management and behavioral regulation are fundamental in every aspect of life; yet, executive functioning deficits alone won't qualify you for special ed! Positive social connections and meaningful friendships are just as necessary for student achievement as quality instruction. Yet, social cognition tests used during special ed evaluations are very simplistic as it is almost impossible to test playground social skills, with all necessary dynamics and complexity, on paper. As for sensory issues, they are completely disregarded and often misunderstood even though they plague so many within and outside of the disability community, impacting student ability to focus and learn, or cause sensory dysregulation and meltdowns.

Vermont is a great place to live and bring up a family; however, our adverse effect rule puts our kids at a disadvantage compared to every other state! It is time for change!

I am happy to answer any question and provide clarifications if necessary. Thank you for your consideration.

Mack Gardner-Morse  
8197 County Road  
Calais, VT 05648-7517  
09 December 2020

To: Vermont State Board of Education

Re: State of Vermont Special Education Rules 2360 *Special Education in Vermont*

Thank you for opening the special education rules for review and comment. I am responding to the testimony of the Agency of Education at the November 18, 2020 State Board of Education meeting. I hope the State Board of Education will make changes to the special education rules to improve the outcome for Vermont's special education children.

I am the parent of three dyslexic children. One required a 504 plan and one was on an individualized education plan (IEP). The child on the IEP struggled for a year in our local public school before being placed in a private out-of-state school for dyslexic students. Despite the stress of being away from home, the child flourished academically. My wife and I were dismayed that none of our local teachers were willing to make classroom accommodations for our child and none were able to support the use of assistive technology like Dragon Naturally speaking (speech-to-text) and Kurzweil (text-to-speech) which were so instrumental to the child's success. With the subject matter knowledge and assistive technology skills gained at the private school, the child was able to graduate from the University of Vermont and is now employed at Middlebury College.

My wife and I both have graduate degrees. With the help of Vermont Family Network, we were able to advocate for our child and get appropriate services and placement for our children. We saw our child struggle academically. By the end of the year, the child was emotionally frustrated to the point of throwing chairs. Why do students have to wait and become emotional disturbed before they can receive the appropriate services?

Many dyslexic children have dyslexic parents. Based on Vermont's poor reading scores, I am concerned that dyslexic children with less knowledgeable and less resourceful parents are not getting the help and assistance to be successful in our local school systems.

In summarizing the public testimony, the Agency of Education left out the proposal to include a rule to implement universal screening for struggling readers in K-3 into Vermont's special education 2360.3 Child Find (34 CFR §300.111) rules. This was suggested in previous testimony by at least two parties.

Proposed changes to Vermont's special education rules can improve special education in Vermont and close the educational achievement gap of Vermont's children with lower socioeconomic status.

Two major stumbling blocks to improving special education for struggling readers in Vermont are:

1. The lack of early identification of children with a reading disability, and
2. The delay in providing instruction and related services due to the current adverse effect eligibility rule (“wait-to-fail” rule).

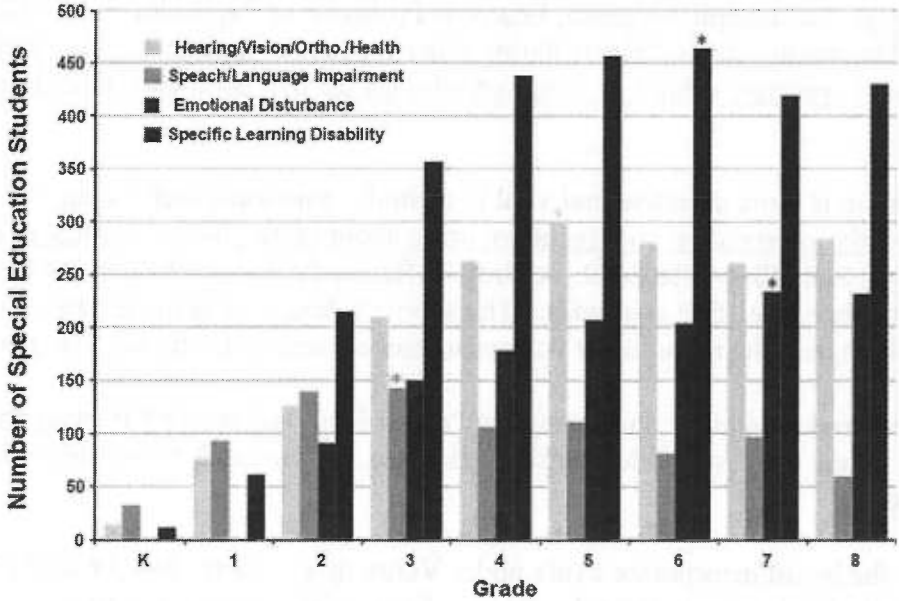
That is why I am writing to support the inclusion of universal screening for struggling readers into Vermont’s special education rules and the deletion of the adverse effect rule in Vermont’s current rules.

I share the concern of the Chair, John Carroll, on the quality of Vermont’s special education program which has the lowest rating of any State in the Nation by the U.S. Department of Education’s Office of Special Education Programs (OSEP). See p. 2 of the attached letter from the OSEP and this [01 July 2020 Vermont Digger article](#). (Note that the only other state that “Needs Intervention” is New York whose rating is 3% higher than Vermont’s rating.) In the Vermont Digger article, president of the Council of Administrators of Special Education, Erin Maguire, says, “Our student outcomes for special education in Vermont are not good.”

That the Agency of Education did not have any suggestions for rule changes to improve the quality of Vermont’s special education program is surprising.

Under IDEA Part B “Child Find”, Vermont is obligated to identify children age three to twenty-one with a disability. While children as young as three years old can be identified as dyslexics, Vermont is not getting services to our most severely disabled readers (lowest 7%) with a specific learning disability (SLD) in reading (aka dyslexia) until third, fourth and fifth grades! Please see the graph below.

**Most SLD students receive services after 2nd Grade as typical students begin to read fluently.**



Data for school year 2018-2019. Source: Vermont AOE, May 2020

Federal Title I Part B (Reading First) also requires an assessment plan “to identify effectively students who may be at risk for reading failure or who are having difficulty reading, through the use of screening, diagnostic, and classroom-based instructional reading assessments” (20 U.S. Code § 6312(b)).

Why is early identification important? Some things, like learning to speak a second language without an accent, come with relative ease in early childhood but become more difficult later in life. The brain’s ability to change and adapt in response to experience (brain plasticity) decreases throughout the childhood years. Similarly, learning to read fluently is easier in Kindergarten and First Grade and becomes more difficult later. Studies have shown that it is extremely difficult for children who remain poor readers during the first three years of elementary school to ever acquire average levels of reading fluency.

Reading is such a foundational skill that the legislature passed 16 V.S.A. § 2903 in 1998, directing the State Board of Education in collaboration with others to develop plans to ensure that all students learn to read by the *end* of third grade. Similarly, the purpose of Federal Title I Part B (Reading First) is: “To provide assistance to State educational agencies and local educational agencies in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the *end of grade 3* (20 U.S. Code § 6361(1)).”

Despite Vermont’s Multi-tiered System of Supports (VTmtss), 32% of Vermont’s fourth graders are reading “below Basic” on the 2019 Nation’s Report Card. This continues a 17 year decline in Vermont’s Fourth Grade reading scores. Poor reading has lifelong consequences for both the individual and for society. See my 03 November 2020 Vermont Digger commentary.

Later remediation costs more. Intervention takes four times as long in fourth grade as it does in late kindergarten. Dr. Joseph Torgesen, Emeritus Professor of Psychology and Education at Florida State University, states, “Remediating older children is more expensive and takes longer than instruction in primary school. ... children who get off to a poor start in reading rarely catch up.”

Early remediation is more effective and vital to a child’s emotional well-being. “... [T]here is no question that early intervention and treatment bring about more positive change at a faster pace ...”, says, Sally Shaywitz, M.D., Audrey G. Ratner Professor of Pediatric Neurology at Yale School of Medicine. She continues, “The sooner a diagnosis is made, the quicker your child can get help, and the more likely you are to prevent secondary blows to her self-esteem.”

Vermont is required to identify children under “Child Find” and to identify struggling readers under Title I. Since we have to identify these children, let’s identify them early when services are most effective!

I recommend the board incorporate a rule under Vermont’s current **2360.3 Child Find (34 CFR §300.111)** rule to implement universal screening for specific learning disabilities in reading in prekindergarten through third grade based on Vermont Early Learning Standards’ Literacy Development’s reading foundational skills (Phonological Awareness, Phonics and Fluency).

These screenings should be part of the initial screening for starting kindergarten and the screenings should continue through at least third grade.

This rule requiring universal screening for specific learning disabilities in reading ensures children are identified early when services are most effective. This is a first step in closing the socioeconomic gap in Vermont's education system and ending Vermont's 17 years of declining Fourth Grade reading scores.

Another stumbling block to improving Vermont's special education is the current adverse effect eligibility rule (2362(a)(2)).

The Agency of Education says the rule provides "guard rails" for special education, yet Vermont has more children with emotional disturbance on individualized education plans (IEPs) than any other state?

Also, many local educational agencies (LEAs) are using the adverse effect rule to delay services as the rule requires "measures of school performance, generally over a period of time" (2362 (d)(2)). This "wait-to-fail" rule undermines children's self-esteem (feeling "stupid") and leads to frustration at not being able to do school work like their peers. Emotional problems both at home and at school often result.

The U.S. Department of Education guidance on adverse effect on educational performance clearly and consistently states that the adverse effect "cannot be limited to showing discrepancies in age/grade performance in academic subject-matter areas." In this case involving speech/language impairment, "The extent of a child's mastery of the *basic skills of effective oral communication* is clearly includable within the standard of 'educational performance' set by the regulations." See attached appendix from a Government Accounting Office report from 1981.

U.S. Department of Education's Office of Special Education Programs (OSEP) reiterated this guidance in a March 8, 2007 letter, "It remains the Department's position that the term "educational performance" as used in the IDEA and its implementing regulations is not limited to academic performance." In further clarifying the requirements, the letter states, "Section 614(b)(2)(A) of IDEA and the final regulations at 34 CFR § 300.304(b) state that in conducting an evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant *functional, developmental, and academic information.*" Please see attached letter.

U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) provides examples of considerations in educational performance in a January 13, 2010 letter. The examples are: 1. A child with attention deficit hyperactivity disorder (ADHD) "could be considered to have an 'other health impairment' and could need special education and related services to address the *lack of organizational skills, homework completion and classroom behavior, if appropriate.*" 2. A "child with Asperger's Syndrome could be considered under the disability category of autism and the individualized evaluation would address the special education and related services needs in the *affective areas, social skills and classroom behavior, as appropriate.*" 3. Deficits in basic skills like *reading fluency* could be considered in a child with specific learning disability (SLD). Please see attached letter.

This letter also notes that whether a disability “adversely affects a child's educational performance must be determined on a case-by-case basis, depending on the unique needs of a particular child.” How does one write one rule to cover all cases when adverse effect must be determined on a “case-by-case basis”? Federal law and regulation appropriately leave the determination of adverse effect to the evaluation planning team (EPT).

Federal law requires neither poor test scores nor poor grades in order to find an adverse effect on educational performance. The Agency of Education advice to local educational agencies (LEAs) to include “functional” performance is not codified in any State rule. LEAs are provided no specific guidelines for determining “functional” performance. The courts have established that a child’s educational needs include *academic, social, health, emotional, communicative, physical, and vocational needs* (Seattle School Dist. No. 1 v. B.S., 82 F.3d 1493, 1500 [9th Cir. 1996]). Federal law and courts take a broader view when measuring educational performance than just “school performance” as currently required by Vermont’s adverse effect rule.

What are the basic skills required for reading? Federal Title I Part B (Reading First) defines the “essential components of reading instruction” as “explicit and systematic instruction in— (A) phonemic awareness; (B) phonics; (C) vocabulary development; (D) reading fluency, including oral reading skills; and (E) reading comprehension strategies” (20 U.S. Code § 6368(3)). Yet, none of these skills form the basis for an adverse effect under Vermont’s current rules. So, a struggling reader with poor phonemic awareness, poor phonics skills or slow reading fluency cannot get help until the child fails “school performance” assessments?

Vermont’s current adverse effect rule is hurting Vermont children and damaging our educational outcomes. This ineffective rule serves no substantiated purpose and has no foundation in Federal law. Academic and emotional outcomes for Vermont’s special education students will improve when the State Board of Education removes the adverse effect eligibility rule 2362(a)(2) and associated references.

Early identification following a universal screening rule, and timely intervention after removing the adverse effect eligibility rule, allows services to begin when they are most effective. This will improve special education student outcomes and save special education money.

I also hope the board will also consider the smaller changes suggested in my wife’s, Cynthia Gardner-Morse’s, and my previous testimony submitted in June, 2020. The changes are: **1.** Recommend deleting the discrepancy model for identification of a specific learning disability in Rule 2362.2.5, **2.** Recommend including assistive technology software in the definitions in Rule 2361.1, **3.** Recommend shortening the time for an evaluation to 45 days in Rule 2362.2.1, **4.** Recommend including language that explicitly allows other family members, an advocate or person outside of the family to attend and participation in EPT meetings in Rule 2362.2.2, **5.** Recommend a more comprehensive evaluation that evaluates not only the child’s weaknesses but also the child’s strengths in Rule 2362.2.4, and **6.** Recommend including language that explicitly allows other family members, an advocate or person outside of the family to attend and participation in IEP meetings in Rule 2363.3. Please see our previous testimony for details and the reasoning behind these recommendations.

If the Board or any Board member has any questions or concerns, I'm happy to respond.

Respectively submitted,

Mack Gardner-Morse  
(802) 223-5738

Attachments:

- 01\_OSEP\_VT\_IDEA\_PartB\_2020\_highlight.pdf
- 02\_Feds\_VermontSpecialEducationNeedsIntervention\_VTDigger\_01July2020.pdf
- 03\_MythThatYoungChildrenCannotBeScreenedForDyslexia\_IDA\_Feb2017.pdf
- 04\_USCODE\_2011\_Title20\_Chap70\_SubchapI\_PartA\_Subpart1\_Sec6312\_highlight.pdf
- 05\_AvoidingTheDevastatingDownwardSpiral\_AFT\_AmericanEducator\_Fall2004.pdf
- 06\_USCODE\_2010\_Title20\_Chap70\_SubchapI\_PartB\_Subpart1\_Sec6361\_highlight.pdf
- 07\_ImprvReadVT\_VtDigger\_03Nov2020.pdf
- 08\_Universal Screening K-2.pdf
- 09\_GAO\_UnansweredQuestions\_05Feb1981\_AppendixIIChap3.pdf
- 10\_OSEP\_LetterToClark\_08Mar2007.pdf
- 11\_OSERS\_Ltr\_13Jan2010.pdf
- 12\_USCODE\_2014\_Title20\_Chap70\_SubchapI\_PartB\_Subpart1\_Sec6368\_highlight.pdf

To Whom It May Concern,

I am writing a letter to tell you a story about my son, Ty. He is an amazing boy with big hazel eyes, thick sandy blond hair, and a wide smile. Since he was a young boy, he has amazed people with his bright intellect, outgoing personality, and his thirst for adventure. Ty is happy to talk to anybody about anything. He has never met somebody whose company he didn't enjoy. He has always loved trying anything active, and he has developed a passion for free skiing. It is pure magic watching him slide a ski rail or twirl in the air after launching himself off a huge ski jump. Ty is a joy to raise. He is an amazing son, wonderful person, and a credit to all the communities he is a part of.

Ty has a lot going for him, and many would say that his future is bright and filled with possibility; except that maybe his future is not as vibrant as it could be. You see, school has always been hard for Ty. Ty was diagnosed with dyslexia right before he entered his sixth grade year. My husband and I decided to have him independently evaluated after a horrible fifth grade year, after a second grade retention, after years and years of struggle, tears, and arguments about going to school. A struggle that left him with a diagnosis of anxiety. A struggle that makes him believe he is stupid and unlikely to amount to anything. A struggle that has caused his teachers, and at times, myself to believe he is lazy.

Ty has a complex learning profile. He is dyslexic, but he also has a math disability and a writing disability. If that wasn't enough challenge, he has significant executive functioning challenges.

In 2018, right before Ty's seventh grade year, my family and I were excited to move to Vermont so Ty could spend more time on snow. However, the main reason for the move was because my husband and I felt Ty would get a better education in a small Vermont school that seemed dedicated to teaching the whole child. We arrived at Flood Brook School with our Connecticut IEP in hand. Ty had only received one year of IEP services in all his years of schooling, and Ty was making some gains with multi-sensory, small group intervention instruction that he so needed. We were looking forward to him continuing with the types of services he was receiving in Connecticut. There was no reason for me to believe he wouldn't get the education he deserves; an education that was beginning to help him, an education that Connecticut provided. Why would I believe it wouldn't happen in Vermont?

I wish Ty's story ends with an amazing Vermont education. An ending where Ty is getting the interventions that research has proven effective for learners like him, in a Vermont school that cares about him. Of course, that is not how Ty's story has ended.

When Ty started his seventh grade year in August of 2018, he was given small group, multisensory reading instruction at Flood Brook while the district was determining if he was eligible for an IEP in Vermont. In October of 2018, after only two months of school in Vermont, Ty was found to be ineligible for an IEP. Why? Well it wasn't because he didn't have a learning disability. It wasn't because he didn't need specialized instruction to fill in his gaps in learning. It wasn't because he didn't need support to thrive. It was because the school did not feel he was adversely affected. And just like that, Ty was not entitled to receive the education he needed. By the way, there were several areas that showed Ty was being adversely affected, just not enough.



The school administrator promised us he would continue Ty's services and instruction until another educational plan was developed to meet his needs. But you see, legally the school was not obligated to give Ty anything. They did not follow through with their promise of meeting his needs. They discontinued his services, without notifying us. They did not write a 504 plan as we requested. They did not give him intervention services through the Educational Support Team as they promised. You see, without an IEP, the school was not legally obligated to do anything for him, and doing nothing, was exactly what they did. It was another difficult year for Ty.

As a family we were left stunned. We were finally able to convince the school to write a 504 plan that gave Ty access to the accommodations he needed in March 2019, five months after the district discontinued his IEP. In June of 2019, after another disappointing and difficult school year, I requested an outside evaluation because I know Ty needs access to special education services, and this was my only hope in getting them.

Over the summer, Ty was again subjected to more evaluation, the third round in two years. The evaluation, by PHD educational psychiatrists confirmed he does indeed have dyslexia, dysgraphia, dyscalculia, and executive functioning deficits, diagnoses we brought to the school the year before. The psychiatrists concluded in the 2019 evaluation that, "Ty receive special education classification as a student with a learning disability, given the irrefutable evidence in the current evaluation that he continues to struggle due to his previously diagnosed Specific Learning Disorder in Reading, Specific Learning Disorder in Written Expression, and Specific Learning Disorder in math." The psychiatrists goes on to state, "unless Ty is classified and receives services to address the underlying cause of these difficulties (i.e., his learning disabilities), he will be at risk of failure in higher grades when he will no longer be able to compensate for the deficits in these foundational skills with his other abilities."

In spite of all the evidence, the district once again said he was not adversely affected. This law that requires my son to be failing in order to gain access to the education he needs to thrive, is absolutely unjust. Ty has not failed because my husband and I have been vested in his education from the beginning. To compare him to his peers, who may be failing for any number of reasons, is not fair. To believe a school or district will give a student what he or she needs through the Tier system or the EST is not realistic.

So you see, the Adverse Effect gate to getting special education services has left my son with a lacking education. I regret moving to Vermont, and I would tell anybody considering moving to Vermont to be very wary. The Vermont law in not concerned with giving students with SLD's access to the type of education research has proven to be effected. Vermont is not interested in being progressive in their approach to helping bright students with complex learning profiles. I am left angry, my son is left not prepared for high school. He may never get access to interventions that can fill in his gaps. He may never see himself as a capable and confident learner. I beg you, change this law. Don't allow other kids with SLDs to be denied access to appropriate instruction. Do not assume schools will help students without a legal obligation to do so. I am imploring you to remove the Adverse Effect gate not only as Ty's

mother, but as a special education teacher in Vermont. I want to see this law changed, for my son and for the students I do and could serve.

Sincerely,  
Nicole Szigeti  
Parent of a VT student with SLDs  
Certified and Practicing Special Educator in Vermont

April 20, 2020

Vermont State Board of Education

This communication is in regard to the Rule 2360 consideration now before the SBE and its public hearings. I speak as the Chair of the Vermont Autism Task Force (VATF), and also as an educational advocate with 19 years of experience who is a member of SPEAC (Special Education Advocates Coalition), a group of public and private advocates convened by the Disability Law Project of the Vermont Legal Aid.

VATF fully and strongly supports the Rule 2360 proposal presented to the SBE by the Disability Law Project of Vermont Legal Aid. I would like to speak specifically to two of its issues in this proposal: 1) the Adverse Effect changes and 2) the requirement that the parent(s) sign their consent to proposed IEPs.

First, some historical background on the issue of the Adverse Effect, Step 2, of special education eligibility. Vermont is the only state in the U.S. that provides SpEd services to students based just on academic deficits criteria, but withholds them from many students with developmental, social, functional, and emotional deficits. Vermont is the only state with such an onerous and discriminatory adverse effect eligibility requirement, as other states assume that a professionally diagnosed disability will have a negative educational impact on such a student; and that therefore the only question of SpEd eligibility is whether or not special educational services are needed to ensure FAPE for that student. Further, educational advocates have been trying to get the Agency of Education to address the negative impact of the current adverse effect rule since, at least, 1997 when the IDEA law was updated and then again in 2004 when the IDEA was reauthorized. Under the reauthorization, it was clear that educational performance is more than academic performance. When the Vermont state rules implementing these changes in the IDEA were promulgated, advocates asked to address the adverse effect criterion and were promised the opportunity to do so at a later date - but that time never came. The same "shuffle shuffle" happened again in 2009 and 2012 when the Vermont rules were again revised. Therefore, a major disparity continued between Vermont's eligibility determination process and the federal IDEA intent (34 C.F.R. # 300.8(c) 2011), as well as the *Vermont Framework of Standards and Learning Opportunities* and the *Common Core Standards* for all students. In other words, Vermont's adverse effect rule is not in compliance with the IDEA; it is a cut-and-paste of the more restrictive 'specific learning disability' requirements of academic disparity to ALL other 12 areas of disability covered in IDEA! And ever since 1997 the reason given for this AoE position was to reduce the cost of special education services by limiting the number of eligible students!! A gross violation of the intent, as well as the spirit, of IDEA.

Since 2013 the VATF has been working in many ways and with several partners to change this adverse effect rule, as many students especially with "high functioning autism" (a descriptive though now out-of-date term) may score well on at least four of the six adverse effect academic

categories but who experience academic challenges needing special education attention, because of functional deficits in managing emotions, relating to peers in team situations, and others that impede their ability to succeed in the mainstream classroom without assistance. These difficulties can include: “an immature inability to manage emotions; unique attention problems requiring ‘redirection’; an unusual learning style demanding hands-on attention in the classroom; . . . persistent interrupting and not responding in a manner inappropriate in the social context in a classroom; meltdowns during unexpected in-school transitions or in a busy sensory stimulating environments; and . . . unexplained repetitive, whole-body movements . . . disruptive to others in the classroom.” (Lisa Lukasuk, *Asperger’s Syndrome and Eligibility under the IDEA; Eliminating the Emerging “Failure First” Requirement to Prevent a Good Idea From Going Bad*, 19:2 Va. J.Soc. Policy and L. 252, 255-56 (2012) (citing Tony Atwood, *The Complete Guide to Asperger’s Syndrome 15*(2007)

These and other ‘functional’ difficulties impact on the academic success and thus life-long vocational and personal success of these students on the autism spectrum; as well as many students with ADHD and/or emotional disturbance. The VATF has been involved over the years trying to draw the AoE’s attention to this problem but with no success; which is why we approached the Senate Education Committee in 2015 and the House Education Committee in 2016 to seek legislative action to address this issue. However, various other demands on the legislature intervened to distract these efforts. The present opening of the SpEd rules is finally a meaningful opportunity for Vermont to address the inequities in the AoE adverse effect eligibility criterion.

A second issue addressed in the DLP’s proposed Rule 2360 changes is one that I, as an educational advocate working in both Vermont and New Hampshire, can speak to with 19 years of experience. In sum, New Hampshire (and many of states) require that parents to actually sign a consent page in all IEPs that they either: 1) agree to the IEP as written, 2) disagree, or 3) agree with exceptions. This requirement is a seemingly subtle but powerful one that I can attest to most emphatically, in my advocacy work in New Hampshire in contrast with Vermont. It gives the parents an immense sense of empowerment in the IEP planning process; but not one that is flaunted inappropriately by them. It helps define and implement the spirit of IDEA in giving parents a meaningful and important role in the IEP process; thus enabling and encouraging parents to be better and more effective IEP Team members. This requirement also gives definition and closure to the IEP planning process, and ensures greater compliance from schools and cooperation from parents. The NH regulations also spell out the particular process for resolving any differences. Whereas, in Vermont, the need for identifying the parents’ role and agreement - or not - with the final version of the student’s IEP is only included - perhaps - in the Team meeting minutes. And also without any specific requirement or process for parents’ disagreements, short of the due process legal action. This requirement thus meets the legal as well the spirit of IDEA. It would be a significant game-changer in the IEP planning process, for both school staff and parents, and lead to an even more healthy relationship between the two.

December 7, 2020

Vermont State Board of Education  
Rules Committee on 2360

Dear Committee Members,

This testimony is a follow up to that I gave on behalf of the Vermont Autism Task Force at the SBE meeting on April 22, 2020, and more specifically in response to the SBE December 18 discussion on the topics of Adverse Effect and on a Signed Parental Consent to the IEP process.

We are pleased that the SBE appears to recognize and be concerned about the disparity of implementation and interpretation by LEAs around the state regarding the eligibility of the adverse effect step. The AoE several years ago did a good effort of training all Vermont special educators as to the nuance and importance in considering the factor of Functional Performance criterion when considering special education eligibility. However, agreement was not universal among all special educators even then, with some continuing to hold to a rigid and even legalistic interpretation of the existing Rules and especially the fact that the "basic skills" section of the Rules does not specifically include Functional Performance as a required criterion. We believe this is wherein the problem lies, and thus the need to 1) either drop the present adverse effect Step 2 of eligibility, or 2) at the very least, include Functional Performance as a required Basic Skills area. We argue this for two reasons: 1) Most practically - If the adverse effect rule does not specifically include consideration of functional performance, then a parent does not have any 'legal' standing for a positive due process appeal decision from the arbiter -- as functional performance consideration is left only 'advisory' in the rules. And 2) we also believe that the wording of the Basic Skills areas of eligibility consideration is - like the extensive criteria and testing, etc. of the present adverse effect step - totally focused only on "academic performance" and thus overlooks the larger focus and mission of education which should include preparing a student for success in life after secondary school, i.e., being able to effectively engage in teamwork in work and social situations,, to self-regulate, to apply initiation and perseverance, to relate meaningfully to others, and all the other life skills that are generally considered necessary.

As to the proposal of creating a Signed Parental Consent component to the IEP process we again emphasize its value in enhancing full parental involvement in and commitment to that process - and thus ensures an effective FAPE, as required by the IDEA. The November 18 SBE discussion seemed to express concerns that a requirement of a signed parental consent would give the parent a kind of veto power over the whole IEP process as it would ensure that differences would need to be resolved before full implementation of an IEP would be feasible. This possibility exists even now, in that there is an appeal process given for a response to a Letter 7 action by the school. A possibility that is even messier and more difficult than using a signed parental consent expectation.

Speaking personally as an educational advocate who has worked for almost 20 years in New Hampshire (as well as Vermont), I contend that this possibility of a parent 'holding the IEP approval hostage' has rarely been the case in my New Hampshire advocacy. In my experience, any differences are effectively worked out in the rare situations where full parental consent has not been given on this form. Moreover, the signed parental consent requirement gives a viable closure to the IEP process by giving a forum/system to accomplish this recognition of parental agreement. In the current Vermont process the only place and opportunity to record the parents' opinion about an IEP that has been created by the Team is in the minutes of the Team. And, frankly, this fact is rarely identified in such minutes. A Signed Parental Consent form is the most empowering way to affirm the parents' critical role in the IEP process.

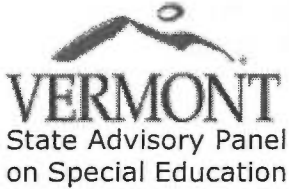
Thank you very much for your consideration of these ideas and positions of the Vermont Autism Task Force in these matters of Adverse Effect and a Signed Parental Consent.

Appreciatively yours,

Philip Eller, Chair  
Vermont Autism Task Force  
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May 20, 2020

John Carroll, Chair  
Vermont State Board of Education  
1 National Life Drive, Davis 5  
Montpelier, VT 05620-2501

**In re: Public Comment to the State Board of Education on the Special Education Rules**

Dear Chairman Carroll and Members of the Board of Education:

We write as the Vermont State Advisory Panel on Special Education (SAP, formerly the Vermont Special Education Advisory Council) to provide comment on the proposed Rule 1300 series, and the proposed changes to the Rule 2360 series. The Vermont SAP/SEAC fulfills the state's IDEA B requirement to have a State Advisory Panel made up of a diverse group of stakeholders with an interest in excellent provision of special education and related services to children with disabilities in the state. We are intended to include parents of children with disabilities, individuals with disabilities, teachers, special educators, special education administrators, related services providers, and many other stakeholders interested in ensuring that Vermont provides high quality special education to children with disabilities.

The SAP has been undergoing a transition over the past year, with significant changes in membership and leadership.

For the past several months, we have devoted considerable time to discussion of the special education rules, as well as challenges our members have experienced that might be resolved, or at least lessened, by rule changes. We provide the following comments at this time, but expect that, assuming the period for public comment is extended as anticipated, to provide additional input to the Board of Education in the future.

At this time, we provide the following comments regarding the Special Education rules:

**Definition of Special Education.** We reiterate our prior comments in a letter to this Board, and others, in the fall of 2019, that the definition of Special Education Services must be, at a minimum, co-extensive with the federal definition, where it is defined in both the new Series 1300 and in the Rule 2360 series in sections 2360, and 2361, and where it is referenced in sections 2362 and 2363. Therefore, we support the amendment to Rule 2360.2.12.

**Officers**

Rachel Seelig  
*Chair*

Carrie Lutz  
*Vice Chair*

Sarah Fabrizio  
*Secretary*

**Council Members**

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Sarah Fabrizio  
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Mary Lundeen  
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Karen Price  
Julie Regimbal  
Nancy Richards  
Rachel Seelig  
Joy Wilcox

For ease of use, we recommend that Rule 2361(hh), be amended to contain the same definition as provided in 2360.2.12. This will allow individuals who are not trained to read complex regulations to find the definition in both the locations where definitions are included.

We also recommend that Rule 2362(a)(3) and Rule 2362.2.6 be amended to remove reference to “support cannot be provided through the educational support system, standard instructional conditions . . . “ which refers to the definition of special education that has been in the rules, and is narrower than federal law requires.

Further, we recommend removal of Rule 2362.2.7(a)(2) regarding referral for 504 plans of students found ineligible for IDEA-B services on the same basis.

We have attempted to identify all areas where reference to special education as being only services that “cannot be provided through the educational support system, standard instructional conditions...” is included, but recommend that it be removed wherever it appears.

We encourage the Board of Education and the Agency of Education to publicize this change once the rules are finalized, and in particular the removal of the language that special education is limited to services “that cannot be provided with the school’s standard instructional conditions or provided through the school’s educational support system” and to provide technical assistance and professional development to school districts, and teachers (general education and special education) to implement the determination of need for special education and provision of special education consistent with this amendment.

**Definition of Need for Special Education.** Currently, the Special Education rules do not provide a definition of “Need.” This results in a wide variation of services provided in an IEP across districts, and services provided, but not in an IEP. It also leads to confusion over whether “non-Special Education” providers, such as Reading or Math Specialists are *allowed* to provide services to students receiving services pursuant to an IEP. Recommendation 3 from the District Management Group (DMG) regarding the provision of special education in Vermont is “Ensure learners who struggle receive all instruction from highly skilled teachers.” Students with disabilities experience discrimination when they are excluded from access to highly skilled specialists that students without disabilities do have access to. However, many in our membership have either experienced, or know of others who have experienced, a school district advising that a student cannot receive instruction from a highly skilled instructor because that teacher is “not Special Ed.” Students with disabilities may need their case manager to provide expertise on the child’s disability to the highly skill instructor, but should not be excluded from instruction. We recommend the following language be added to the Rule 2362(a)(3) to eliminate this problem:



**The student needs special education services to access and benefit from his or her educational program. Students who need special education services shall receive all instruction from highly skilled teachers, and continue to be eligible to benefit from supports available through other tiers of a multi-tiered system of support. Such services shall be considered special education if consultation with a special educator is needed to ensure the student accesses and benefits from those services.**

We again recommend the Board of Education and the Agency of Education provide technical assistance and professional development to implement this rule change including best practices such as: documenting all support services, whether general education, UDL, MTSS, MTSS with special education consultation, or special education and related services, in the IEP.

In addition, we recommend the AOE and Board of Education review the licensing rules for teachers to determine whether any changes are necessary to ensure that the DMG recommendations can be implemented effectively.

### **Child Find/MTSS**

An effective MTSS system implemented under Act 173 will, ideally, assist in preventing some students from needing Special Education interventions. Act 173, however, is also explicit that it does not interfere with the rights of a student with a disability under the IDEA, and must not be implemented in a manner to delay an eligibility determination for an Individualize Educational Program. The SEAC agrees, in addition, that the Special Education rules need to make clear that a student can receive services in an MTSS even if the student has also been identified as needing to be evaluated for Special Education.

The SEAC recommends the following language be added to the rules in a new section, 2362.2.9 Provision of MTSS Services Pending Evaluation:

**The initiation of an evaluation for eligibility for special education and related services shall not prevent an LEA from providing MTSS services to the student while the evaluation is pending.**

Thank you for your consideration, and we look forward to supplementing these comments in the future.

Sincerely,

*/s/ Rachel Seelig*

Rachel Seelig

Chair, State Advisory Panel (formerly Special Education Advisory Council)

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November 19, 2020

John Carroll, Chair  
Vermont State Board of Education  
1 National Life Drive, Davis 5  
Montpelier, VT 05620-2501

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Julie Regimbal  
Rachel Seelig  
Joy Wilcox  
Crista Yagjian

**In re: Public Comment to the State Board of Education on the Special Education Rules**

Dear Chairman Carroll and Members of the Board of Education:

We write as the Vermont Special Education Advisory Panel (SEAP) to provide comment on the proposed Rule 1300 series, and the proposed changes to the Rule 2360 series. The Vermont SEAP fulfills the state's IDEA B requirement to have a State Advisory Panel made up of a diverse group of stakeholders with an interest in excellent provision of special education and related services to children with disabilities in the state. We include parents of children with disabilities, individuals with disabilities, teachers, special educators, special education administrators, related services providers, and other stakeholders interested in ensuring that Vermont provides high quality special education to children with disabilities.

We provide the following additional comments:

**Placement**

We agree with the goals of Act 173 to incorporate students with disabilities, including students with significant needs or low incidence disabilities, into general education classrooms as much as is possible where appropriate. This may require increasing access to resources and supports to build capacity to enable participation in a general education environment. The rules should ensure that more efforts can be made to ensure students have access to general education and peers.

However, we have two areas of concern regarding placement. The first, is that the current state rules narrowing of the term "placement" to exclude the *type* of placement along the continuum of placements. The federal regulations conceive of placement not simply as the services and supports a student needs, but also the type of setting; it is for this reason that specific types of locations are identified (regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions). Therefore, the question of which *type* of placement is an IEP team decision.

The second is a pattern of selecting a specific site and then determining what services and supports will be provided, rather than, as the rules intend, identifying student strengths and needs, identifying goals and objectives, and identifying services and supports needed, and using this information to then select a specific site. Therefore, we recommend an amendment to the rules to make clear the order of decision making IEP teams need to use.

To ensure consistency with federal law, the SEAP recommends the following amendment:

Placements (34 CFR § 300.116),(34 CFR 300.115)  
Amend to comport with 300.115, and 300.116:

- (a) The IEP team shall determine the educational placement for the child given the following:
  - (1) Educational placement refers to the provision of special education and related services and the appropriate selection of a type of placement on the continuum of alternative placements, rather than a specific site;
  - (2) If the IEP team is unable to reach consensus, then the LEA determines the educational placement, including the type of placement along the continuum of alternative placements.
  - (3) The LEA determines specific site of the educational setting, such as the specific classroom or specific school, after discussion of potential options with the IEP team.

We also recommend addition of a new section (c):

- (c) Before teams consider a placement out of the home public school, the team needs to document (i) efforts to provide special education, supplementary services and related services in the home public school environment, and (ii) engage in data collection that demonstrates need for another placement.

We further recommend that section 2363.6, Development, Review, and Revision of IEP be amended to create a new subsection (e) to state:

In the development, review, or revision of an IEP, the IEP must first address sections (a)-(c) of this rule, and then must review the continuum of placements, identify the type of placement the student needs based on the information documented in development or review of the information addressed in section (a)-(c) of this rule, and then select the specific site where the educational services will provided in the appropriate placement along the continuum of alternative placements.

This is especially important as Act 173 is implemented so that students access general education if appropriate, but not constrained if inappropriate.

### **Adverse Effect**

Adverse Effect was another area of significant discussion. The Adverse Effect rule is applied inconsistently across the state. Although additional training has been provided and continues to be required around functional performance, it has helped in only some districts, and it is also inconsistently applied.

In addition, the rule does not provide for adverse effect to be found in areas of social and emotional learning, or functional skills, which excludes students with disabilities such as autism spectrum disorder who are very capable in areas of reading, writing, and mathematics, but need specialized instruction in social skills, and functional skills.

In the federal rules, most, but not all disability categories, within the definition of “child with a disability” (300.8) contain an element that the disability has an adverse effect on educational performance. The federal rules do not require a demonstration of adverse effect for the categories of Deaf-Blindness, or Specific Learning Disability. The federal rules do not, moreover, require that the adverse effect be demonstrated as prescriptively as is currently required by the Vermont rules, or only in the existing categories of Basic Skills Areas in the Vermont rules.

We recommend:

(1) That the current method of determining whether adverse effect exist be eliminated from the rules, by striking Section 2362(d), and replacing it with the following:

(d) The EPT must identify areas of adverse effect due to disability in the basic skills areas using a range of diagnostic and performance data appropriate to the student where the disability category requires a finding of adverse effect. Determination of adverse effect must consider not only impact on basic skills areas, but should also be aligned to the proficiencies expected of all Vermont students prior to graduation.

(2) That the Basic Skills Areas in section 2362(g) be expanded to include functional skills, and social and emotional skills.

(3) That, to align with IDEA, the rules be amended in both the definitions section and the eligibility section to make clear that there is no adverse effect eligibility criteria for the disability categories of Deaf-Blindness and Specific Learning Disability.

These changes will allow, consistent with the purpose of Act 173, to refocus Evaluation and Planning Team meetings on the need for special education, and what other services and supports are needed to allow children with disabilities to make progress in their schools.

### **Additional Procedures for Identifying Children with Specific Learning Disabilities**

In addition to removing the adverse effect eligibility criteria for Deaf-Blindness and Specific Learning Disabilities, the SEAP recommends removing Section 2362.2.5 *Additional Procedures for Identifying Children with Specific Learning Disabilities* which requires a student exhibit a discrepancy of 1.5 standard deviations or greater between ability and expected levels of performance in one or more of the basic skill areas.

Retaining this additional criteria may be viewed as a violation of the IDEA in two ways. First, although it is presented as one of two options for determining the existence of a Specific Learning Disability, in reality, the SEAP is aware of only one school in the state that has an

approved Response to Intervention system that allows determination of an SLD without the use of the discrepancy model. Everywhere else in the state, this is, functionally, the only method for determining whether a child has an SLD, in violation of the IDEA, which prohibits requiring use of the discrepancy model (section 300.307(a)(1)).

Second, practically, it denies a child with specific learning disabilities the right to receive early intervention under IDEA. This is also inconsistent with the purposes of Act 173. According to the eligibility criteria under IDEA, children found to have specific learning disabilities, aged three through nine, should qualify for special education and related services if they are experiencing delays and are not developing certain skills within the expected age range. Furthermore, requiring a student to exhibit a discrepancy of 1.5 standard deviation or greater before they can be determined eligible for special education services is essentially obstructing and delaying early intervention until there is proof of failure. This is referred to as the wait-to-fail methodology and it can have devastating effects on the educational opportunities and the future opportunities of children with specific learning disabilities. Not only is the standard deviation eligibility criteria a wait to fail methodology but it also conflicts with the intent of the Every Student Succeeds Act and Title 16 V.S.A. §2903 *Preventing early school failure; reading instruction* - both of which share the goal of ensuring all students learn to read by the end of third grade. Students with specific learning disabilities, who are denied interventions, will be left behind at the beginning of their education because they do not possess a strong foundation in reading.

The inability to read creates an academic domino effect because the majority of the curriculum is taught by reading. A gap between the student and their peers widens with each passing year an LEA fails to provide intervention. As the gap increases, students' self-esteem decreases. They begin to feel frustrated, anxious, and angry. Their emotions all center on their inability to meet expectations. As research indicates, when a child feels inadequate, the chances of behavior issues increase, thus requiring additional services, which in turn incurs additional costs. Not providing early intervention is significant in terms of the emotional and social fall-out for students, as well as the increased long-term special education costs to taxpayers. Research has found that "90% of children with reading difficulties will achieve grade level in reading if they receive help in the 1<sup>st</sup> grade. 75% of children whose help is delayed to age 9 or later continue to struggle throughout their school career." (Vellutino, Scanton, Sipay, Small, Pratt, Chen & Denckla, 1996).

### **Parent Participation**

The rights of parents to be treated as equal members of EPT and IEP teams, to have notice of meetings, to participate fully in meetings, to have access to student records, to be able to pursue dispute resolution measures if needed, are established throughout the rules. The SEAP recommends the following changes to the rules, to better ensure that these rights can be fully exercised, which will, further, support the second MTSS framework, where the second element is effective collaboration.

*New Parent Concerns/Communication Element of IEP Needed*

In order to make the IEP drafting process more accessible parents and ensure parents have a specific vehicle to express concerns, the SEAP recommends amendment to the rules to require all IEPs to contain a section that allows a parent to express their concerns in their own words. This would be sent home to the parent after an IEP meeting to write or amend an IEP, along with the Form 7a. The rule should further require that the parent has 10 days to complete that section and return it to the school, consistent with the period of time between a proposed change and the implementation date. The purpose of the document would be to facilitate feedback from families to ensure they can express any concerns, and is an avenue to request to reconvene the IEP team.

The SEAP recommends amendment to the rules so that IEP meeting agendas need to include time to explain the form and summarize the parents' rights.

We believe this change will improve team communication and reduce the need to pursue mediation, an Administrative Complaint or Due Process to resolve issues where consensus can be achieved.

#### *Amendments to Rule 2363.4 Needed*

The SEAP also recommends that Rule 2363.4 be amended as follows:

Amend section (a)(2): Scheduling the meeting at a mutually agreed upon time and place, and for a duration adequate to address all agenda items.

Add section (a)(3): Offering, at least five days prior to an IEP meeting, copies of all documents that will be considered at the IEP meeting including, but not limited to, IEP goals and objectives progress reports and underlying data, and relevant school-wide progress monitoring data.

Add section (a)(4): Soliciting agenda items from the parent prior to the meeting.

Add to section (c): or providing reasonable accommodations to parents with disabilities. Examples include: an opportunity for documents to be explained in advance of the meeting to a parent with a learning disability, or providing enlarged versions of documents for a parent with a visual impairment.

Amend 2363.7(b)(1): a description of evaluation procedures, including the specific data that will be used to assess goal progress, using pertinent data to inform the development of appropriate goals and objectives.

#### **Re-evaluation timeline**

The SEAP recommends the re-evaluation provisions in rule be amended to provide clarity that an IEP team can agree to begin a re-evaluation process before the three-year period is at an end. If there is new information that is relevant to a child's needs, the IEP or evaluation team needs to convene to consider moving up the three-year re-evaluation date.

Although the rule should currently allow for this, practice varies across the state, and an additional explicit statement would be helpful in ensuring re-evaluations are also completed when needed.

### **Transition Services and Planning**

The SEAP recommends that the rules, in section 2363.7(i) be amended to require the use of the AOE's Graduation Readiness Tool beginning in a student's ninth grade year, and that the student's progress toward achieving elements of the graduation tool be required to be reviewed by the IEP team annually, including, once the student reaches the age of sixteen, alignment with review of progress in the student's transition goals and services. This rule change would have the added benefit of assisting districts, and the state, improve performance on Indicator 13.

### **Data Collection and Sharing**

As identified elsewhere in these comments, we have recommended a new requirement that parents be offered documents that will be considered at IEP meetings at least five days in advance of team meetings. We also recommend that when data is shared, whether at an IEP or EPT meeting, the source of the data ((e.g. teacher observation, criterion-referenced assessment, curriculum-based assessment, nationally-normed individually administered assessment, etc.) needs to be identified and documented.

In addition, when a method (or methods) is selected to measure progress in IEP goals, teams need to ensure, and document, how the method(s) are appropriate to the goal, and to the area(s) of need for the student.

Thank you for your consideration of these comments.

Sincerely,

*/s/ Rachel Seelig*

Rachel Seelig

Chair, State Advisory Panel (formerly Special Education Advisory Council)

[rseelig@vtlegalaid.org](mailto:rseelig@vtlegalaid.org)

(802) 383-2217

/ enc (1)



# IEP Comment Form

Student:  
Case Manager:

IEP Date:  
IEP Implementation Date:

We would like to ask you a few questions about your child's IEP meeting that was held on \_\_\_\_\_ and the IEP document that you have received.

1. Does the IEP reflect the discussion that was held at the IEP meeting? Yes  No

If "no" Please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Are there changes to the IEP that require additional discussion? Yes  No

If "yes" Please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. How would you like the school to respond to your concerns?

Phone call from the case manager Yes  No

Reconvene IEP team Yes  No

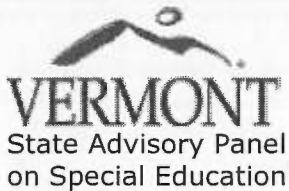
Other: \_\_\_\_\_ Yes  No

Please return this form to your Case Manager before the IEP Implementation Date

\_\_\_\_\_  
Parent/Guardian/Surrogate/Adult Student Date  
Signature

Date Received in District: \_\_\_\_\_

Action taken: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



May 20, 2020

John Carroll, Chair  
Vermont State Board of Education  
1 National Life Drive, Davis 5  
Montpelier, VT 05620-2501

**Officers**

Rachel Seelig  
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Julie Regimbal  
Nancy Richards  
Rachel Seelig  
Joy Wilcox

**In re: Public Comment to the State Board of Education on the Need for an MTSS Rule, Separate from the Special Education Rules**

Dear Chairman Carroll and Members of the Board of Education:

We write as the Vermont State Advisory Panel on Special Education (SAP, formerly the Vermont Special Education Advisory Council) to provide comment on the proposed Rule 1300 series, and the proposed changes to the Rule 2360 series. The Vermont SAP/SEAC fulfills the state's IDEA B requirement to have a State Advisory Panel made up of a diverse group of stakeholders with an interest in excellent provision of special education and related services to children with disabilities in the state. We are intended to include parents of children with disabilities, individuals with disabilities, teachers, special educators, special education administrators, related services providers, and many other stakeholders interested in ensuring that Vermont provides high quality special education to children with disabilities.

The SAP/SEAC has been undergoing a transition over the past year, with renewed effort to recruit members in order to fulfill our statutory obligations, including to provide public comment on rules and regulations proposed regarding the education of children with disabilities. 34 C.F.R. 300.169.

For the past several months, we have devoted considerable time to discussion of the special education rules, as well as challenges our members have experienced that might be resolved, or at least lessened, by rule changes. We provide the following comments at this time, but expect that, assuming the period for public comment is extended as anticipated in S. 343, to provide additional input to the Board of Education in the future.

We write separately regarding the topic of an MTSS rule because a majority of current membership, while in agreement that an MTSS rule needs to be created, also agree that an MTSS rule should not be part of the Rule 2360 Series on Special Education.

We provide the following comment:

The SAP recommends that, because an MTSS system is not exclusively, or primarily, a Special Education system, a separate rule governing MTSS is needed. This rule is needed to ensure that LEAs across the state are operating

with a common definition of MTSS, and that there is transparency within each LEA of the policies and procedures for implementing an MTSS system in that LEA, including:

- (1) Identifying when a student is in need of the assistance of the LEA's Multi-Tiered System of Supports;**
- (2) Establishing benchmark performance for all students who need the assistance of the LEA's Multi-Tiered System of Supports;**
- (3) Creating a mechanism and timeframe for monitoring student progress on a regular basis;**
- (4) Informing parents when a student is in need of the assistance of the LEA's Multi-Tiered System of Supports, and an option to hold a team meeting about the child;**
- (5) Conveying the results of progress monitoring to the student's parents; and**
- (6) A process, which includes student's parents, to determine when a student has not made adequate progress within the LEA's Multi-Tiered System of Supports and to identify appropriate next steps for such a student.**

**The State Educational Agency shall establish a model MTSS policy and procedure that must include best practices to ensure that the state and the local educational agencies Child Find obligation is satisfied.**

Thank you for your consideration, and we look forward to supplementing these comments in the future.

Sincerely,

*/s/ Rachel Seelig*

Rachel Seelig

Chair

State Advisory Panel (formerly Special Education Advisory Council)

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## Vermont Developmental Disabilities Council

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TO: Vermont Board of Education  
RE: Comments on Vermont's Special Education Rules  
FROM: Susan Aranoff, J.D., Senior Planner and Policy Analyst  
DATE: December 16, 2020

---

Thank you for the opportunity to comment on Vermont's Special Education Rules.

The Vermont Developmental Disabilities Council (hereafter "VTDDC") is a statewide board created by the federal Developmental Disabilities Assistance and Bill of Rights (hereafter "the DD Act"), first adopted by Congress in 1970. An estimated 86,000 Vermonters experience a developmental disability as defined by the DD Act.

VTDDC is charged under federal law with engaging at the state level in "advocacy, capacity building and systems change activities that... contribute to the coordinated, consumer-and-family-centered, consumer-and-family directed, comprehensive system that includes needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families."

Our constituents are Vermonters who have an important stake in the availability of a free and appropriate public education for students with disabilities. The Individuals with Disabilities Education Act or IDEA, our nation's special education law, provides that each

eligible child with a disability is entitled to a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet the child's unique needs and that prepares the child for further education, employment, and independent living.

The VTDDC is compelled to comment on Vermont's Special Education Rules because the Council has concluded that the current rules do not adequately protect the rights of Vermonters with disabilities to a free appropriate public education. These comments address the special education rules as set out in Vermont Legal Aid's mark-up under current consideration in the order in which they appear.

### **Rule 2362, Eligibility Determinations**

Vermont's rule for determining eligibility for special education is not consistent with federal regulations. Vermont's eligibility rule requires a determination that the child's "disability results in an adverse effect on the child's educational performance." There is no requirement in federal law that the child's disability results in an adverse effect on the child's educational performance. 34 C.F.R. 300.306(2) provides "[I]f a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 330.320 through 300.324."

The adverse effect requirement reportedly has the greatest impact on students with emotional disturbances and autism spectrum disorders who function at higher academic levels. As noted, the adverse effect language adds criteria not found in federal law. Removal of this language aligns Vermont's determination of disability with federal law. Removal of this language is necessary to ensure Vermonters with disabilities can receive the free appropriate public education to which they are entitled.

The Council is aware that the Vermont Council of Special Education Administrators (VCSEA) has amended its testimony and now supports removing a consideration of Adverse Effect for certain disability categories and maintaining it for the vast majority. While the Council appreciates this change in position, the change proposed by the VCSEA does not go far enough. Only the complete removal of the Adverse Effect requirement will guarantee Vermonter students with disabilities have adequate access to a free and appropriate public education in Vermont.

The Council supports the elimination of the Adverse Effect criteria as set out in Legal Aid's mark-up under consideration.

**Rule 2362.2.9, Provision of Multi-tiered System of Support (MTSS) Services Pending Evaluation**

This proposed rule states that the initiation of an evaluation for eligibility for special education and related services shall not prevent an LEA from providing MTSS services for the student while an evaluation is pending. This requirement is necessary to assure that students will receive available supports and services while their IDEA eligibility is being determined.

The Council supports the requirement as set out in Legal Aid's mark-up under consideration.

**Rule 2365.1, Content of Notice**

The Council supports adding a specific number of days to the Notice requirements. Currently, the rules require that there be a "reasonable" amount of notice given for meetings regarding educational services; however, people can disagree as to what is

reasonable. The Council supports the proposed change of adding a 14-day notice requirement in the mark-up under consideration.

### **2365.1.3, Consent**

Currently, there is wide variation across the state with respect to how and when school districts obtain informed consent from parents and/or adult students. Clarity around consent is necessary and best achieved through a uniform system. The proposed changes provide clear mechanisms to document consent, refusal of consent, or partial consent.

In addition to supporting the changes to the consent process proposed in the mark-up, the Council supports adding the following provision to allow an adult student to execute an educational power of attorney.

“An adult student may execute a power of attorney for special education for the purpose of appointing an individual to assist in the development and implementation of the adult student’s special education program. The power of attorney shall be executed in conformance with the requirements of Chapter 123 of Title 14.”

While the right to execute a power of attorney for special education is covered by statute, the Council’s experience in promoting alternatives to full guardianship for young adults with disabilities has shown that LEAs remain reluctant to honor such a provision without the added assurance of a rule reinforcing the statutory language.

### **Conclusion**

The Vermont Developmental Disabilities Council appreciates the adjustments that the State Board of Education made to its rule-making process due to the impact of the Covid-

19 pandemic. The Council commends the Board for extending the comment period to afford the public better access to the process.

The Board of Education has received powerful testimony from Vermonters about how the Special Education Rules impact their lives. Of particular significance is the volume of testimony the Board has received about the damage caused by the adverse effect rule. The Council urges the Board to give great weight to the testimony of the Vermonters with lived experience about the education students with disabilities receive in Vermont.



**To:** Vermont State Board of Education  
**From:** Vermont Council of Special Education Administrators (VCSEA)  
**Date:** May 20, 2020  
**Re:** Public Comment, SBE Rules Series 1300 & 2360

The VCSEA Rules and Regulations Committee has been actively engaged in the rulemaking process that was convened as a result of Act 173. Act 173 requires that the State Board of Education develop special education rules necessary for implementation of the census-based funding model. This input has been provided to our representative on the Census-Based Funding Advisory Group (CBFAG) and offered to the Agency as requested.

**VCSEA supports the current draft Rules (series 1300 and 2360) as proposed by the State Board of Education.** These Rules were developed after more than a year of discussion with the Agency of Education, the CBFAG, and various stakeholders in the state, including VCSEA. These discussions included input from a number of stakeholders as well as specific advisement from the Federal Education Group (FEG), a nationally-recognized law firm with expertise in special education funding.

Specifically, the FEG recommended:

- Amending the State’s definition of “special education,” as reflected in the State of Vermont Special Education Rules (adopted June 1, 2013), to be consistent with IDEA.
- Aligning State policies on the allowable uses of IDEA, Part B funds to federal definitions to help districts take advantage of Part B’s full range of spending options.
- Permitting districts to spend state funds on the full range of activities contemplated by Act 173, but also developing mechanisms to distinguish between MOE- and MFS-eligible versus ineligible spending. For example, districts might be able to code MOE-eligible spending differently from MOE-ineligible spending in their accounting systems, and the State might be able to apportion state appropriations based on student counts or other reasonable measures.
- Exploring strategies for reducing administrative burdens associated with monitoring and oversight.

Further, the current draft Rules were drafted with the following “guiding principles:”

- Proposed changes should only be necessary to implement the Act: The specific charge outlined in Act 173 is “...the development of proposed rules to implement this act...” The 1300 series draft is a new rule series that specifically addresses special education funding in a census-based funding model. Technical

changes were also made to the 2360 series to align with the 1300 proposal and to adjust relevant definitions. VCSEA does not believe that additional Rule changes (Child Find, Adverse Effect) are required to implement Act 173.

- Ensuring alignment with Federal Special Education regulations: Act 173 was designed to strengthen the system of supports for all students; it was not, however, intended to replace or expand entitlements created by federal law. The approach taken in development of the current rules was to ensure alignment with Federal regulations - not to expand entitlements.

With regard to the Technical Manual for Use and Accounting of IDEA Part-B Entitlement grants (*1304.1 Use of IDEA Part B, General Rule and 1307 Documenting Maintenance of Effort*), it is essential that stakeholders have an opportunity to comment on guidance. In addition to posting on the AOE website, it could be included in the Weekly Field memo, direct email to target organizations, submitted to the education organizations for discussion at their meetings and more. VCSEA also supports extending the time for comment from 15 to 30 days

VCSEA has had the opportunity to review the proposals crafted by the Disability Law project along with proposals provided in public comment by the Vermont Family Network and others. VCSEA continues to support the AOE's approach to Act 173 rulemaking that focuses on: 1) the development of a revised funding chapter and, 2) clarity on the issue of special education services for publicly-funded independent schools. Our organization agrees with the assertion that the existing Part B Entitlement Rules are in alignment with Federal special education law and therefore significant revision is not necessary. In response to the DLP proposals requesting specific changes to Part B, VCSEA offers the following comments:

- Strengthening Systems of Support: Act 173 was designed to strengthen a school's ability to respond to *all students who struggle*, including those with disabilities. It is important to remember that it provides schools with *more* flexibility to respond to struggling learners - not less.
- MTSS Rule: VCSEA disagrees that there is a need to place MTSS in special education rules. MTSS is not a path to special education eligibility. It is a framework for general education that includes all children. Existing language in Act 173 requires the development of statewide policies and procedures to ensure that districts effectively implement the framework; as the Act is implemented, this will be sufficient to ensure implementation.
- Rule 2365.1.1 Content of Notice: VCSEA disagrees that there is a need to increase the time period in which parents must receive written notice. Our current rule of 10 days is reasonable and assures flexibility in making timely decisions for children.
- Rule 2365.1.3 Parental Consent: Presently, Vermont is in alignment with federal rules. We are concerned about a denial of FAPE for children if we will be required to wait for a signature. The IEP should reflect what parents want and review of parental rights is part of that process. Parent signature was in the rules in the 1990's and it was ineffective in assuring FAPE for children receiving special education. Further, this is adding an additional form and step at a time when the intent of Act 173 is to lessen paperwork and procedures.

- Rule 2362.2.3 Re-evaluation Requirements: Schools Teams conscientiously schedule well in advance of the 3 year date so that they won't be up against the 60 day timeline. This would be adding unnecessary paperwork should we need to request a delay. This would require more training for special educators and costs would outweigh benefits.
- Rule 2363.7 Content of IEP: Transition Age: VCSEA disagrees that the transition age should change to age 14. Vermont needs to continue to be in alignment with federal rules. Further, Act 77 and Personal Learning Plans strengthen transition for all children, including those on IEPs.
- Rule 2360.3 Child Find: Previous public comments appear to suggest that changes are needed to prevent schools from delaying required special education evaluation (Child Find). VCSEA disagrees. Federal law, current rules and Act 173 already specifically state that schools cannot use the implementation of a MTSS to delay an evaluation.

Further, Act 173 does not require an additional Child Find responsibility in order to implement the law. VCSEA strongly disagrees that schools should be required to conduct an evaluation to rule out a disability *prior to* beginning the educational support team process. Such a requirement would unduly delay the ability of schools to quickly respond to struggling learners, and teams would waste unnecessary time and resources in conducting an evaluation for students who may only require short term intervention. The current rules already address the need to evaluate a student *when a disability is suspected*.

- Rule 2362 (d) and (f) Eliminating Vermont's definition of Adverse Effect: VCSEA disagrees that the elimination of Vermont's definition of Adverse Effect is necessary to achieve the implementation of Act 173. Vermont's current rules are already in alignment with Federal special education law. We disagree with the assertion that Vermont's adverse effect requirements do not include an analysis of a student's functional performance - in fact, functional performance is already an express requirement to be addressed during the evaluation.

We have continually requested data to support this need for change. Although we have heard some qualitative information, we have yet to see any concrete evidence to support this change. We believe the expansion of the definition of special education being proposed in the current State Board draft is sufficient.

School districts are responsible for implementing Section 504 of the Americans with Disabilities Act, a federal requirement that provides services and accommodations for students who don't demonstrate adverse effect. Given that this already exists, there is no need to address the construct of adverse effect. VCSEA would reiterate again that Vermont's adverse effect construct is in alignment with federal requirements.

- Use of a Response to Intervention Approach to SLD Identification: VCSEA supports the movement toward using an RTI Approach for identifying SLD. We believe the current Rules already allow for this approach, and that the AOE is in the process of revising formal guidance to schools. Revision of the Rule is unnecessary.

- Apply the MTSS Framework to Behavioral Support: VCSEA believes that the Agency of Education's current understanding of MTSS already applies the MTSS framework to behavioral supports. PBIS, the evidence-based approach that the Agency has supported in Vermont for more than a decade, is built on an MTSS framework.

VCSEA wants to stress that with the proposed rules, the definition of special education is being broadened and expanded in Vermont. This is a very important step forward in realizing the intent of Act 173 and meeting the needs of more children. Before making the additional changes in the DLP version, we need to see how this change of definition plays out in Vermont.

Please don't hesitate to contact us if you have additional questions.

Sincerely,

Andrea Wasson  
Andrea Wasson, Chair  
VCSEA Rules and Regulations Committee and  
President-Elect

Mary Lundeen  
Mary Lundeen, VCSEA President

Cc: Traci Sawyers, VCSEA Executive Director  
VCSEA Executive Officers

# #1

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 07, 2020 3:13:49 PM  
**Last Modified:** Thursday, May 07, 2020 3:17:13 PM  
**Time Spent:** 00:03:24  
**IP Address:** 174.83.73.180

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Anastasia Douglas

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Barre Town

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #2

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 07, 2020 4:28:43 PM  
**Last Modified:** Thursday, May 07, 2020 4:31:08 PM  
**Time Spent:** 00:02:24  
**IP Address:** 75.68.21.157

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Jean Edwards

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Londonderry

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15****Respondent skipped this question**

Other Comments

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**Other professional****Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

# #3

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 07, 2020 4:49:00 PM  
**Last Modified:** Thursday, May 07, 2020 5:03:12 PM  
**Time Spent:** 00:14:12  
**IP Address:** 73.69.172.99

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Christine Taylor

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Milton

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

Adverse Effect gate needs to be eliminated!!! Schools use it as a tool to knock kids from their IEPs and alter children's grades so that don't meet adverse effect. Many children are not getting the services they need or are losing services because of this. Please, please, please fix this!

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #4

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 07, 2020 5:14:27 PM  
**Last Modified:** Thursday, May 07, 2020 5:23:34 PM  
**Time Spent:** 00:09:06  
**IP Address:** 174.192.12.201

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Jill Meunier

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Georgia

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Strongly disagree,**

Comments::

I strongly believe that changes or finalization of IEPs need to have a parent's signature to be valid.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

Comments::

Vermont should follow federal guidelines.

**Q6**

Comments about Q5 - Special Education Eligibility Change

Respondent skipped this question

**Q7**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

Comments: :

Functional and transferrable skills should be added to the list.

**Q8**

Comments about Q7 - Basic Skill Areas

Respondent skipped this question

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #5

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 14, 2020 8:47:57 AM  
**Last Modified:** Thursday, May 14, 2020 8:51:28 AM  
**Time Spent:** 00:03:31  
**IP Address:** 73.47.16.213

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Mary Wills

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Richford

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

Thank you

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #6

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 14, 2020 2:48:23 PM  
**Last Modified:** Thursday, May 14, 2020 2:51:31 PM  
**Time Spent:** 00:03:07  
**IP Address:** 174.63.102.145

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Jost Eckhardt

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Burlington

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Neither agree nor disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Neither agree nor disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #7

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, May 15, 2020 4:06:42 AM  
**Last Modified:** Friday, May 15, 2020 4:13:10 AM  
**Time Spent:** 00:06:28  
**IP Address:** 73.186.172.7

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Jen Saunders

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Milton

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

### Disagree,

Comments::

While this works to support students who have parents who are present, have the ability to engage with and understand the IEP language, It does not provide a equitable opportunity for students without

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## Q4

Comments about Q3 - Parental Consent

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**Respondent skipped this question**

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**School/District Staff**

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #8

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, May 15, 2020 6:51:26 AM  
**Last Modified:** Friday, May 15, 2020 6:57:16 AM  
**Time Spent:** 00:05:50  
**IP Address:** 71.192.150.216

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Jamie Crenshaw

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Milton

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

### Strongly agree,

Comments::

There should be some documented record indicating if and how often parents agree or disagree with a proposed IEP. Having a signature would help a parent if/when they go to due process.

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## Q4

Comments about Q3 - Parental Consent

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**Respondent skipped this question**

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability,  
Individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #9

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, May 15, 2020 8:27:09 AM  
**Last Modified:** Friday, May 15, 2020 8:32:17 AM  
**Time Spent:** 00:05:08  
**IP Address:** 174.242.131.135

---

Page 1

## Q1

For the purpose of public comment please share your first and last name.

Brian Potvin

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Middlesex

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #10

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, May 15, 2020 12:28:22 PM  
**Last Modified:** Friday, May 15, 2020 12:31:50 PM  
**Time Spent:** 00:03:27  
**IP Address:** 174.242.131.91

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Robyn St Peter

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Colchester

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #11

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, May 15, 2020 4:57:34 PM  
**Last Modified:** Friday, May 15, 2020 5:01:45 PM  
**Time Spent:** 00:04:10  
**IP Address:** 64.222.114.115

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Lexie Murray

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Middlesex

---

## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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## #12

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, May 18, 2020 4:26:46 AM  
**Last Modified:** Monday, May 18, 2020 4:30:53 AM  
**Time Spent:** 00:04:06  
**IP Address:** 73.114.179.100

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jennifer Wright

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Arlington

---

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Neither agree nor disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability,  
School/District Staff**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #13

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, May 18, 2020 8:44:52 PM  
**Last Modified:** Monday, May 18, 2020 8:50:18 PM  
**Time Spent:** 00:05:26  
**IP Address:** 73.100.71.116

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Kristina Ellsworth-Spooner

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Saint Albans

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

Comments::

I do not support adopting the federal plan if it is less stringent.

**Q6**

Respondent skipped this question

Comments about Q5 - Special Education Eligibility Change

**Q7**

Strongly agree

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

**Q8**

Respondent skipped this question

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

None

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

Thanks

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## #14

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, May 18, 2020 10:04:09 PM  
**Last Modified:** Monday, May 18, 2020 10:12:14 PM  
**Time Spent:** 00:08:04  
**IP Address:** 73.89.49.183

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jeffrey Leake

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Shaftsbury

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**Q3****Neither agree nor disagree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15**

Other Comments

It would be nice for parent input on programming that their child may benefit from. Currently school gave provide a program that may not be i. The best interest of the child. Limiting the ability to make greater gains by using another program/methodology.

Every school should have a trained Orton Gillingham instructor for reading services. As many schools default on less effective programs, that will limit possible growth.

Parent need more input in the programming that the children use. Currently we are at the mercy of the district, even when expect recommend a program the district does not need to provide that program.

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**Individual with a disability****Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

802-442-6918

## #15

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, May 21, 2020 11:37:00 AM  
**Last Modified:** Thursday, May 21, 2020 11:39:58 AM  
**Time Spent:** 00:02:58  
**IP Address:** 73.219.12.145

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Michelle Kirby

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Essex Junction

---

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13**

**Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

**Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15**

**Respondent skipped this question**

Other Comments

---

**Q16**

**Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17**

**Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #16

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, May 25, 2020 8:24:48 PM  
**Last Modified:** Monday, May 25, 2020 8:29:33 PM  
**Time Spent:** 00:04:44  
**IP Address:** 207.136.247.20

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Matthew LeFluer

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Alburgh

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #17

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 8:35:56 AM  
**Last Modified:** Thursday, June 11, 2020 8:43:05 AM  
**Time Spent:** 00:07:08  
**IP Address:** 65.183.153.149

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Kathlin Bibens

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Burlington

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15**

Other Comments

These changes will greatly improve the accessibility of services and help families and schools work as a team

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #18

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 9:07:55 AM  
**Last Modified:** Thursday, June 11, 2020 9:10:30 AM  
**Time Spent:** 00:02:34  
**IP Address:** 174.63.19.1

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Stephanie Smith

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## Q2

For the purpose of public comment please share what Vermont town you live in.

South Burlington

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Strongly agree,**

Comments::

Yes parents should have to sign !

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

Jakebrinick@aol.com

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# #19

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 9:13:21 AM  
**Last Modified:** Thursday, June 11, 2020 9:14:21 AM  
**Time Spent:** 00:01:00  
**IP Address:** 24.147.95.21

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Sandra Chittenden

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Essex junction

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13**

**Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14**

**Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15**

**Respondent skipped this question**

Other Comments

**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**  
**Individual with a disability,**  
 Other (please specify):  
 Special education parent advocate

**Q17**

**Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.



# #20

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 9:16:13 AM  
**Last Modified:** Thursday, June 11, 2020 9:22:07 AM  
**Time Spent:** 00:05:53  
**IP Address:** 70.20.34.16

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

P A Paye

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Bradford

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Other (please specify):**

My role (check all that apply)

retired educator

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #21

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 9:47:25 AM  
**Last Modified:** Thursday, June 11, 2020 9:51:52 AM  
**Time Spent:** 00:04:27  
**IP Address:** 65.96.194.248

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Sarah Smith

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Milton

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Neither agree nor disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#22

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 9:52:46 AM  
**Last Modified:** Thursday, June 11, 2020 9:55:06 AM  
**Time Spent:** 00:02:20  
**IP Address:** 73.114.22.160

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Abbie Israel

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Essex Junction

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13**

**Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14**

**Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15**

**Respondent skipped this question**

Other Comments

**Q16**

**School/District Staff,**

My role (check all that apply)

**Other professional**

**Q17**

**Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

# #23

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 10:48:07 AM  
**Last Modified:** Thursday, June 11, 2020 10:55:34 AM  
**Time Spent:** 00:07:26  
**IP Address:** 107.77.195.51

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Alicia Gay

## Q2

For the purpose of public comment please share what Vermont town you live in.

Saint Albans

## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

### Strongly agree,

Comments::

This is important to me because at a previous school my grandson attended the IEP did not reflect what was promised at the meeting. I also feel changes should be noted specifically such as add this, removing edit that..

## Q4

Comments about Q3 - Parental Consent

**Respondent skipped this question**

**Q5****Strongly disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

**Q7**

Comments: :

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

This usually means tougher eligibility for 504 or IEP and less services for the child so I would say no.

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15**

Other Comments

Less services and supervision at the riskiest time in an adolescence life. No way

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#24

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 11:03:14 AM  
**Last Modified:** Thursday, June 11, 2020 11:10:51 AM  
**Time Spent:** 00:07:36  
**IP Address:** 24.2.155.156

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Lisa Maynes

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Colchester

**Q3**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Strongly disagree,**

Comments::

In most cases, the "burden of proof" falls on families/parents, who are already under represented, overworked, and in many cases not supported in efforts to understand their rights. This would only serve to further reinforce that disadvantage for families. Schools have knowledge, legal support, and numbers in their favor when a parent disagrees with an IEP.

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**Other professional**

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#25

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 11:10:00 AM  
**Last Modified:** Thursday, June 11, 2020 11:16:13 AM  
**Time Spent:** 00:06:12  
**IP Address:** 69.5.114.203

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Colby Kervick

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

**Q10****Respondent skipped this question**

Comments about Q9 - Evaluation Process

**Q11****Comment::**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

Under current VT law though re-evaluations must be completed by the anniversary date so in theory they shouldn't be delayed beyond when they are due and I do think at times it can be helpful to begin an evaluation more than 60 days in advance of when it's due to give time for outside evaluators or scheduling issues with gathering data. I don't have a strong opinion and would defer to family perspectives on what they prefer.

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

Comment::

Yes it seems like this is important also within the context of personalized learning plans in VT--so that the IEP transition plan can also be aligned with supportive of the personalized learning plan throughout the high school years.

**Q14**

Comments about Q13 - Age of Transition Planning

Respondent skipped this question

**Q15**

Other Comments

Respondent skipped this question

**Q16**

My role (check all that apply)

Other professional

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

Respondent skipped this question



## #26

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 11:40:48 AM  
**Last Modified:** Thursday, June 11, 2020 11:53:45 AM  
**Time Spent:** 00:12:57  
**IP Address:** 75.69.25.130

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jennifer Stratton

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Essex Jct

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**Q3**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Disagree,**

Comments::

The intent of this rule change can be accomplished within the system as it stands without adding more paperwork. Currently the 10 day rule is in place to act as prior written notice to families to afford them an opportunity to raise any concerns so that they can be addressed prior to the initiation of IEP services. Language could be added to the 7a that is sent out as that notice in which agreement is implied by not responding to the school.

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**Q4**

Comments about Q3 - Parental Consent

**Respondent skipped this question**

---

**Q5****Disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**  
**School/District Staff,**  
**Other professional**

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #27

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 12:07:27 PM  
**Last Modified:** Thursday, June 11, 2020 12:12:43 PM  
**Time Spent:** 00:05:15  
**IP Address:** 24.152.211.210

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Tracey Bowen

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Arlington

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Strongly agree,**

Comments::

Parents are equal members of the IEP Team.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15**

Other Comments

Emotional Support Classrooms need to be available in every supervisory union. The designated agencies are failing to meet the mental health disability needs in academic settings. Partial hospitalization programs also need to be available to keep students in their home and community rather than being sent out of state.

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #28

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 1:04:27 PM  
**Last Modified:** Thursday, June 11, 2020 1:07:18 PM  
**Time Spent:** 00:02:51  
**IP Address:** 104.219.99.40

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

ANNIE HOEN

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Norwich

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #29

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 1:20:15 PM  
**Last Modified:** Thursday, June 11, 2020 1:28:53 PM  
**Time Spent:** 00:08:37  
**IP Address:** 64.223.163.50

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Arlene Averill

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Woodbury

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Strongly agree,**

Comments::

I was always asked to sign.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

Comment::

young people with disabilities are not ready to begin transitioning to adulthood at 14. That creates unrealistic expectations for all involved. Transition planning needs to be very specific to the young person's strengths. At 14, many strengths are yet to develop.

**Q14**

Respondent skipped this question

Comments about Q13 - Age of Transition Planning

**Q15**

Other Comments

I was hoping for better questions about the reality of IEP's.

**Q16**

Parent /Caregiver of an individual with a disability

My role (check all that apply)

**Q17**

Respondent skipped this question

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.



# #30

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 1:24:48 PM  
**Last Modified:** Thursday, June 11, 2020 1:29:01 PM  
**Time Spent:** 00:04:12  
**IP Address:** 67.217.127.225

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

A N

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Orwell

---

## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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## #31

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 3:31:03 PM  
**Last Modified:** Thursday, June 11, 2020 3:36:25 PM  
**Time Spent:** 00:05:22  
**IP Address:** 66.220.251.151

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Wendy

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Springfield

**Q3****Neither agree nor disagree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9** **Neither agree nor disagree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10** **Respondent skipped this question**

Comments about Q9 - Evaluation Process

---

**Q11** **Disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12** **Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Other professional**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #32

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 4:42:11 PM  
**Last Modified:** Thursday, June 11, 2020 4:57:12 PM  
**Time Spent:** 00:15:01  
**IP Address:** 73.16.74.47

Page 1

## Q1

For the purpose of public comment please share your first and last name.

Kazimir DeWolfe

## Q2

For the purpose of public comment please share what Vermont town you live in.

Brattleboro

## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

### Strongly agree,

Comments::

The family's needs have to be considered in creating an IEP. Parents absolutely should be actively involved in the process of creating them and should be allowed to give consent. Children should also be involved in the process and give consent.

## Q4

Comments about Q3 - Parental Consent

**Respondent skipped this question**

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

**Q7****Comments: :**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

I have concerns about how this would play out and worry it would be an opportunity for a lot of coercive policing of neurodiverse communication and social engagement and an attack on autistic culture. I'm not sure I trust school personnel to determine what functional and transferrable skills should be targeted. I highly advise the school district hire consultants from Autistic Self Advocacy Network and Green Mountain Self Advocates

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13**

**Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

**Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

**Respondent skipped this question**

Other Comments

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**Q16**

**Individual with a disability**

My role (check all that apply)

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

Kazdewolfe@gmail.com

I would like to be more involved but I am round the clock parenting while disabled and chronically ill. I would like to be looped in though on shit, is there an email listservs? I am I already on it?

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# #33

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 4:57:33 PM  
**Last Modified:** Thursday, June 11, 2020 5:01:39 PM  
**Time Spent:** 00:04:06  
**IP Address:** 73.149.133.191

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Kathy Mason

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Springfield VT

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #34

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 5:25:06 PM  
**Last Modified:** Thursday, June 11, 2020 5:32:44 PM  
**Time Spent:** 00:07:38  
**IP Address:** 216.66.113.158

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Sue degener

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Chester

---

## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

**Neither agree nor disagree,**

Comments::

I agree that signing would be a best practice I am concerned with the lack of availability of many parents who participate via phone or not at all

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Neither agree nor disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15****Respondent skipped this question**

Other Comments

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

Other (please specify):

Retired integration specialist. 30 years working in Vermont schools and having a disabled child

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

# #35

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 7:16:52 PM  
**Last Modified:** Thursday, June 11, 2020 7:20:17 PM  
**Time Spent:** 00:03:24  
**IP Address:** 73.38.162.96

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Sara Kruk

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Shelburne

---

## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Neither agree nor disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9** **Neither agree nor disagree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10** **Respondent skipped this question**

Comments about Q9 - Evaluation Process

---

**Q11** **Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12** **Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**School/District Staff**

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #36

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 11, 2020 10:35:50 PM  
**Last Modified:** Thursday, June 11, 2020 10:43:17 PM  
**Time Spent:** 00:07:26  
**IP Address:** 24.34.143.46

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Lisa Nicholson

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Brattleboro

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15****Respondent skipped this question**

Other Comments

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**Other professional****Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

# #37

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, June 12, 2020 5:59:06 AM  
**Last Modified:** Friday, June 12, 2020 6:02:48 AM  
**Time Spent:** 00:03:41  
**IP Address:** 72.71.216.117

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Judy Robinson

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Marlboro

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #38

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, June 12, 2020 10:12:09 AM  
**Last Modified:** Friday, June 12, 2020 10:27:14 AM  
**Time Spent:** 00:15:04  
**IP Address:** 73.16.74.255

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Kris Lemire

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Vernon

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## Q3

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

### Strongly agree,

Comments::

Yes!! I don't understand why this changed in the first place. Parents are just as much a part of the IEP team as educators and administration and therefore their input and agreement to decisions being made by the Special Ed Director is imperative.

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## Q4

Comments about Q3 - Parental Consent

**Respondent skipped this question**

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15**

Other Comments

Thank you so much for addressing these issues! We have struggled to be heard by the district with our child's specific disability and he was nearly ineligible this spring because he is on level or above academically. This does NOT take away from his disability or unique needs and deeming a child ineligible for an IEP and Special Ed essentially punishes them for doing well with school work (he has also had substantial support and accommodations to get him there). We are also disagreeing with the district's placement decisions - he is out of district now and thriving, yet they want to return him to a program that would not fully meet his needs. This decision was made without our agreement or support, yet we are not required to sign the IEP.

**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,****Other professional****Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

802-839-9740

# #39

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, June 12, 2020 11:16:14 AM  
**Last Modified:** Friday, June 12, 2020 11:29:19 AM  
**Time Spent:** 00:13:05  
**IP Address:** 72.92.132.224

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Tracy Lawlor

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Brookline

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

My son is in 6th grade and has had an IEP for 5years! He's reading at a fourth grade level, spelling second grade, math fourth. He has apraxia of speech and they offer two sessions of speech a week and half of those he doesn't receive! Schools need to be held accountable and they need oversight. I have the worst Special Ed administrator.

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

Tracy Lawlor  
tracylvt1@gmail.com

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# #40

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, June 12, 2020 3:06:31 PM  
**Last Modified:** Friday, June 12, 2020 3:09:36 PM  
**Time Spent:** 00:03:05  
**IP Address:** 75.68.249.24

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Rebecca Bonnici

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Montpelier

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Other professional**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #41

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, June 12, 2020 8:20:22 PM  
**Last Modified:** Friday, June 12, 2020 8:31:30 PM  
**Time Spent:** 00:11:08  
**IP Address:** 76.119.120.228

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Laura Rooker

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Bristol

---

## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

Comment::

Absolutely there is never enough time in those mtgs to fully discuss reports/evals. It's also sometimes too much info for parents to receive in a mtg. Hopefully if they get it before hand I will be reviewed and allow parents time to think of questions

**Q10**

Respondent skipped this question

Comments about Q9 - Evaluation Process

**Q11**

Strongly agree

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

**Q12**

Respondent skipped this question

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Other professional**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#42

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Saturday, June 13, 2020 8:27:59 AM  
**Last Modified:** Saturday, June 13, 2020 8:48:29 AM  
**Time Spent:** 00:20:29  
**IP Address:** 64.222.152.120

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Terry Holden

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Cambridge

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15**

Other Comments

My son attends BFAFAIRFAX. Quite simply, they suck. At inclusion, adaptive education and IEP protocols. For 7 years, my son has not had an approved IEP, no measurable goals and objectives. Why? Because his wealthy father obstructs any effort I try to engage this issue with his school. I brought in the ITeam, this school lacks the will to engage the recommendations. This school is antiquated in its bigotry of low expectations. It is plagued with misguided good intentions that disregard his potential to learn. The NWSU school district needs to be sharply audited for its noncompliance with special education best practices. They practice separate but equal. My son is 18, final 4 yrs of FAPE, its worse now as far as exclusion from essential for living. I can't afford to sue them or his father for obstructing his access to personalized, adaptive curriculums. But a DOE audit would get their full attention.

TZQinfinity@gmail.for further discussion.

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

n/a

# #43

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, June 14, 2020 12:41:02 PM  
**Last Modified:** Sunday, June 14, 2020 12:50:17 PM  
**Time Spent:** 00:09:14  
**IP Address:** 208.65.167.97

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Ami Frappier

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Benson

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

The change in these rules would be amazing. My son was denied an IEP based on lack of Adverse Academic Effect because he tested 16% in written expression instead of 15%. He has been removed from the general education setting and placed in a therapeutic day school with only a basic 504 plan for accommodations.

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #44

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, June 14, 2020 6:49:27 PM  
**Last Modified:** Sunday, June 14, 2020 6:54:30 PM  
**Time Spent:** 00:05:02  
**IP Address:** 174.63.22.151

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Casey Ragan-selecky

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Middlebury

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

craganselecky@yahoo.com

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# #45

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, June 14, 2020 7:54:14 PM  
**Last Modified:** Sunday, June 14, 2020 8:03:11 PM  
**Time Spent:** 00:08:57  
**IP Address:** 174.83.91.212

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Jasmine Wible

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Barre Town

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #46

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, June 14, 2020 8:38:41 PM  
**Last Modified:** Sunday, June 14, 2020 8:44:44 PM  
**Time Spent:** 00:06:02  
**IP Address:** 75.69.8.144

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Paula Draper

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## Q2

For the purpose of public comment please share what Vermont town you live in.

South Burlington

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

---

**Q16**

Other (please specify):

My role (check all that apply)

---

Former Paraeducator

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#47

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, June 15, 2020 3:14:15 PM  
**Last Modified:** Monday, June 15, 2020 3:29:26 PM  
**Time Spent:** 00:15:11  
**IP Address:** 73.114.21.86

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Stephanie Muñoz Wells

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Manchester

---

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

My only concern is that many parents don't understand all of their rights, and their children's, despite the handouts. So yes, in theory it's great to ask for a signature of agreement, but if they truly understood everything, would they actually then agree?

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

As both a parent of a child in special education and a special educator, we often see children that we know will benefit from services, but they don't always qualify. And if a child earns good grades, they often go unseen, despite the struggles they may face.

---

**Q7****Neither agree nor disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

I think it's also important that someone be available to discuss what the evaluations mean and answer questions.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

I think this is vital, but what about the budget? Most special educators are already overworked with large caseloads. Do we have the budget to hire more qualified people?

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability,  
School/District Staff**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#48

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, June 16, 2020 6:31:32 PM  
**Last Modified:** Tuesday, June 16, 2020 6:46:41 PM  
**Time Spent:** 00:15:09  
**IP Address:** 66.30.52.245

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Nell Solleder

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Milton

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

I think it is important for parents to sign the IEP to ensure that all team members are in full agreement; especially when there are revisions in the IEP. It will prevent school districts in making changes that are not agreed upon with the parent.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

IEP meetings are time limited and a lot of things need to be discussed. I find that the IEP always run out of time with these meetings when they discuss the evaluation results, and then much less time is spent on IEP goals and service delivery. I would rather have the evaluation information beforehand and be able to spend more time discussing goals and service delivery with the team.

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15****Respondent skipped this question**

Other Comments

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

Other (please specify):

Early Childhood Special Educator

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

nsolleder@gmail.com

#49

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, June 17, 2020 3:07:19 PM  
**Last Modified:** Wednesday, June 17, 2020 3:14:24 PM  
**Time Spent:** 00:07:04  
**IP Address:** 174.244.116.35

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Tana Randall-Wolfe

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Milton

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**Q3****Neither agree nor disagree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

I assume there are some students who need help that would not get it if their parents had to sign. I would worry about what would happen to those kids. On the other hand, as a parent, I want to be able to use my signature to either consent or advocate for further services. I see it both ways

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6**

Comments about Q5 - Special Education Eligibility Change

Lots of kids fall through this loophole.

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8**

Comments about Q7 - Basic Skill Areas

No comments

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10**

Comments about Q9 - Evaluation Process

Would additional funding for schools come with this?

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12**

Comments about Q11 - Re-Evaluation Timeline

Re eval should be done in a timely manner.

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

No comment

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**Q15**

Other Comments

None

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**

Other (please specify):

College accessibility coordinator

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

N/a

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# #50

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, June 17, 2020 4:02:33 PM  
**Last Modified:** Wednesday, June 17, 2020 4:12:04 PM  
**Time Spent:** 00:09:30  
**IP Address:** 71.169.188.163

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Lori Cantin

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## Q2

For the purpose of public comment please share what Vermont town you live in.

St Albans

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#51

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, June 17, 2020 11:38:54 PM  
**Last Modified:** Thursday, June 18, 2020 12:01:50 AM  
**Time Spent:** 00:22:55  
**IP Address:** 69.5.119.35

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Karen Newman

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

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**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parental dissent is currently hidden from view, yet they are an integral part of their child's education, and most often the ones who know their child best. There is a culture in schools that presumes that educators know better than parents what will work for a child needing support. The fact that the parent's consent is not prominently documented reveals how undervalued their voices are.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Comments about Q5 - Special Education Eligibility Change**

If a child is getting good grades but struggling with anxiety or in peer relationships, not having access to necessary supports will ultimately affect their ability to access a free and appropriate education. Rather than waiting until their struggles grow to the point that their grades drop, providing support early is more cost effective and more compassionate.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Comments about Q7 - Basic Skill Areas**

The bar for basic skills is far too low in VT.

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

This is a no-brainer. And Unfortunately the five day requirement is the only way to compel all school personnel to allow parents the time they need to come prepared with questions.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

This may require more special educators. They are typically not delaying this work because they want to—caseloads and workloads are often unmanageable.

---

**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14**

Comments about Q13 - Age of Transition Planning

It depends on the student. But the option should be available.

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**Q15**

Other Comments

If only these changes had been made years ago!!!

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**

**School/District Staff,**

Other (please specify):

Volunteer Parent Advocate, VTDDC Leadership Series graduate.

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#52

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 18, 2020 10:52:53 AM  
**Last Modified:** Thursday, June 18, 2020 11:05:46 AM  
**Time Spent:** 00:12:52  
**IP Address:** 73.114.23.67

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jessica Quinn

**Q2**

For the purpose of public comment please share what Vermont town you live in.

South Burlington

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

I believe that this would indicate better how much the school team has actually shared with the parent(s) and how much input the parent(s) actually had in the process. Currently I feel very forced to accept a document regardless of what I think would be best and what I advocate for my child, and the document is "finalized" without my signature, therefore not even allowing for my disagreement to be included in the document, which seems very disingenuous.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Comments about Q5 - Special Education Eligibility Change**

My child has been at a severe disadvantage despite having a strong advocate for a parent, as well as an autism specialist as an advocate at IEP meetings, because the district will not give him what he needs and is not treating him appropriately because they are not familiar enough with high functioning autism, so they treat my child more like a child who has experienced trauma, which is the opposite of the proven methodology for what works for autism. Time and time again, my child's services have been denied because despite data that proves that my child needs more support, the district still does not agree, and if it's because they feel their hands are tied, untie them.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8**

## Comments about Q7 - Basic Skill Areas

All children should leave school with basic life skills, I.e. how to do your taxes, how to cook food, do laundry, handle credit and money in general. This is particularly important for special needs people, as it is not generally intuitive at all, and there are so many opportunities in the school environment where this can be taught. Kids need to leave school knowing how to be adults, all of them.

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

## Comments about Q9 - Evaluation Process

100% AGREE!!! This should be a bare minimum! It is a massive waste of everyone's time to not have a copy ahead of time, and have to rehash the report in a meeting. Most of us parents are working parents and have to take time off to go to these meetings; not only will it save us time, it will also help clue us into what the school is finding out as compared to the home environment and be able to bring productive ideas to the meeting.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

## Comments about Q11 - Re-Evaluation Timeline

There is no excuse for a second evaluation (or third, or fourth, etc) to take any longer than the first. No excuse. The time limit should be the same across the board.

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14**

## Comments about Q13 - Age of Transition Planning

This training should begin even younger, but 14 is better than never. The sooner we can start preparing kids for what life is going to be like when they get out on their own, the better.

**Q15****Respondent skipped this question**

Other Comments

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**Individual with a disability****Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

# #53

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 18, 2020 12:49:09 PM  
**Last Modified:** Thursday, June 18, 2020 12:52:48 PM  
**Time Spent:** 00:03:38  
**IP Address:** 75.68.170.5

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Alexis Dubief

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Essex Junction

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

Currently it is very hard to qualify for an IEP and rarely do students get sufficient support without one. I support removing the second gate.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

IT takes time to intellectually and emotionally process the information - 5 days would be great

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #54

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, June 21, 2020 2:42:42 AM  
**Last Modified:** Sunday, June 21, 2020 2:44:29 AM  
**Time Spent:** 00:01:47  
**IP Address:** 50.79.162.181

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Carissa Goodemote

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Saint Albans

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#55

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, June 21, 2020 4:09:12 AM  
**Last Modified:** Sunday, June 21, 2020 4:15:04 AM  
**Time Spent:** 00:05:51  
**IP Address:** 174.63.102.145

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jost eckhardt

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parents need to be empowered and in control

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Fighting for this for many years,even in court

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12**

Comments about Q11 - Re-Evaluation Timeline

This is so important, kids will need help now not in 9 month.

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14**

Comments about Q13 - Age of Transition Planning

It takes a long time and not all will stay longer extended in high school

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**Q15****Respondent skipped this question**

Other Comments

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #56

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, June 24, 2020 1:10:21 PM  
**Last Modified:** Wednesday, June 24, 2020 1:21:47 PM  
**Time Spent:** 00:11:25  
**IP Address:** 72.71.201.20

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Andrea Brown

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## Q2

For the purpose of public comment please share what Vermont town you live in.

St. Albans

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## Q3

**Disagree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6**

Comments about Q5 - Special Education Eligibility Change

If Adverse Effect remain as is, I would suggest adding "Social-Emotional skills" as a Basic Skills area

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Disagree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10**

Comments about Q9 - Evaluation Process

School schedules, delays, child illnesses, weather, etc...often impact the ability of the school personnel evaluating a child to complete testing AND write a written report of results more than 5 days in advance of a meeting. I suggest strong encouragement to provide reports in advance (maybe 24 hours) but not 5.

Also, parents/caregivers may need help in interpreting the written reports (especially Psychological Assessment Reports). Without help interpreting reports, parents/caregivers may misinterpret the information.

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15****Respondent skipped this question**

Other Comments

**Q16****School/District Staff,**

My role (check all that apply)

Other (please specify):

School Psychologist

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

#57

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, June 24, 2020 4:11:51 PM  
**Last Modified:** Wednesday, June 24, 2020 4:15:25 PM  
**Time Spent:** 00:03:33  
**IP Address:** 73.167.208.53

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Sally Kieny

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Colchester

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

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**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #58

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, June 30, 2020 4:13:56 PM  
**Last Modified:** Tuesday, June 30, 2020 4:29:59 PM  
**Time Spent:** 00:16:02  
**IP Address:** 69.5.113.185

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Ernestine Abel

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Burlington

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Comments about Q5 - Special Education Eligibility Change**

Eliminating the second gate is very important because adverse effect is difficult to prove for high functioning autism yet these children are so needy for services like social skills and friendship groups and sensory processing work. They need to be taught how to be friends, they need to be taught to understand social cues, to interpret body language of others. They have scatter skills and they have huge gaps in their knowledge. They are often social pariahs.

Kids with mental health issues often need a smaller setting to learn in without the extreme social pressure of middle and high school, and they need teachers that understand their conditions. They need accommodations that meet their specific mental health needs. Their behaviors will be misinterpreted as "bad behavior".

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8**

## Comments about Q7 - Basic Skill Areas

I think I understand this to be executive thinking. Decision making that is very difficult especially for high functioning autistic children and clear social communication which is difficult because without theory of mind a lot of children with autism assume the person they're talking to has the knowledge that is already in their own mind. They must be taught to verbalize what they are thinking so the other person can understand where they're coming from.

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

## Comments about Q9 - Evaluation Process

It's very difficult to show up at a meeting and be given an evaluation and have to discuss it if you haven't had a chance to read it over and understand it. It's hard to talk to the "on experts" when you haven't even read the report before. There may be things in the report you don't agree with but you haven't had a chance to read it before.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

Too much time can be lost for children in this reevaluation Period.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

Moving up the age of transition planning Would be very beneficial. It would allow a lot of forward thinking for things like Driver Rehab, special driving instruction, consideration of whether a different placement for high school would be better, a more long-term look at the high school years and the curriculums therein.

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**

Other (please specify):

Former family resource coordinator for birth to three

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

We've already transitioned but if I can be of assistance Our number is 802-658-7874. The high school years were incredibly tumultuous. My child is near college graduation.

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#59

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, July 06, 2020 6:54:03 AM  
**Last Modified:** Monday, July 06, 2020 7:21:18 AM  
**Time Spent:** 00:27:14  
**IP Address:** 73.114.21.56

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Deb Witkus

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Brattleboro

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

IEP and 504 plans contain language and terminology that is inaccessible. Inequities exist along race, gender, and class lines. To move towards Equity, Parent and Gaurdian consent must become "Informed Consect," We need to hire 'directly impacted' advocates to address the "Opportunity Gaps" that exist in our school systems.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

This change is crucial, and must essential, furthermore, parents or guardians must receive support from a 'directly impacted' advocate in order to fully understand the IEP.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Other professional**

My role (check all that apply)

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

802 380 1776

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# #60

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, July 15, 2020 3:10:25 PM  
**Last Modified:** Wednesday, July 15, 2020 3:13:04 PM  
**Time Spent:** 00:02:39  
**IP Address:** 73.4.223.135

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Melanie Dewey

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Randolph

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16**

Other (please specify):

My role (check all that apply)

In Home Registered Daycare

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#61

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, July 15, 2020 6:10:52 PM  
**Last Modified:** Wednesday, July 15, 2020 6:15:10 PM  
**Time Spent:** 00:04:18  
**IP Address:** 69.5.127.146

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Rebecca Waggoner

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

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**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

This shouldn't even be a question. Parental consent is vital for buy in, even from the student, and success of the iep

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

I need time to read, process, and understand my child's results in order to participate fully and effectively in such meetings

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#62

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, July 15, 2020 7:15:16 PM  
**Last Modified:** Wednesday, July 15, 2020 7:31:45 PM  
**Time Spent:** 00:16:29  
**IP Address:** 64.223.165.42

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Rigel Stelle

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Marshfield

**Q3****Neither agree nor disagree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

N a

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

My child was diagnosed with learning disabilities but also is very smart and was able to struggle through on her own at first. Because she is so smart she was able to do the minimum despite her disabilities, had she been given adequate help she might have been able to shine, instead she just gradually fell farther and farther behind until she became eligible for an IEP

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

N/a

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

It makes it harder to advocate for my child and make sure everything is in her best interest when I was trying to interpret the evaluation and all the paperwork at the meeting. Also made the meeting rushed and not everything was covered thoroughly

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

Agree

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

Agree

**Q15**

Other Comments

Parents should be notified right away when teachers are concerned about a child's progress and /or learning development. It is not ok for them to wait months to notify us.

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#63

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, July 24, 2020 8:05:49 AM  
**Last Modified:** Friday, July 24, 2020 8:08:10 AM  
**Time Spent:** 00:02:21  
**IP Address:** 76.118.77.72

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Martha Frank

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #64

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, July 24, 2020 8:32:56 AM  
**Last Modified:** Friday, July 24, 2020 8:42:28 AM  
**Time Spent:** 00:09:31  
**IP Address:** 71.255.119.49

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Claudia Holmes

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Windham

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

I find that VT doesn't adhere to the 60 day thing interesting as my child was due for re eval at the end of this school year and because of covid it couldn't happen but they kept pushing me about deadlines of this... I find all this very confusing and upsetting .. it takes weeks and weeks for me to get responses from anyone at his school..

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#65

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, August 03, 2020 8:23:55 AM  
**Last Modified:** Monday, August 03, 2020 8:33:40 AM  
**Time Spent:** 00:09:45  
**IP Address:** 71.233.249.222

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Terry Briant

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Fairfax

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

n/a

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

n/a

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

n/a

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Parents should be given all information regarding their child to make the best decisions for them

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

However sometime a "SET" demanded time cannot be followed with scheduling testing and such.

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

They should be allowed to go to a tech ctr earlier as well

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**Q15**

Other Comments

n/a

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #66

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, August 03, 2020 9:14:35 AM  
**Last Modified:** Monday, August 03, 2020 9:22:59 AM  
**Time Spent:** 00:08:23  
**IP Address:** 174.63.20.162

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Ilana Snyder

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## Q2

For the purpose of public comment please share what Vermont town you live in.

New Haven

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****School/District Staff**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #67

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, August 05, 2020 10:28:25 AM  
**Last Modified:** Wednesday, August 05, 2020 10:32:46 AM  
**Time Spent:** 00:04:21  
**IP Address:** 76.19.85.232

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Ingrid Schlenther

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Montpelier

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#68

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, August 05, 2020 10:31:42 AM  
**Last Modified:** Wednesday, August 05, 2020 10:42:33 AM  
**Time Spent:** 00:10:51  
**IP Address:** 66.30.53.243

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jennifer Holmes

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Fairfax

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

I feel that this is important as there are often issues that just go unresolved.

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

This requirement is too restrictive and many children (and parents) suffer significant long term consequence.

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

No further comment.

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

It seems unethical not to share these results as soon as they are available and prior to the meeting.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

No further comment.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

This should start when entering high school and be reassessed annually and at the end of high school.

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**Q15**

Other Comments

One of our biggest struggles is classroom teacher compliance with the IEP.

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #69

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, August 05, 2020 11:47:20 AM  
**Last Modified:** Wednesday, August 05, 2020 12:04:56 PM  
**Time Spent:** 00:17:35  
**IP Address:** 73.89.50.223

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Darcy Oakes

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Bennington

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

Comments about Q3 - Parental Consent

Parental consent should be a requirement

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

A student that has to work much harder than a "typical " student to be on grade level should not be denied supports that would allow them to work more skillfully and at a more reasonable level of effort. When supports are working they shouldn't be taken away.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

Makes sense

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Definitely makes sense to review and read closely before the meeting to have time to generate questions.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

Makes sense

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

This better aligns with PLPs for all students

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**Q15**

Other Comments

There is misinformation in the schools that college bound students need to move from an IEP to a 504. Addressing this would help students transitioning.

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #70

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, August 05, 2020 3:45:53 PM  
**Last Modified:** Wednesday, August 05, 2020 3:54:11 PM  
**Time Spent:** 00:08:17  
**IP Address:** 199.101.177.239

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Elizabeth Davis

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Shoreham

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

As a parent of a child with autism and ADHD who gets mostly C's, I have long wondered why IEPs are denied to kids unless they are failing. The bottom 15% rule is horrible and I'm not even sure how it's legal.

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#71

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, August 05, 2020 6:26:04 PM  
**Last Modified:** Wednesday, August 05, 2020 6:33:25 PM  
**Time Spent:** 00:07:20  
**IP Address:** 71.181.104.141

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Deb Robinson

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Milton

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parents should be asked for consent

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

Mental health should be considered more often

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

This is important to allow parents time to digest the data and information

---

**Q11****Neither agree nor disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13**

**Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

The sooner the better

---

**Q15**

**Respondent skipped this question**

Other Comments

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**Q16**

**Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17**

**Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #72

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, August 07, 2020 10:43:07 AM  
**Last Modified:** Friday, August 07, 2020 10:51:24 AM  
**Time Spent:** 00:08:17  
**IP Address:** 159.105.75.132

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Kathryn Workman

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Fletcher

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

I strongly endorse removal of the Adverse Effects. Many many children have clear learning differences and need supports to be successful. Changing this rule will allow special ed services to be truly open for all children and lessen their risk of school failure.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

This essentially reverts the age requirement to its former level and by providing an additional 2 years for transitions, will make a significant difference in the long-term outcomes.

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Other professional**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #73

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, August 09, 2020 8:07:16 AM  
**Last Modified:** Sunday, August 09, 2020 9:35:10 AM  
**Time Spent:** 01:27:54  
**IP Address:** 73.4.20.193

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Valerie Cortright

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Milton

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #74

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, August 09, 2020 1:59:25 PM  
**Last Modified:** Sunday, August 09, 2020 2:01:17 PM  
**Time Spent:** 00:01:52  
**IP Address:** 69.5.113.224

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Maggie Graham

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Burlington

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#75

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, August 09, 2020 10:09:00 PM  
**Last Modified:** Sunday, August 09, 2020 10:19:08 PM  
**Time Spent:** 00:10:08  
**IP Address:** 8.36.116.206

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Debra Hazel

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Westford

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

My student's IEP seemed to continually be in draft form.

---

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**

Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

My student's re-evaluation took over 4 months to be completed.

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

Families need more support and open information on special education terminology, practices, and support guidelines. I went years thinking my student's "accommodations" were consistently being provided, only to learn after 4 years that "services" have to happen, "accommodations" are as-needed. This was never explained to me. Lots of the same ideas for accommodations came up every year, but they were not practiced. The IEP seems built to work for the school rather than the student.

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#76

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, August 12, 2020 12:19:43 PM  
**Last Modified:** Wednesday, August 12, 2020 12:38:49 PM  
**Time Spent:** 00:19:05  
**IP Address:** 159.105.65.82

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Peggy Bosley

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Springfield

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parents should have the right to sign that they agree or disagree with the IEP that is purposed for their children. If a parent disagrees with a certain section than the whole team needs to come up with a suitable plan.

---

**Q5****Strongly disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

All children that fit in the Special Education Eligibility should be able to be helped even if it is a mental health issue or a high functioning autistic child. S.E. should just put a plan around what that child needs help with.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

It is important for all children regardless of their educational disabilities to be able to function in the real world.

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

We don't get them until the meeting and with me wanting to read them to understand I don't have the time. If I get the reports a head of time I would be informed and spend more time figuring out what is best for my child.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

With timely re-evaluations that will show what has help a child and what they still need help with. Instead of waiting to long and the child needs a different kind of learning in order to comprehend.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

That is a terrific update. Makes total sense because by the time the child is 14 yrs of age the S.E. department has been working with the child for several years and would know what kind of job or potential they may have to set up the hands on education to be a successful adult.

---

**Q15**

Other Comments

The remote learning is not beneficial for Special Education children. They are not getting the hands on learning that is needed for them. Especially if a child has a 1 on 1 during school but when it is remote learning they only get half hour or less.

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#77

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, August 14, 2020 7:59:03 PM  
**Last Modified:** Friday, August 14, 2020 8:16:55 PM  
**Time Spent:** 00:17:52  
**IP Address:** 32.215.137.163

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Tammy Hollister

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Searsburg

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

The parent should always be able to look and decide with the team. This has and always will be very important.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

This is a huge step forward if you do change this. It would make it alot easier for students who need the special needs help get it.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

Basic Skills are very important for all the students.

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

This is definitely needed. I as a parent and many others feel blind sided by getting the information that day and not knowing what or how to ask questions.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

A timeline must exist, because the educator needs that deadline or if the parent is not a huge advocate for their child things will slide and not be being done.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

Also very important because the student needs to be included into this process and earlier will help them with understanding better

---

**Q15**

Other Comments

Thanks for looking and making these changes. Very happy that you are asking for input.

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

On your email list and you have been very helpful to me in the past.

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#78

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, August 24, 2020 7:58:35 PM  
**Last Modified:** Monday, August 24, 2020 8:20:02 PM  
**Time Spent:** 00:21:27  
**IP Address:** 73.219.103.187

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Kim Porter

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

We are already connected and receiving support from VFN. Nancy R. Is so patient, knowledgeable, and is clearly dedicated to helping parents and their children. Nancy empowers parents to be the best advocates for their children, by educating and explaining the IEP process in a way that parents can understand. We have learned so much over the past 7 months!

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#79

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, September 14, 2020 6:04:02 PM  
**Last Modified:** Monday, September 14, 2020 6:44:10 PM  
**Time Spent:** 00:40:08  
**IP Address:** 24.61.12.103

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Mary Bass

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Randolph Center

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

After 2 IEP Meetings, the first being So rushed through, I couldn't comment, on his Evaluation. I got Super Emotional and Super Angry, then was scheduled a 2nd. Meeting. This went better, But, was left with there going to be a 3rd. Meeting. It Never Happened. I just received the IEP in the mail. The Team Apparently decided What and How my Grandchild would be worked with?? I do Not agree with Evaluation, so I've written head for this District. I've Requested an Independent Eval. at Public Expense, with Comprehensive Testing. 09/11/2020 We'll see what happens?

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

My situation is with So Much, Mental, Emotional, Severe Neglect, Severe Abuse and Sexual Abuse. So Traumatized for first 10 years of life, Major Impact on Academics. Yet myself, Not Understanding enough at first, he was Pushed through 5th, 6th, 7th. Grades. I feel with Minimal Support with his IEP.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

Add the Functional, and Transferable Skills

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

I read through the Evaluation, But, during Meeting was Not given enough Opportunity to make Comments or Disagreements.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

Am Presently Requesting an Independent Eval. Done. The School had it Done at End of June, after given much Pressure from Myself. I only recieved the Information at End of August.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

I Agree

---

**Q15**

Other Comments

It has been Very Helpful to have Family Network as Your Advocate for Yourself and Child.

---

**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**

Other (please specify):

Grandmother, with Legal Gaurdianship. I Encourage All Grandparents to Use this Avenue as it makes a Huge Difference, since we haven't been in School for Quite a While.

---

**Q17**

**Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #80

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, September 14, 2020 7:32:15 PM  
**Last Modified:** Monday, September 14, 2020 7:39:18 PM  
**Time Spent:** 00:07:03  
**IP Address:** 65.183.141.196

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Ann McKay

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Burlington

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****School/District Staff**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #81

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, September 14, 2020 7:59:00 PM  
**Last Modified:** Monday, September 14, 2020 8:02:49 PM  
**Time Spent:** 00:03:48  
**IP Address:** 174.242.139.164

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Anonymous

---

## Q2

For the purpose of public comment please share what Vermont town you live in.

Essex

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Respondent skipped this question**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #82

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, September 14, 2020 10:00:15 PM  
**Last Modified:** Monday, September 14, 2020 10:07:25 PM  
**Time Spent:** 00:07:09  
**IP Address:** 66.30.55.110

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Meggan Dulude

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Milton

---

## Q3

**Disagree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15**

Other Comments

The format of the survey was not clear. The likert scale didn't feel like the appropriate format or the questions were not phrased in a way that asked for support.

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #83

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, September 15, 2020 8:50:59 AM  
**Last Modified:** Tuesday, September 15, 2020 9:15:23 AM  
**Time Spent:** 00:24:23  
**IP Address:** 98.229.2.219

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Lana Metayer

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Essex

---

## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #84

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, September 15, 2020 12:52:18 PM  
**Last Modified:** Tuesday, September 15, 2020 12:54:57 PM  
**Time Spent:** 00:02:38  
**IP Address:** 76.24.72.40

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Valerie Wood

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Colchester

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**Other professional**

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#85

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, September 16, 2020 6:14:26 PM  
**Last Modified:** Wednesday, September 16, 2020 6:38:29 PM  
**Time Spent:** 00:24:02  
**IP Address:** 64.223.164.53

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Cynthia Gardner-Morse

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Calais, VT

---

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parents know their children best, and are involved for the child's entire life. With so much at stake, why wouldn't schools work to provide services parents agree with? How do other states handle this, and with what outcome?

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Comments about Q5 - Special Education Eligibility Change**

Dyslexic children are also frequently harmed by this exclusionary rule. I have seen this many times, both as a parent and as a tutor. The result is that children slip through the cracks, become discouraged and never read to their potential, since services are not received in a timely fashion. They are doomed to forever be slow, dis-fluent readers!

Delay costs more in both remediation time and education money. Note that many more Vermont students are diagnosed in the middle grades (compared to First Grade) with disabilities. Also note that Vermont has a very high rate of Emotionally Disturbed children compared to other states. Looking at the late diagnosis and the rate of Emotionally Disturbed, the two seem related. Earlier services have better outcomes! Let's screen for dyslexia in pre-K and Kindergarten, and then provide effective, structured literacy interventions, using MTSS to be sure Vermont children are progressing appropriately.

---

**Q7****Neither agree nor disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

N/C

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

How can parents be team players if they receive the reports later than the others on the IEP team? Having read the reports and prepared a list of questions saves everyone time-teachers and parents!

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

In addition to the 60 day rule, how about making sure schools are using Multi-Tiered System of Supports? My district is not, nor are other Central Vermont districts that I work with as a tutor.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

Learning to use appropriate assistive technology effectively would be another benefit. So would "trying out" a career choice before being trained in a career.

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,****Other professional,**

Other (please specify):

Literacy Tutor

**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

Anything else I can do? These changes are so important!

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#86

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, September 21, 2020 7:01:13 PM  
**Last Modified:** Monday, September 21, 2020 7:09:06 PM  
**Time Spent:** 00:07:52  
**IP Address:** 184.61.83.20

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Jenny Allen

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Northfield

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

It would make it so parents need to be more involved and explained their child's IEP

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**Q5****Neither agree nor disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

Don't truly understand this change

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

This I like

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10**

Comments about Q9 - Evaluation Process

Parent need to know what they are walking into. These reports need to be In a language that parents can understand.

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**Q11****Neither agree nor disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

No comment

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

This sounds good

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**Q15**

Other Comments

None at this time

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,  
School/District Staff**

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

No thanks

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#87

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, September 22, 2020 7:41:00 AM  
**Last Modified:** Tuesday, September 22, 2020 8:06:56 AM  
**Time Spent:** 00:25:55  
**IP Address:** 173.162.134.101

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Melissa Appleton

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Burlington

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**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4****Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

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**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Other professional,**

My role (check all that apply)

Other (please specify):

Parent of child where IEP evaluation has been discussed but not yet pursued

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#88

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, September 22, 2020 11:34:54 AM  
**Last Modified:** Tuesday, September 22, 2020 11:48:15 AM  
**Time Spent:** 00:13:20  
**IP Address:** 107.3.4.97

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Marla McQuiston

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Williston

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

What is the outcome if a parent signs that they disagree? Is the team required to make changes? Will the parent be putting themselves or their child at a disadvantage because they disagreed?

---

**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Great to provide parents with all evaluations and reports ahead of meetings. However there should also be a requirement to give parents opportunity to have evaluations and reports explained to them in language they can understand and to have time to ask questions to be clear on understanding.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15**

Other Comments

The final decision in all IEP plans should not rest with the person who makes or is involved with the financial budget decisions in the school Special Education services department. This is a conflict of interest, which exists presently and should be changed.

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#89

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, October 01, 2020 4:22:19 PM  
**Last Modified:** Thursday, October 01, 2020 4:31:51 PM  
**Time Spent:** 00:09:31  
**IP Address:** 107.3.7.149

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Susan Skolnick

**Q2**

For the purpose of public comment please share what Vermont town you live in.

South Burlington

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

If the iep is for a person over 18 who is capable of understanding, no parent should have to sign off on it

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

No comment

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

None

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Parents need time to digest what is in reports

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

Reevals must be in timely manner. Children cannot be in limbo.

**Q13**

**Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

None

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**Q15**

Other Comments

None

---

**Q16**

**School/District Staff**

My role (check all that apply)

---

**Q17**

**Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#90

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, October 01, 2020 7:45:48 PM  
**Last Modified:** Thursday, October 01, 2020 7:50:35 PM  
**Time Spent:** 00:04:47  
**IP Address:** 73.234.99.89

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Amanda Dickerson

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Bristol, VT

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**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parents are often "shamed" by school districts in the notes if they don't agree.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

My son almost lost his assistance because he improved with accommodation to the point he almost "didn't need them. I fought to keep them and we did.

---

**Q7****Neither agree nor disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Parent /Caregiver of an individual with a disability,**

My role (check all that apply)

**School/District Staff**

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#91

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, October 05, 2020 12:16:17 PM  
**Last Modified:** Monday, October 05, 2020 12:29:32 PM  
**Time Spent:** 00:13:15  
**IP Address:** 73.69.172.99

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Christine Taylor

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Milton

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**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

This should also include 504 Plans with accommodations.

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6**

Comments about Q5 - Special Education Eligibility Change

Far too many children including mine have lost their IEP's and services because of gate 2 which is why Adverse Effect needs to be eliminated. We should follow the federal law.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8**

Comments about Q7 - Basic Skill Areas

No comment.

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Far too many times I have gotten evaluations and reports the night before the meeting the next day which provides no time to prepare for meetings.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

No comment.

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#92

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, October 07, 2020 3:45:18 PM  
**Last Modified:** Wednesday, October 07, 2020 3:50:47 PM  
**Time Spent:** 00:05:29  
**IP Address:** 65.183.128.168

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Susan

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Comerford

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parent consent needs to be in native languages and needs interpretation to ensure cultural understanding. Many New Americans have no prior cultural knowledge of our educational concepts and systems so simple translation is insufficient.

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

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**Q10**

Comments about Q9 - Evaluation Process

It does little good to distribute these documents unless they are written for parental understanding. I have a Ph.D. and can hardly understand some of these documents.

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

We do transition planning generally very poorly in VT. This is a complex process for many of these young people and they need greater lead time to be able to accomplish what they need for their adult lives. More staffing is required as are clear rules, provided to parents and youth, in this process.

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**Q15****Respondent skipped this question**

Other Comments

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**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,**  
**Other professional,**  
**Individual with a disability**

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#93

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, October 07, 2020 7:33:04 PM  
**Last Modified:** Wednesday, October 07, 2020 7:37:33 PM  
**Time Spent:** 00:04:29  
**IP Address:** 24.147.95.21

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Sandra Chittenden

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**Q2**

For the purpose of public comment please share what Vermont town you live in.

Essex Junction

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**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

I Support this 100 %. Parents should be able to consent to all or portions of their child's IEP

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6**

Comments about Q5 - Special Education Eligibility Change

The wait to fail approach hurts children who have Dyslexia, Dyscalculia, Dysgraphia because they don't get the early intervention that they need.

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

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**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

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**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

**Q15****Respondent skipped this question**

Other Comments

**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,****Individual with a disability,**

Other (please specify):

Special Education Parent Advocate

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.



# #94

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, October 09, 2020 6:49:45 AM  
**Last Modified:** Friday, October 09, 2020 6:54:30 AM  
**Time Spent:** 00:04:45  
**IP Address:** 73.69.117.15

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Amy Rounds

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Westminster

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## Q3

**Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #95

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, October 14, 2020 8:56:59 PM  
**Last Modified:** Wednesday, October 14, 2020 9:01:08 PM  
**Time Spent:** 00:04:09  
**IP Address:** 72.71.201.20

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Matthew LeFluer

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Alburgh Vermont

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## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

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**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10****Respondent skipped this question**Comments about Q9 - Evaluation Process

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12****Respondent skipped this question**Comments about Q11 - Re-Evaluation Timeline

---

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

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**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

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**Q15****Respondent skipped this question**

Other Comments

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**Q16****Individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#96

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, October 28, 2020 9:25:28 PM  
**Last Modified:** Wednesday, October 28, 2020 9:35:57 PM  
**Time Spent:** 00:10:29  
**IP Address:** 73.227.0.8

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Lisa Dayton

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Rutland Town

**Q3****Agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

none

**Q5****Neither agree nor disagree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

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**Q6****Comments about Q5 - Special Education Eligibility Change**

I think this could go either way - sometimes this information is important to show that adverse effect is in fact occurring - for example - students with a language disability. The state only identifies students with language impairment with 2 standard deviations below the mean - this is way too restrictive. If adverse effect measures are removed, I am concerned that these students will not be identified as needing services

---

**Q7****Neither agree nor disagree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

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**Q8****Comments about Q7 - Basic Skill Areas**

If this change is to be made - you must ensure that there are ways to measure this

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

none

**Q11****Disagree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

none

**Q13****Agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

none

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**Q15**

Other Comments

I would encourage the state to look at changing the criteria for a speech language impairment, especially if If adverse effect measures are to be removed - . Requiring 2 standard deviations below the mean to meet criteria for a speech language impairment does not meet the needs of MANY children struggling with language. Speaking and Listening is the backbone of education - it impacts everything from listening to reading to writing and obviously verbal communication.

---

**Q16**

My role (check all that apply)

**Parent /Caregiver of an individual with a disability,  
School/District Staff**

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**Q17**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# #97

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, November 16, 2020 3:05:02 PM  
**Last Modified:** Monday, November 16, 2020 3:09:13 PM  
**Time Spent:** 00:04:11  
**IP Address:** 74.92.51.146

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Page 1

## Q1

For the purpose of public comment please share your first and last name.

Julie Chauvin

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## Q2

For the purpose of public comment please share what Vermont town you live in.

Morrisville

---

## Q3

**Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

## Q4

**Respondent skipped this question**

Comments about Q3 - Parental Consent

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**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

It is too difficult for parents to digest these during a meeting -- need ahead of time.

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

---

**Q12**

Comments about Q11 - Re-Evaluation Timeline

Lack of a clear time frame results in delayed reevaluations.

---

**Q13****Neither agree nor disagree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14**

Comments about Q13 - Age of Transition Planning

I am not sure about this. Might vary student to student.

---

**Q15****Respondent skipped this question**

Other Comments

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**Q16****Parent /Caregiver of an individual with a disability**

My role (check all that apply)

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**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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#98

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, November 23, 2020 5:40:59 PM  
**Last Modified:** Monday, November 23, 2020 5:48:31 PM  
**Time Spent:** 00:07:31  
**IP Address:** 174.196.199.154

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Page 1

**Q1**

For the purpose of public comment please share your first and last name.

Geri W

**Q2**

For the purpose of public comment please share what Vermont town you live in.

Hartford

**Q3****Strongly agree**

Parental Consent: Proposed change would require a parent to sign the Individualized Education Program (IEP) to indicate agreement or partial agreement. Currently there is no requirement in Vermont for parents to sign to indicate whether or not they agree with the IEP.

---

**Q4**

Comments about Q3 - Parental Consent

Parents should absolutely sign the IEP. This assumes that parents understand the legality of the document and will have a ready reference to make sure the IEP is implenyed

---

**Q5****Strongly agree**

Special education eligibility change: Eligibility for Children Ages Six Years through Twenty-One. Proposed removal of the second "gate" (Adverse Effect) which includes the requirement that the child's disability "results in an adverse effect on the child's educational performance in one or more (academic) basic skill areas..." Currently Vermont's eligibility criteria is much more restrictive than federal law. The proposed change is asking that Vermont adopt the federal eligibility criteria by eliminating the Adverse Effect rule. The current Vermont rule has the effect of excluding children with specific functional deficits from being eligible for special education services. The children affected most often are those with mental health diagnoses and those diagnosed with high-functioning autism.

---

**Q6****Respondent skipped this question**

Comments about Q5 - Special Education Eligibility Change

---

**Q7****Strongly agree**

Basic Skill areas. To make consistent with federal law and to align with state standards, the proposed change adds "functional skills" and "transferable skills" to the list of basic skills used to determine eligibility for special education services. Functional performance is defined in the rules as "the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong opportunities." Examples of "transferable skills" include, "clear and effective communication", "critical and practical problem solving", and "informed and innovative thinking"- as outlined by the Vermont Agency of Education's proficiency based graduation requirements.

---

**Q8****Respondent skipped this question**

Comments about Q7 - Basic Skill Areas

---

**Q9****Strongly agree**

Evaluation Process: Require the school to provide parents with copies of each examiner's evaluation and assessment report(s) at least five days prior to the meeting at which the evaluation and assessment report(s) will be discussed. Currently in Vermont there is no requirement to provide parents with this information before the meeting to discuss the results. Access to evaluation reports and assessments in advance of the meeting supports parents being full members of the team, with time to review and process the report, formulate questions, and understand the material adequately to be equal team members. Providing evaluations ahead of meetings increases compliance with the federal and state requirement for parent participation as equal members by giving all teams members the same information in advance. Finally, it increases efficiency for Evaluation and Planning Team and IEP team meetings because members do not waste precious meeting time on reviewing documents; instead they come prepared with questions and concerns and move through the agenda of the meeting effectively.

---

**Q10**

Comments about Q9 - Evaluation Process

Critically important! This also gives parents the opportunity to discuss the evaluation with an advocate or others to clarify understanding of the report

---

**Q11****Strongly agree**

Re-evaluation timeline: Re-evaluations should not take longer than initial evaluations; under this rule change, they will follow at maximum the same time frame as initial evaluations (60 days). Currently this timeline does not exist in the Vermont rules and this has resulted in reevaluations being quite delayed in many cases.

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**Q12****Respondent skipped this question**

Comments about Q11 - Re-Evaluation Timeline

**Q13****Strongly agree**

Age for transition planning to begin: Currently in Vermont IEP teams are required to begin planning for the transition to adulthood, which includes accessing transition-related goals and services, at age 16 or sooner. At age 16 the transition plan is supposed to be in place. The proposed change would move the age of transition to age 14. Age 14 is closer to when most students enter high school and choices made at 14 can impact coursework, potentially limiting post secondary options by the time they are 16. Age 14 also aligns the work of Vocational Rehabilitation towards career and postsecondary activities thus strengthening the transition plan.

---

**Q14****Respondent skipped this question**

Comments about Q13 - Age of Transition Planning

---

**Q15****Respondent skipped this question**

Other Comments

---

**Q16****Other professional**

My role (check all that apply)

---

**Q17****Respondent skipped this question**

VFN Family Support education helpline staff are here to help you with any questions or concerns. If you would like us to contact you, please give us your phone number and/or email and we'll be in touch.

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# State of Vermont



# Special Education Rules



~~Adopted June 1~~ Effective July 1, 2022 ~~13~~

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GOVERNOR

Phil Scott~~Peter Shumlin~~

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# STATE OF VERMONT

## SPECIAL EDUCATION RULES

### STATUTORY AUTHORITY

#### Federal Statutory Authority:

Individuals with Disabilities Education Act of 2004

#### State Statutory Authority in accordance with 3 V.S.A. Chapter 25:

16 V.S.A. §\_164(7)

16 V.S.A. Chapter 101

### Introduction:

#### INDIVIDUALS WITH DISABILITES EDUCATION ACT 2004

The Individuals with Disabilities Education Act (IDEA), first enacted in 1975 and most recently revised in 2004, is a federal law governing how States provide accommodations, and services to support children and students with disabilities in their education.

IDEA is composed of four parts:

- ◆ Part A – General Provisions
- ◆ Part B – Assistance for Education of All Children with Disabilities (ages ~~three~~ 3-through ~~21~~ 22)
- ◆ Part C – Infants and Toddlers with Disabilities (birth ~~–up to age three~~ 3)
- ◆ Part D – National Activities to Improve Education of Children with Disabilities

These Rules relate specifically to Part C and Part B of IDEA and also provide reference to other pertinent ~~F~~federal and State Rules governing special education in Vermont. Major Rules Sections are organized based on chronology:

- (1) General – Vermont Special Education Rules
- (2) Part C – Rules governing services to children birth up to age three
- (3) Part B – Rules governing services to students ages three through ~~21~~ twenty-one
- (4) Supplemental Rules Pertinent to Special Education and Section 504 of the Rehabilitation Act of 1975

# General Provisions

## of Vermont's Special Education Rules

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## **2360 Special Education**

### **2360.1 Statement of Purpose**

These rules are designed to ensure that:

- (a) Eligible Vermont students with disabilities have available to them -a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; in accordance with state and federal laws and regulations and in a cost-effective manner; and
- (b) The rights of children with disabilities and their parents are protected.

### **2360.2 Free Appropriate Public Education (FAPE) (34 Code of Federal Regulations (C.F.R.) § 300.101)**

These rules implement the Individuals with Disabilities Education Improvement Act (IDEA), as amended. These rules provide for the education of children and students between the ages of ~~three~~ through 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Rule 4313. The Agency may use whatever State, local, ~~F~~federal, and private sources of support are available in the State to meet the requirements of this part. For example, if it is necessary to place a child with a disability in a residential facility, the State could use joint agreements between the agencies involved for sharing the cost of that placement. Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. Consistent with Rule 2363.1 the Agency shall ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

#### **2360.2.1 FAPE for children beginning at age ~~three~~ 3 (34 C.F.R. § 300.101)**

An eligible child shall be entitled to a free appropriate public education beginning no later than the child's third birthday and continuing, unless otherwise provided herein, through 21 years of age.

An individualized education program (IEP), rather than an individualized family service plan (IFSP/One Plan), shall be in effect for an eligible child by his or her third birthday. If a child's

third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin.

#### **2360.2.2 FAPE for students who have graduated: (34 C.F.R. § 300.102(a)(3))**

A student who has graduated from high school with a regular high school diploma shall not be entitled to a FAPE. A student who has not yet graduated and whose entitlement to a FAPE ends because the upper age limit of eligibility is reached as described in Rule 2360.2(a), may be allowed to complete the remaining academic year with IEP team approval and approval from the Agency of Education.

#### **2360.2.3 FAPE for students who have dropped out of school:**

If a student drops out of school, that student may return at any time and request to be provided with a FAPE until the student graduates with a high school diploma or the student's entitlement to a FAPE ends because the upper age limit of eligibility is reached as described in Rule 2360.2.

#### **2360.2.4 FAPE for children advancing from grade to grade: (34 C.F.R. § 300.101(c))**

Each LEA shall provide a FAPE to any individual child with a disability, who is eligible for special education, even though the child has not failed or been retained in a course or grade ~~a~~ and is advancing from grade to grade. The determination that a child advancing from grade to grade may be eligible for special education shall be made on an individual basis by the child's Evaluation Planning Team (EPT) or IEP team.

#### **2360.2.5 FAPE for students who are incarcerated in adult correctional facilities:**

(a) For a person between the ages of 18 through age 21:

- (1) ~~(i)~~ — If a person in his or her last educational placement before incarceration had not been identified as a child with a disability who was eligible for special education and did not have an IEP in place, the Department of Corrections will not be mandated to provide a FAPE.



- (i) The Department of Corrections shall make reasonable efforts to obtain and review whatever information is needed to determine that the incarcerated individual has not been identified as a child eligible for special education and did not have an IEP in his or her last educational placement prior to incarceration in an adult correctional facility.
- (2) ~~(ii)~~—A person who is incarcerated shall be entitled to a FAPE if:
  - (i) The person was provided services through an IEP before incarceration;
  - (ii) The person had been provided services through an IEP, had left school, then was incarcerated; or
  - (iii) The person had not been provided services through an IEP, but had been identified as a child with a disability who was eligible for special education.
- ~~(3)~~ The following requirements do not apply to incarcerated students aged 18 through 21 (34 C.F.R. § 300.324):
  - (i) The requirement to participate in state or district-wide assessment of student achievement programs; and
  - (ii) The IEP requirements for transition planning and transition services, if the inmate will reach the upper age limit for a FAPE before release from prison based on consideration of sentence and eligibility for early release.
- ~~(4)~~ Modifications of IEP or placement.
  - (i) The IEP team may modify the student's IEP or placement, if the Department of Corrections has demonstrated a bona fide security or other compelling interest that cannot otherwise be accommodated.
  - (ii) The LRE requirements of Rule 2364 do not apply to incarcerated students on IEPs.
- (b) For incarcerated persons under the age of 18, the Department of Corrections shall ensure that at intake, a screening occurs to identify those who have a disability or who are suspected of having a disability and who are in need of special education. Those who are in need of special education shall be provided with an individualized educational program ~~(IEP)~~ and re-evaluations as prescribed under Rule 2362.

### 2360.2.6 Residential Placement (34 C.F.R. § 300.104)

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child.

### 2360.2.7 Assistive Technology (34 C.F.R. § 300.105)

- (a) ~~(i)~~—Each LEA shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Rule 2361.1(~~c3~~), are made available to a student with a disability if required as a part of the student’s:
- (1) ~~(i)~~ Special education services under Rule 2360.2.12;
  - (2) ~~(ii)~~—Related services under Rule 2360.2.16; or
  - (3) ~~(iii)~~—Supplementary aids and services under Rules 2361.1(~~ii35~~).
- (b) On a case-by-case basis, the use of school purchased assistive technology devices in a student’s home or in other settings is required if the student’s IEP ~~T~~team determines that the student needs access to those devices in those settings in order to receive FAPE (34 C.F.R. § 300.105(b)).
- (c) A plan to ensure that all instructional materials to be used are available in a usable alternative format which shall meet the National Instructional Materials Accessibility Standard (NIMAS); in accordance with Appendix C to part 300 of title 34 of the Code of Federal Regulations for each student with a disability in accordance with that student’s IEP. Such material shall be delivered in a timely manner. A ~~“T~~timely manner” shall mean that schools will ensure that students with print disabilities have access to special instructional materials at the same time as students without print disabilities.

### 2360.2.8 Extended School Year Services (34 C.F.R. § 300.106)

Each LEA shall ensure that Extended School Year Services (ESY) are available as necessary to provide FAPE consistent with Rule 2363.7(h) and at no cost to the parents of the child.

### 2360.2.9 Non-academic services (34 C.F.R. § 300.107)

- (a+) Each LEA shall take steps including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team to provide non-academic and extra-curricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.
- (b2) Non-academic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

### 2360.2.10 Physical education (34 C.F.R. § 300.108)

Each LEA shall:

- (a+) Provide physical education services, specially designed if necessary, that shall be made available to every child with a disability receiving FAPE unless the LEA enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.
- (b2) Afford the opportunity to each eligible child to participate in the regular physical education program available to nondisabled children unless--
  - (1i) The child is enrolled full time in a separate facility; or
  - (2ii) The child needs specially designed physical education as prescribed in the child's IEP.
- (c3) Special physical education. If specially designed physical education is prescribed in a child's IEP, the LEA responsible for the education of that child shall provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d4) Education in separate facilities. The LEA responsible for the education of an eligible child who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services in compliance with this section.

### 2360.2.11 Program Options (34 C.F.R. § 300.110)

Each LEA shall ensure that children receiving special education have available to them the variety of educational programs and services available to nondisabled children in the LEA, including art, music, industrial arts, consumer and homemaking education, and vocational education.

**2360.2.12 Special Education Services (34 C.F.R. § 300.39)**

(a) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education. Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability, and to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the State that apply to all children.

(b) Special education includes each of the following, if the services otherwise meets the requirements of subsection (a):

- (1) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
- (2) Travel training;
- (3) Vocational education; and
- (4) Co-teaching.

(c) Individual special education terms defined. The terms in this definition are defined as follows:

(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) Physical education means—

(i) The development of—

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports

(including intramural and lifetime sports); and

- (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
  - (i) Develop an awareness of the environment in which they live; and
  - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- (4) Vocational education or technical education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.
- (5) Co-teaching services is the delivery of special education services in the general education classroom provided jointly by the general education classroom teacher and a special education teacher.
  - (i) By selecting the co-teaching services model, the IEP team has determined that there is no compelling reason why the child’s instruction cannot be provided jointly in the general education classroom. The general education classroom teacher shall be an active participant in IEP meetings.
  - (ii) The general education and special education teachers will review and document each child’s progress towards course objectives and IEP goals.
  - (iii) Should a progress review at any grading period indicate that a child is in danger of failing a course or is not making satisfactory progress towards IEP goals, the IEP team shall meet immediately to:
    - (A) Determine continued co-teaching services or change of placement, and
    - (B) Revise the IEP as appropriate.
  - (iv) In order to offer co-teaching services, the LEA must complete a plan for implementation which includes continuous professional development and submit the plan to the Vermont Agency of Education for approval.

(d) To ensure successful post-secondary transition, transition services may be special education, if provided as specially designed instruction, or related services, if required to assist a student to benefit from special education.

(1) “Transition services” means a coordinated set of activities for a child with a disability that:

(i) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability, and to facilitate the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(ii) Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes:

(A) Instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post-school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation.

~~The term “special education” means specially designed instruction that cannot be provided within the school’s standard instructional conditions or provided through the school’s educational support system, at no cost to the parent, to meet the unique needs of an eligible child with a disability. Specially designed instruction means adapting, as appropriate, to the needs of an eligible child, the content, methodology, or delivery of instruction:~~

~~(a) To address the unique needs of the child that result from the child’s disability; and~~

~~(b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the LEA that apply to all children.~~

~~(1) Special education services include, as appropriate:~~

~~(i) Classroom instruction, home instruction, instruction in hospitals and institutions and instruction in other settings;~~

~~(A) Co-teaching services is the delivery of special education services in~~

~~the general education classroom provided jointly by the general education classroom teacher and a special education teacher.~~

- ~~1) — By selecting the co-teaching services model, the IEP team has determined that there is no compelling reason why the child's instruction cannot be provided jointly in the general education classroom. The general education classroom teacher shall be an active participant in IEP meetings.~~
  - ~~2) — The general education and special education teachers will review and document each child's progress towards course objectives and IEP goals.~~
  - ~~3) — Should a progress review at any grading period indicate that a child is in danger of failing a course or is not making satisfactory progress towards IEP goals, the IEP team shall meet immediately to:
    - ~~a) — Determine continued co-teaching services or change of placement, and~~
    - ~~b) — Revise the IEP as appropriate.~~~~
  - ~~4) — In order to offer co-teaching services, the LEA must complete a plan for implementation which includes continuous professional development and submit the plan to the Vermont Agency of Education for approval.~~
- ~~(ii) — Instruction in physical education which is the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and includes special physical education, adapted physical education, movement education, and motor development.~~
- ~~(iii) — Speech language pathology services for the prevention and/or habilitation of speech language impairments may be special education, if provided as specially designed instruction; or related services, if required to assist a student with a disability to benefit from special education.~~

- ~~(iv) Travel training which is the provision of instruction, as appropriate, to children with significant cognitive disabilities and any other children with disabilities who require this instruction, to enable them to:
  - ~~(A) Develop an awareness of the environment in which they live; and~~
  - ~~(B) Learn the skills necessary to move effectively and safely from place to place within that environment such as school, home, work, and in the community.~~~~
- ~~(v) Technical education which means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.~~
- ~~(c) To ensure successful post-secondary transition, transition services may be special education, if provided as specially designed instruction, or related services, if required to assist a student to benefit from special education.~~
  - ~~(1) “Transition services” means a coordinated set of activities that:
    - ~~(i) Are designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child who is eligible, and to facilitate the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;~~
    - ~~(ii) Are based on the individual student’s needs, taking into account the student’s strengths, preferences and interests; and includes:
      - ~~(A) Instruction;~~
      - ~~(B) Related services;~~
      - ~~(C) Community experiences;~~
      - ~~(D) The development of employment and other adult living objectives;~~~~
      - ~~and~~~~

~~If appropriate, acquisition of daily living skills and functional vocational evaluation~~

### 2360.2.13 Personnel Qualifications



- (a1) The Vermont Agency of Education has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.
- (b2) Related services personnel and paraprofessionals:- The qualifications under subsection subparagraph (a) include qualifications for related services personnel and paraprofessionals that:-
- (1A) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;
  - (2B) Ensure that related services personnel who deliver services in their discipline or profession meet the requirements of subsection (b)(1) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
  - (3C) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities.
- (c3) Policy: In implementing this section, the Vermont Agency of Education has a policy that includes a requirement that responsible LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

### 2360.2.14 Required Forms

The Secretary shall develop, make available, and publish a list of required and suggested special education forms for use by LEAs in implementing special education and related services. Responsible agencies shall use the special education forms, which the Secretary designates for required use. The forms provided by the Secretary shall not require more paperwork than is required by federal law and regulation.

### 2360.2.15 Use of Insurance (34 C.F.R. § 154(d)-(g))

- (a) Nothing in these regulations or the regulations implementing ~~IDEA the Individuals with Disabilities Education Improvement Act~~ is intended to relieve an insurer, Medicaid, or other third party, from an otherwise valid obligation to provide or pay for services to a student who is eligible for special education. An LEA shall use funds from the State Medicaid reimbursement administrative special fund in accordance with 16 V.S.A. § 2959a-(e).
- (1) Children with disabilities who are covered by public insurance.
- (i) An LEA may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA Part B, as permitted under the public benefits or insurance program, except as provided in paragraph (1)(ii) of this section.
- (ii) With regard to services required to provide FAPE to an eligible child under IDEA Part B, the LEA:
- (A) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under these rules;
- (B) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to IDEA Part B, but pursuant to ~~subsection paragraph~~(4)(ii) ~~below of this section~~, may pay the cost that the parent otherwise would be required to pay;
- (C) May not use a child's benefits under a public benefits or insurance program if that use would--
- 1) Decrease available lifetime coverage or any other insured benefit;
  - 2) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
  - 3) Increase premiums or lead to the discontinuation of benefits or insurance; or
  - 4) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and
- (D) Shall obtain informed written parental consent, consistent with Rule 2365.1.3(b) with notification to parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the LEA of its responsibility to

ensure that all required services are provided at no cost to the parents.

- (2) Children with disabilities who are covered by private insurance.
  - (i) With regard to services required to provide FAPE to an eligible child under IDEA Part B, an LEA may access a parent's private insurance proceeds only if the parent provides informed written consent consistent with Rule 2365.1.3(b).
  - (ii) Each time the LEA proposes to access the parent's private insurance proceeds, the agency shall--
    - (A) Obtain informed written parental consent consistent with (2)(i); and
    - (B) Inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.
- (3) Use of Part B funds.
  - (i) If an LEA is unable to obtain parental consent to use the parent's private insurance, or public insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the LEA may use its Part B funds to pay for the service.
  - (ii) To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the LEA may use its Part B funds to pay the cost that the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).
- (4) Proceeds from public or private insurance.
  - (i) Proceeds from public or private insurance will not be treated as program income for purposes of 34 C.F.R. § 80.25, Education Agency General Administrative Regulations (EDGAR).
  - (ii) If an LEA spends reimbursements from ~~F~~ederal funds (e.g., Medicaid) for services under IDEA Part B, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in 34 C.F.R. § 300.163 Maintenance of State Financial Support and § 300.203 Maintenance of Effort obligation for LEAs.
- (5) Nothing in these rules should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public insurance program by ~~F~~ederal statute, regulations, or policy under title XIX, or title XXI of the

Social Security Act, 42 U.S.C. [§ 1396](#) through [§ 1396v](#) and 42 U.S.C. [§ 1397aa](#) through [§ 1397jj](#), or any other public benefits or insurance program.

**2360.2.16 Related Services (34 C.F.R. § 300.34)**

- (a) The term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child who requires special education services to benefit from his or her special education.
- (b) Exception. Except as provided in Rule 2360.2.18, related services do not include a medical device that is surgically implanted, the optimization of device functioning, maintenance of the device, or the replacement of that device.
- (c) A child will not be designated as a child who is eligible for special education, if the child needs only a related service, but not special education services.
- (d) Related services shall include, but are not limited to:
  - (1) Audiology that includes:
    - (i) Identification of children with hearing loss;
    - (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
    - (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
    - (iv) Creation and administration of programs for prevention of hearing loss;
    - (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and
    - (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
  - (2) Counseling services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
  - (3) Early identification and assessment of disabilities in children.
  - (4) Interpreting services, as used with respect to children who are deaf or hard of hearing, includes oral transliteration services, cued language transliteration services, ~~and~~ sign language transliteration interpreting services, sign language interpreting services, transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell, and special interpretive services for children who are deaf-blind.
  - (5) Medical services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
  - (6) Occupational therapy is:

- (i) Services provided by a qualified occupational therapist; and
- (ii) Includes:
  - (A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
  - (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
  - (C) Preventing, through early intervention, initial or further impairment or loss of function.
- (7) Orientation and mobility services are:
  - (i) Services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
  - (ii) Travel training instruction, and teaching students the following, as appropriate:
    - (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature, and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
    - (B) The use of the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;
    - (C) To understand and use remaining vision and distance low vision aids; and
    - (D) Other concepts, techniques, and tools.
- (8) Parent counseling and training as follows:
  - (i) Assisting parents in understanding the special needs of their child;
  - (ii) Providing parents with information about child development; and
  - (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP/One Plan.
- (9) Physical therapy services provided by a qualified physical therapist.
- (10) Psychological services as in:
  - (i) Administering psychological and educational tests, and other assessment procedures;
  - (ii) Interpreting assessment results;

- (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
  - (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
  - (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
  - (vi) Assisting in developing positive behavioral intervention strategies.
- (11) Recreation includes:
- (i) Assessment of leisure function;
  - (ii) Therapeutic recreation services;
  - (iii) Recreation programs in schools and community agencies; and
  - (iv) Leisure education.
- (12) Rehabilitation counseling services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.
- (13) School nurse services provided by a qualified school nurse, designed to enable a child with a disability to receive FAPE as described in the child's IEP.
- (14) Social work services in schools include:
- (i) Preparing a social or developmental history on a child with a disability;
  - (ii) Group and individual counseling with the child and family;
  - (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
  - (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
  - (v) Assisting in developing positive behavioral intervention strategies.
- (15) Transportation includes:
- (i) Travel to and from school and between schools;
  - (ii) Travel in and around school buildings; and

- (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.
- (16) Speech-language pathology services include:
  - (i) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
  - (ii) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
- (17) Transition services may be related services, if required to assist a child to benefit from special education.

### **2360.2.17 Individual Education Programs (IEP) (34 C.F.R. § 300.112)**

An IEP shall be developed, reviewed, and revised for each child with a disability consistent with Rule 2363.

### **2360.2.18 Routine checking of hearing aids and external components of surgically implanted medical devices (34 C.F.R. § 300.113)**

#### **(a) Hearing Aids**

- (1) Each LEA shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

#### **(b) Surgically Implanted Devices**

- (1) Each LEA shall ensure that the external components of surgically implanted medical devices are functioning properly.
- (2) LEAs are not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.



### 2360.3 Child Find (34 C.F.R. § 300.111)

~~(a)~~—All children and students with disabilities, regardless of the severity of their disability, residing within the State, including children and students with disabilities who are homeless or are in State custody or are vulnerable adults, or are attending independent schools or enrolled in home study, and who are in need of special education and related services shall be identified, located and evaluated.

~~(b)~~(a) \_\_\_\_\_

~~(e)~~(b) ~~(2)~~—LEAs are responsible for establishing and implementing a comprehensive Child Find system for children and students from birth through ~~21~~twenty-one years of age.

(1) ~~(i)~~—Except for students who are parentally placed in independent elementary and secondary schools outside of the LEA of residence, the LEAs are responsible for ensuring Child Find for all students who reside within the LEA.

(2) ~~(ii)~~—For students ages five through ~~21~~twenty-one who are parentally placed in independent elementary and secondary schools outside their LEA of residence, the LEA where the independent school is located shall have Child Find responsibility.

~~(3)~~ ~~(iii)~~—For children birth up to age three, the LEA may fulfill its Child Find responsibility by developing and maintaining a regional agreement with a Children’s Integrated Services/Early Intervention (CIS/EI) program or other entities.

~~(4)~~(3) \_\_\_\_\_

~~(d)~~(c) ~~(e)~~(3)—Each LEA shall ensure that public notification is given before conducting any significant activity that is designed to identify, locate, and evaluate children and students ages birth through ~~21~~twenty-one. In addition, the AOE shall provide a public notice in major newspapers to inform parents that the information gathered shall be treated confidentially.

- (1) All notices shall be available in the native languages of the major population groups within the State; and
- (2) The notices shall indicate that information obtained during “Child Find” shall remain confidential for all children and students as required in Rules ~~2365.2—2365.15~~ “Confidentiality of Information and Student Records”; and
- (3) The notices shall contain a description of the children or students about whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the

- sources from whom information is gathered), and the uses to be made of the information; and
- (4) The notices shall contain a summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
  - (5) The notices shall contain a description of the Family Educational Rights and Privacy Act of 1974 (34 C.F.R., Part 99) and implementing regulations.
- (d) Each LEA shall annually inform the public regarding the availability of early intervention for children from birth up to age three and special education services for children or students ages three through ~~21~~twenty-one, including:
- (1) Children or students who are not enrolled in school;
  - (2) Children or students attending independent schools or who are enrolled in home study programs;
  - (3) Children or students who are suspected of having a disability even though they are advancing from grade to grade; ~~and~~
  - (4) Children or students who are highly mobile such as migrant children; and
  - (5) Children or students who are homeless or in State custody or who are vulnerable adults.
- (e) In addition to posting notices in major newspapers, notification activities may also include the posting of notices on websites, fliers in various locations such as physicians' offices and health centers, radio or television announcements, and community outreach.
- (f) Each LEA shall act as a primary referral source to identify, locate, and screen children who may be in need of early intervention services and refer identified children to regional CIS/EI programs. Children who are found to be typically developing based on screening results shall not be considered identified children requiring referral.
- (1) For children birth up to age three, the Child Find system shall employ specific elements of public awareness, screening, and referral to regional CIS/EI programs.
  - (2) For children birth up to age three, the LEA shall act at as a primary referral source and notify regional CIS/EI programs of children who may be in need of a

comprehensive multidisciplinary initial evaluation to determine eligibility for Part C services.

(3) ~~(iii)~~ — For children birth up to age three, the Coordinator of the State’s Part C CIS/EI program shall forward to the AOE an annual child count of children being served under Part C.

(g) ~~(7)~~ — Each LEA shall identify, locate, and evaluate all children and students, who may be eligible for special education and related services, ages three through ~~21~~~~twenty-one~~ residing within the jurisdiction of the responsible agency.

(1) ~~(i)~~ — Annually each LEA shall submit to the AOE, in the specified electronic format, data requested regarding children and students ages three through ~~21~~~~twenty-one~~ who have been found eligible for special education under the IDEA.

**2360.4 Reserved**

# Part C

## Vermont Rules Governing Services to Children Birth up to Age Three

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## Part C of the Individuals with Disabilities Education Act (IDEA) Serving Children from Birth Up to Age Three

### 2360.5 Part C Early Intervention Services

In Vermont, Part C of IDEA is referred to as Children’s Integrated Services/Early Intervention (CIS/EI) and is responsible for the provision of early intervention services for eligible children birth up to their third birthday. Part B of IDEA requires LEAs to provide FAPE to eligible children and students from their third birthday through ~~21~~~~twenty-one~~ years of age, whereas Part C of IDEA does not require the provision of FAPE. The Agency of Education (AOE) and the Agency of Human Services (AHS) serve as co-lead agencies in Vermont for the implementation of early intervention services under Part C of IDEA.

#### **2360.5.1 Part C and CIS/EI Definitions**

- (a) The following definitions apply to Vermont CIS/EI for use in implementing the State’s early intervention program:
- (1) **Child** means an individual under the age of six.
  - (2) **CIS/EI**, the acronym for Children’s Integrated Services/Early Intervention (CIS/EI), provides services under Part C of IDEA and is a federally mandated system of early intervention services for children birth up to age three with developmental delays or medical conditions that may lead to developmental delays.
  - (3) **Consent** means:
    - (i) Parent(s) has been fully informed of all information relevant to the activity for which consent is sought, in the parent’s native language;

- (ii) Parent(s) understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released;
  - (iii) Parent(s) understands that the granting of consent is voluntary on the part of the parent, and may be revoked at any time; and
  - (iv) If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).
- (4) **Day** means calendar day, unless otherwise indicated.
- (5) **Developmental Delay** is defined as an observable and measurable delay as determined by state approved diagnostic instruments, other appropriate measures including observations, medical records or other records deemed necessary and procedures, emphasizing the use of informed clinical opinion. The delay must be defined in one or more of the following areas: cognitive; communication; adaptive; physical, including vision and hearing; and social or emotional development.
- (6) **Essential Early Education (EEE)** is IDEA Part B Early Childhood Special Education services for children ages three up to six. Special education and related services are provided by LEAs to ensure children receive age appropriate services within inclusive early childhood settings, including the child's home, to the extent possible.
- (7) **Evaluation of the Child and Assessment of the Child and Family:**
- (i) **Evaluations** are procedures used by qualified personnel to determine a child's initial and continuing eligibility under these Rules, consistent with the definition of child with a disability.
  - (ii) **Initial Evaluation** determines a child's initial eligibility for Part C services and must be completed within the 45--day timeline from date of referral.
  - (iii) **Assessment** is an ongoing process, by qualified personnel, to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility.

- (8) **Early Intervention Records** are records pertaining to a child receiving services that are required to be collected and maintained pursuant to IDEA Part C.
- (9) **Early Intervention Services** are developmental services provided to a child with a disability that:
- (i) Are provided under public supervision;
  - (ii) Are selected in collaboration with the parents;
  - (iii) Are provided at no cost, except where the system of payments policy includes fees;
  - (iv) Are designed to meet the developmental needs of a child with a disability and the needs of the family to assist appropriately in the child’s development as identified in the following areas: physical, cognitive, communication, social, emotional, or adaptive development;
  - (v) Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the IDEA;
  - (vi) Are provided by qualified personnel;
  - (vii) Are provided in natural environments to the maximum extent appropriate; and
  - (viii) Are provided in accordance with the IFSP/One Plan as defined in these Rules.
- (10) **Early Intervention Service Provider** is referred to as “provider,” in these rules and means an entity (whether public, private, or nonprofit) or an individual that provides services under Part C of the IDEA, whether or not the entity or individual receives federal funds under Part C of the IDEA.
- (11) **Educational Surrogate Parent** is an individual appointed by the AOE to ensure the rights of the child and student are protected when:
- (i) The parents of the child or student are not known or cannot be located after reasonable efforts;
  - (ii) The child or student is in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§ 9301-9316); or



- (iii) The child or student is an unaccompanied homeless youth as defined in § 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4))

- (12) **Individualized Family Service Plan (IFSP/One Plan)** is a written plan for providing early intervention services to a child with a disability and the child's family that:
- (i) Is based on evaluation and assessment results;
  - (ii) Includes content required as described in these ~~r~~Rules;
  - (iii) Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained; and
  - (iv) Is developed in accordance with the IFSP procedures set forth in Rule 2360.5.6.

**One Plan** refers to Vermont's revised IFSP and meets all IDEA Part C requirements.

- (13) **Informed Clinical Opinion** makes use of qualitative and quantitative information to assist in forming a determination regarding difficult-to-measure aspects of current developmental status and the potential need for early intervention. Qualified personnel must use informed clinical opinion~~s~~ when conducting an evaluation and assessment of the child in order to make a recommendation as to initial and continuing eligibility for services under Part C and as a basis for planning services to meet child and family needs.

- (14) **Method, Length, Frequency and Intensity, and Duration:**
- (i) Method means how a service is provided (i.e., whether the service is provided through consultation, family education, and/or direct service);
  - (ii) Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period);
  - (iii) Frequency and intensity means~~s~~ the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis; and

(iv) Duration means projecting when a given service will no longer be needed (such as when the child is expected to achieve the results or outcomes in his or her IFSP/One Plan).

(15) **Multidisciplinary** is the involvement of two or more separate disciplines or professions with respect to:

- (i) Evaluation of the child and assessments of the child and family may include one individual who is qualified in more than one discipline or profession; and
- (ii) Multidisciplinary IFSP/One Plan Team must include the involvement of the parent and two or more individuals from separate disciplines or professions, one of whom must be the Service Coordinator.

(16) **Native Language** with respect to an individual who has limited English proficiency, means:

- (i) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child; and
- (ii) For evaluations and assessments conducted, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

(17) **Natural Environments** are settings that are typical for a same aged child without a disability and may include the home or community settings.

(18) **Parent** means:

- (i) A biological or adoptive parent of a child or student; when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have

legal authority to make educational or early intervention services decisions for the child or student;

- (ii) A foster parent, or developmental home provider who has been appointed the educational surrogate parent by the Vermont Educational Surrogate Parent Program; or
- (iii) A guardian generally authorized to act as the child's or student's parent, or authorized to make early intervention, education, health or developmental decisions for the child or student (but not the State if the child or student is a ward of the State);
- (iv) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child or student lives, or an individual who is legally responsible for the child or student's welfare;
- (v) An educational surrogate parent who has been appointed by the Agency of Education; or
- (vi) If a judicial decree or order identifies a specific individual to act as the "parent" of a child or student or to make educational decisions on behalf of a child or student, then such individual shall be determined to be the "parent" for purposes of this section, except that the LEA that provides education or care for the child or student may not act as the parent.

(19) **Personally Identifiable Information** is information that includes:

- (i) The name of the child, the child's parent, or other family member;
- (ii) The address of the child;
- (iii) A personal identifier, such as the child's or parent's social security number; or
- (iv) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty, such as the child's date of birth or disability.

(20) **Qualified Personnel** are individuals who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services. Vermont State approved early interventionists shall hold at

least a bachelor's degree in early childhood or a related field and meet any other current requirements.

- (21) **Screening** is a process using State approved screening tools and appropriate methods implemented by qualified personnel and/or primary referral source to identify, at the earliest possible age, a child suspected of having a developmental delay and/or disability and in need of an initial evaluation.
- (22) **Service Coordination** is a service provided by a Service Coordinator to assist a child and the child's family to receive early intervention services and parental rights. Each eligible child and the child's family must be provided with a Service Coordinator who is responsible for coordinating all services across agency lines and serving as the single point of contact in helping parents to obtain the services and assistance they need. Service coordination is an active, ongoing process that involves:
- (i) Assisting parents of eligible children in gaining access to, and coordinating the provision of the early intervention services; and,
  - (ii) Coordinating other services identified in the IFSP/One Plan that are needed by, or being provided to, the child with a disability and their family.

**Specific Service Coordination activities** include:

- (A) Conducting the family assessment, including interviewing the family;
- (B) Collecting information on the child's development, including observations of the child;
- (C) Assisting parents of eligible children in obtaining access to needed early intervention services and other services identified in the IFSP/One Plan, including making referrals to providers for needed services and scheduling appointments for eligible children and their families;
- (D) Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;
- (E) Coordinating evaluations and assessments;

- (F) Facilitating and participating in the development, review, and evaluation of IFSP/One Plans;
- (G) Conducting referral and other activities to assist families in identifying available providers;
- (H) Coordinating, facilitating, and monitoring the delivery of services to ensure that the services are provided in a timely manner;
- (I) Conducting follow-up activities to determine that appropriate Part C services are being provided;
- (J) Informing families of their parental rights, and related resources;
- (K) Coordinating the funding sources for services; and
- (L) Facilitating the development of a transition plan to EEE or, if appropriate, to other services.

(23) **Specialized Instruction** is defined as:

- (i) The designing of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
- (ii) Curriculum and intervention planning, including the planned interaction of personnel, materials, time, and space that leads to achieving the outcomes in the IFSP/One Plan;
- (iii) Providing families with information, skills, and support related to enhancing the development of the child; and
- (iv) Working with the child to enhance the child's development.

(24) **Ward of the State** is a child who, as determined by the State where the child resides, is:

- (i) A foster child, unless the child has a foster parent who meets the definition of a parent.
- (ii) A ward of the State; or
- ~~(iii) In the custody of a public child welfare agency.~~

(iii)

## 2360.5.2 Public Awareness and Child Find (C.F.R. §§ 303.300-303.303; § 303.311)

(a) By way of the Vermont Part C Interagency Agreement for the provision of Early Intervention Services, the role and responsibilities of regional CIS/EI programs and LEAs shall be detailed and maintained in a regional agreement. LEAs shall act as a primary referral source and participating partner to ensure the provision of early intervention services under IDEA Part C. Each regional CIS/EI program shall serve as the central point of referral for children ages birth up to three years of age who may require early intervention services.

(1) Vermont's comprehensive Part C Child Find system includes policies and procedures that are coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various health, social service programs, and education to ensure all children who may be eligible for services under Part C are identified, located, and evaluated including:

- (i) Native American children residing on a reservation geographically located in the State; ~~and~~
- (ii) Children who are homeless, in foster care, or wards of the State; and
- (iii) Children who are the subject of a substantiated case of child abuse or neglect; or identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug or alcohol exposure.

~~(2)~~—Regional CIS/EI programs and LEAs shall engage in public awareness and Child Find activities to identify children and their families who may be in need of early intervention services. Regional CIS/EI programs shall prepare, describe, and disseminate materials and information for parents on the availability of early intervention services to all primary referral sources, especially hospitals and physicians.

~~(3)~~(2)

~~(4)~~(3) Vermont's comprehensive referral procedures ensure all children who may be eligible for early intervention services are referred as soon as possible, **but in no case**

**more than seven7 days** after the child has been identified for referral. Primary referral sources include but are not limited to:

- (i) Hospitals, including prenatal and postnatal care facilities;
- (ii) Physicians;
- (iii) Parents;
- (iv) Childcare programs and early learning programs;
- (v) Local Education Agencies (LEA) Child Find efforts that are coordinated between regional CIS/EI programs and LEAs so that:
  - (A) Each LEA shall act as a primary referral source to locate and screen children who may be suspected of having a developmental delay and/or disability and in need of an initial evaluation to determine eligibility for Part C services. Based on screening results, children who are found to be typically developing do not require a referral for an initial evaluation;
  - (B) LEAs may employ specific elements of screening;
  - (C) LEAs shall notify local CIS/EI programs of all children who may be in need of an initial comprehensive multidisciplinary evaluation for eligibility under Part C;
- (vi) Public health facilities and social service agencies;
- (vii) Other clinic and health care providers;
- (viii) Public agencies and staff in the child welfare system including child protection agencies and foster care services and providers;
- (ix) Homeless family shelters; and
- ~~(x)~~—Domestic violence shelters and agencies.

~~(xi)~~(x)

~~(5)~~(4) Specific referral procedures shall be followed for at-risk children who have been identified as the subject of a substantiated case of child abuse or neglect; or is identified as directly affected by illegal substance or alcohol abuse or withdrawal symptoms resulting from prenatal exposure. (~~C.F.R.R.F. §~~ 303.303(b)).

### 2360.5.3- Screening (~~C.F.R. §~~ 303.320, 303.421, 303.420(a)(1))

- (a) As co-lead agencies, AOE and AHS have adopted procedures outlined in the Part C Interagency Agreement and are specified in regional CIS/EI and LEA agreements, to conduct screenings for children under the age of three suspected of having a disability and may be in need of early intervention services. For children with established diagnosed conditions set forth in § 2360.5.5(a)(2) screening is not necessary because records establish that the child has a disability and is eligible for Part C services. For children undergoing the screening process, and based on regional agreements, the following must occur:
- (1) Provide the parent notice of the intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an initial evaluation at any time during the screening process;
  - (2) Parental consent is obtained prior to conducting screening; and
  - (3) Notice must be provided to the parent if the screening or other available information indicates the child is suspected of having a disability.
- (b) The 45-day timeline begins upon receipt of referral to the regional CIS/EI program. CIS/EI must appoint a service coordinator and contact the family within two working days of referral.
- (c) CIS/EI will review and/or conduct a screening, and if warranted, an initial evaluation of the child and assessment of the child and family. The IFSP/One Plan meeting must be held within 45 days from the date the regional CIS/EI program receives the referral for the child.
- (d) If the child is not suspected of having a disability, the CIS/EI provider must ensure that written notice of that determination is provided to the parent, and that the written notice describes the parent's right to request an evaluation.
- ~~(e)~~—If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted, even if the CIS/EI provider has determined that the child is not suspected of having a disability.
- ~~(f)~~(e)
- ~~(g)~~—Screening procedures are activities that are jointly developed in regional agreements and carried out by the regional CIS/EI provider and/or LEA to identify, at the earliest possible



age, a child suspected of having a disability and in need of early intervention services; and include the administration of State approved screening tools and methods by qualified personnel.

~~(h)~~(f)

- (g) Condition for Evaluation or Early Intervention Services: For every child under the age of three referred to the regional CIS/EI program or screened in accordance with this section, CIS/EI will:
- (1) Provide an evaluation for any child suspected of having a disability or if the parent requests an evaluation even if the child is not suspected of having a disability, and/or
  - (2) Offer early intervention services to any child who meets the State definition of a child with a disability.

**2360.5.4 Evaluation of the Child and Assessment of the Child and Family (34 C.F.R. § 303.321)**

- (a) CIS/EI must ensure that, subject to obtaining written parental consent, each child under the age of three referred for evaluation or early intervention services and suspected of having a disability, receives:
- (1) An eligibility determination based on a timely, comprehensive, multidisciplinary evaluation for initial and/or on-going eligibility and that no single procedure is used as the sole criterion for determining a child's eligibility; or
  - (2) An eligibility determination based on the child's medical and other records, if those records indicate that the child's level of functioning in one or more of the developmental areas constitutes an observable and measurable developmental delay, and as a result, the child is determined eligible as a child with a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay.
- (b) Once the child's eligibility has been established through an initial evaluation of the child and/or through the use of medical or other records, the initial assessment of the child must be conducted by qualified personnel so that the child receives:
- (1) A multidisciplinary assessment of the unique strengths and needs of the child and the identification of services appropriate to meet those needs;

- (2) A voluntary family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child. The assessments of the child and family may occur simultaneously with the evaluation to determine initial and/or continuing eligibility and services appropriate to meet the child's needs.
- (c) Requirements of Evaluations and Assessments:
- (1) Evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility. An initial evaluation refers to the child's evaluation to determine his or her initial eligibility.
  - (2) Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility and includes the assessment of the child, and the assessment of the child's family. Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP/One Plan meeting.
  - (3) All evaluations and assessments of the child and family must be conducted by qualified personnel in a nondiscriminatory manner and be selected and administered so as not to be racially or culturally discriminatory.
  - (4) All evaluations and assessments of a child and family must be conducted in the native language of the child and family members being assessed, unless it is clearly not feasible to do so.
  - (5) Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the regional CIS/EI programs must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

#### **2360.5.4.1 Procedures for Evaluation of the Child**

- (a) An evaluation of the child must be conducted by qualified personnel in a nondiscriminatory manner, selected and administered so as not to be racially or culturally discriminatory in

order to determine the child's initial or continuing eligibility. In conducting a multidisciplinary evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part.

- (1) The evaluation of the child must include the following:
  - (i) Administering a State approved diagnostic instrument;
  - (ii) Documenting the child's history (including interviewing the parent);
  - (iii) Identifying the child's level of functioning in each of the developmental areas;
  - (iv) Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
  - (v) Reviewing medical, educational, or other records.

#### **2360.5.4.2 Procedures for Initial and Ongoing Assessment of the Child**

An assessment of each child with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:

- (a) A review of the results of the evaluation conducted;
- (b) Personal observations of the child; and
- (c) An identification of the child's functional needs in each of the developmental areas.

#### **2360.5.4.3 Procedures for Assessment of the Family**

A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's child with a disability.

The family-directed assessment must:

- (a) Be voluntary on the part of each family member participating in the assessment;
- (b) Be based on information obtained through an assessment tool and also through a routines-based interview with those family members who elect to participate in the assessment; and
- (c) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

**2360.5.5 Eligibility ~~(34 C.F.R. § 303.21)~~ ~~(34 CFR §303.21)~~**

- (a) Child with a disability means a child under three years of age who needs early intervention services because:
- (1) The child is experiencing an observable and measurable developmental delay, as measured by State approved diagnostic instruments and procedures, in one or more of the following areas:
    - (i) Cognitive development;
    - (ii) Physical development, including vision and hearing;
    - (iii) Communication development;
    - (iv) Social or emotional development;
    - (v) Adaptive development.;
  - (2) The child has a diagnosed physical or mental condition that:
    - (i) Has a high probability of resulting in developmental delay; and
    - (ii) Includes conditions such as, but ~~are~~ not limited to, chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; and severe complications at birth.

~~(b)~~—For the purposes of this part, ‘**developmental delay**’ is defined as a clearly observable and measurable delay in one or more ~~of~~ developmental areas (as stated above) and the delayed development shall be at the level that the child’s future success in home, school or community cannot be assured without the provision of early intervention services.

~~(c)~~(b)

**(c) Eligibility Determination**

- (1) A CIS/EI multidisciplinary team, including parents, shall determine a child’s eligibility to receive early intervention services.
- (2) The child’s file or IFSP/One Plan shall clearly document participants involved and the evaluation and procedures used to inform the eligibility determination and provision of early intervention services.

(d) **Intrastate and Interstate Transfer Eligibility**

- (1) A child determined eligible for early intervention services in one CIS/EI region who relocates to another CIS/EI region continues to be eligible for services without need for another evaluation or determination of eligibility.
- (2) For a child who relocates to Vermont from another State and who has previously been found eligible to receive early intervention services in that State, the regional CIS/EI team shall review Part C eligibility requirements from the sending State as well as any records forwarded to the regional CIS/EI program in order to determine if the child may be eligible under Vermont's Part C eligibility requirements. If additional evaluations are warranted to determine the child's eligibility in Vermont, written parental consent must be obtained prior to any evaluations being conducted.

(e) **Determination that a Child is Not Eligible**

If, based on the initial evaluation, the regional CIS/EI team determines that a child is not eligible under this part, the regional CIS/EI team must provide the parent with prior written notice regarding this determination, and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under Rule 2365.

## 2360.5.6 Individualized Family Service Plan (IFSP)/One Plan

(34 C.F.R. §§ 303.340-303.346)

The regional CIS/~~EI~~ ~~Early Intervention~~ programs shall ensure the development, review, and implementation of an IFSP/One Plan. The plan shall be developed by a multidisciplinary team, which includes the parent for each eligible child. Changes or revisions to the plan must be a team decision.

### 2360.5.6.1 IFSP/One Plan Meetings and Reviews

- (a) For a child referred to and subsequently found eligible for the Part C program, a meeting to develop the initial IFSP/One Plan must be conducted within 45 days of receipt of the initial referral to Part C.
- (b) On at least an annual basis, a meeting shall be conducted to evaluate and revise as appropriate, the IFSP/One Plan for the child and the child's family. The results of any current evaluation and other information available from the assessments of the child and family shall be used in determining the early intervention services that are needed and will be provided.
- (c) A periodic review of the IFSP/One Plan for a child and the child's family shall occur at least every six months, or more frequently if needed, or requested by the family. The six month review need not take place at a formal meeting but may occur through other means that are acceptable to the parents and other participants. The purpose of the six--month review is to determine:
  - (1) Progress made toward achieving the outcomes identified in the IFSP/One Plan, and
  - (2) Whether modification or revision of the outcomes or services is needed.
- (d) IFSP/One Plan meetings shall be:
  - (1) Held at least annually;
  - (2) Held in settings and at times that are accessible and convenient for families;
  - (3) Held in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so;
  - (4) Arranged with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend;
  - (5) Attended at minimum by:

- (i) The parent(s) of the child; ~~(i)~~ -and
  - (ii) The service coordinator.
- (6) Also attended by or otherwise include the participation of:
- (i) Other family members, as requested by the family;
  - (ii) An advocate or person outside the family as requested by the family;
  - (iii) The person(s) directly involved in the evaluation and assessment process; and
  - (iv) As appropriate, the person(s) who will be providing services to the child and/or the family.
- (7) Participation may include:
- (i) Sharing information through a telephone call and making pertinent records available; and
  - (ii) Having a knowledgeable authorized representative attend the meeting.

### **2360.5.6.2 Contents of IFSP/One Plan**

The contents of the IFSP/One Plan shall be fully explained to parents and shall include the following:

~~(a)~~—A statement of the child’s present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based upon the information from that child’s evaluation, assessments, and other relevant records.

~~(b)~~(a)

~~(c)~~(b) With the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family;

~~(d)~~(c) A statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre and early literacy and language skills, as developmentally appropriate for the child) and family; and the criteria, procedures, and timelines used to determine:

- (1) The degree to which progress toward achieving the outcomes identified in the IFSP/One Plan is being made; and
  - (2) Whether modifications or revisions of the expected outcomes, or services identified in the IFSP/One Plan are necessary.
- (d) A statement of the specific early intervention services, based on peer reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes, including the:
- ~~(a)~~(1) Method of how a service is provided (i.e., whether the service is provided through consultation, family education, and/or direct service);
  - ~~(b)~~(2) Length of time the service is provided during each session of that service (such as an hour or other specified time period);
  - ~~(c)~~(3) Frequency and intensity (i.e., the number of days and/or sessions that a service will be provided and whether the service is provided on an individual or group basis); and
  - ~~(d)~~—Projection of the duration of a given service (such as when the child is expected to achieve desired outcomes as stated on his or her IFSP/One Plan).
  - ~~(e)~~(4) \_\_\_\_\_
- (e) A statement that each early intervention service shall be provided in the natural environment, to the maximum extent appropriate for the child. If early intervention services cannot be provided within the natural environment for the child, the IFSP/One Plan team (which includes the parent and other team members) shall make a determination of the appropriate setting and include a justification for not providing services within the natural environment.
- ~~(f)~~—The location of services (the actual place or places where a service will be provided);
  - ~~(g)~~(f) \_\_\_\_\_
  - ~~(h)~~(g) The payment arrangements, if any;
  - ~~(i)~~(h) Other services needed, but not required by Part C of the IDEA. To the extent appropriate, the IFSP/One Plan must:
    - (1) Identify medical and other services that the child or family needs or is receiving through other sources, but that are not required ~~h~~or funded by Part C of the IDEA; and
    - (2) If those services are not currently being provided, include a description of the steps the Service Coordinator or family may take to assist the child and family in securing those



other services;

~~(i)~~—The projected dates for initiation of each early intervention service, which shall be as soon as possible after the parent consents to that service, and not more than 30 days from receipt of written consent by CIS/EI;

~~(j)~~(i)

~~(k)~~(j) The anticipated duration of each early intervention service;

~~(l)~~—The name of the Service Coordinator responsible for implementing the early intervention services identified in the child’s IFSP/One Plan, including transition services, and coordination with other agencies and persons;

~~(m)~~(k)

~~(n)~~(l) The steps and services to be taken to support the transition of the child from regional CIS/EI services to Part B EEE services to the extent that those services are appropriate, or to other appropriate services (e.g., early childhood community-based settings and services, etc.). The steps for transition must include:

- (1) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child’s transition;
- (2) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
- (3) Confirmation that Child Find information about the child has been transmitted to the LEA and the State CIS/EI office for transmission to the AOE;
- (4) With written parental consent, transmission of other information about the child to the LEA, to ensure continuity of services, including a copy of the most recent evaluation and assessments of the child and family and the most recent IFSP/One Plan; and
- (5) Identification of transition services and other activities that the IFSP/One Plan team determines are necessary to support the transition of the child.

### **2360.5.6.3 Interim IFSP/One Plan Provision of Services Before Evaluation and Assessment Completion (34 C.F.R. § 303.345)**

- (a) Early intervention services for an eligible child and the child's family may begin before the completion of the initial evaluation and assessment if the following conditions are met:
- (1) Informed, written parental consent is obtained;
  - (2) An interim IFSP/One Plan is developed that includes:
    - (i) The name of the Service Coordinator who will be responsible for implementing the interim IFSP/One Plan and coordinating with other agencies and persons; and
    - (ii) The early intervention services that have been determined to be needed immediately by the child and the child's family; and
  - (3) The initial evaluation and assessment and IFSP/One Plan meeting are completed within 45 days of referral.

### **2360.5.6.4 Responsibility and Accountability (34 C.F.R. § 303.346)**

Each participating agency that has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP/One Plan. However, Part C of the IDEA does not require that any participating agency be held accountable if an eligible child does not achieve the growth projected in the child's IFSP/One Plan.

### **2360.5.7 Notifications of Transition at Age Three (C.F.R. § 303.209)**

AOE and AHS have developed policies and procedures that are also included in the Part C Interagency Agreement to ensure a smooth and effective transition for children with disabilities and their families who transition from Part C services to Part B services at age three.

- (a) Regional CIS/EI Notification to LEA of Children Potentially Eligible for EEE at Age Three: Between six months and ~~90~~**ninety** days before the child's third birthday, the regional CIS/EI program will provide written notification (child's name, date of birth, and parent name, address, and telephone number) to the LEA- where the child resides that the child on his/her third birthday will reach the age of eligibility for services under IDEA Part B and the

IFSP/One Plan team has determined the child is 'potentially eligible' for ~~Essential Early Education (EEE)~~ services.

- (1) Potentially Eligible, for the purposes of transition at age three, is determined by the IFSP/One Plan team within six months of a child's third birthday. Evidence is based on on-going assessment measures and use of a State approved diagnostic instrument. A child shall be considered potentially eligible for EEE services if the child demonstrates at least a 25% delay in one or more of the following developmental domains:
  - (i) Speech and language development (receptive and/or expressive communication; including articulation, fluency, and/or voice);
  - (ii) Adaptive development;
  - (iii) Social or emotional development;
  - (iv) Physical development including gross or fine motor skills; and/or
  - ~~(v)~~—Cognitive skills such as perception, memory, processing, and reasoning.
  - ~~(vi)~~(v) \_\_\_\_\_
- (b) Regional CIS/EI Notification to Part C State Office: Between six months and ~~90~~ninety days before the child's third birthday, the regional CIS/EI program will provide written notification (child's name, date of birth, and parent name, address, and telephone number) to the Part C State office only for children who are receiving Part C services and who may be potentially eligible for services under Part B.
- (c) Part C State Notification: Between six months and not fewer than ~~90~~ninety days before the child's third birthday, the Part C State office will provide written notification (child's name, date of birth, and parent name, address, and telephone number) to the AOE for children who are receiving Part C services and who are considered potentially eligible for services under Part B. The Part C State office will report this information monthly to the AOE.

### **2360.5.8 Late Referral Procedures**

- (a) If the regional CIS/EI program determines that a child is eligible for early intervention services *more than 45 days but fewer than 90 days* before that child's third birthday the regional CIS/EI must provide transition notification to the LEA where the child resides as

soon as possible.

- (b) If the regional CIS/EI program determines that a child is eligible for early intervention services *more than 45 days but fewer than 90 days* before that child's third birthday the regional CIS/EI must provide transition notification as soon as possible to the Part C State office after determining eligibility.
- (c) The Part C State office will provide written notification as soon as possible to the AOE for all children determined eligible for early intervention services *more than 45 days but fewer than 90 days* before their third birthday.
- (d) If a child is referred to the regional CIS/EI program *fewer than 45 days* before their third birthday, the regional CIS/EI program is not required to conduct an initial evaluation, assessment, or initial IFSP meeting. If that child may be potentially eligible for Part B services, the regional CIS/EI, with parental consent, must refer the child to the LEA where the child resides.
- (e) If a child is referred to the regional CIS/EI program *fewer than 45 days* before his/her -third birthday and may be potentially eligible for Part B services, the regional CIS/EI program must notify, with parental consent, the Part C State office, LEA, and AOE as soon as possible.
- (f) With parental consent, the Part C State office will provide written notification as soon as possible to the AOE for all children referred *fewer than 45 days* before their third birthday and who may be potentially eligible for Part B services.

#### **2360.5.9 Transition Conference (C.F.R. § 303.209 (c)-(d))**

- (a) The AOE and AHS shall ensure that regional CIS/EI and LEA representatives participate in transition planning conferences for those children who are considered potentially eligible for Part B EEE services at age three.
  - (1) With family approval, the regional CIS/EI shall conduct a transition conference for a child with disabilities who is receiving Part C services and who will be exiting the Part

C program not fewer than ~~90~~ninety days, and at the discretion of all parties not more than nine months, before the child's third birthday to discuss any services the child may receive under Part B EEE services.

- (2) Prior to or at the transition conference, families will be provided information about parental rights and procedural safeguards for Part B.
- (3) If a child is not potentially eligible for Part B EEE services, with the family's approval, the— regional CIS/EI program shall make reasonable efforts to convene a conference with the family and community-based providers to discuss other appropriate services that the child may receive.
- (4) The transition conference must include the regional CIS/EI IFSP/One Plan providers, the family of the child, and an LEA representative.
- (5) The transition conference or meeting to develop the transition plan must meet the IFSP/One Plan meeting requirements and that the transition conference and the IFSP/One Plan meeting may be combined.

(b) Procedures for Transition Plan:

AOE and AHS shall ensure that regional CIS/EI and LEA representatives participate in transition planning conferences for children who may be potentially eligible for Part B EEE services. The family's service coordinator is responsible for initiating and scheduling the transition planning conference.

- (1) The IFSP/One Plan team, inclusive of the family, shall develop the transition plan and include steps and services to be taken to support the smooth transition of the child from Part C to Part B.
- (2) The IFSP/One Plan team shall develop a transition plan, as part of a child's IFSP/One Plan, not fewer than ~~90~~ninety days, but at the discretion of all parties up to nine months, prior to the third birthday for all children exiting Part C. The transition plan shall include the following steps and services:
  - (i) A review of program options for the child for the period from the child's third birthday through the remainder of the school year;
  - (ii) Discussion with and training of parents, as appropriate, regarding future options and other matters related to the child's transition;

- (iii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and
- (iv) Identification of transition services and other activities that the IFSP/One Plan Team determines are necessary to support the transition of the child.

### **2360.5.10 Eligibility for EEE Services at Age Three**

~~(a)~~—In order to ensure a seamless and effective transition for children with disabilities who receive Part C services and are potentially eligible for Part B services, the AOE will ensure that the LEA provides each child entering Part B EEE services from Part C services an Individualized Education Plan (IEP) developed and implemented by the child’s third birthday. The IEP shall include all required components as listed in Rule 2363.7.

~~(b)~~(a)

~~(e)~~—If a child’s birthday occurs during the summer, the child’s IEP team shall develop the IEP prior to the end of the current school year in order to have the IEP in effect at the beginning of the new school year. If it is necessary for the child to receive uninterrupted services over the summer months, the IEP team shall determine the date when services begin.

~~(d)~~(b)

~~(e)~~(c)A child shall be eligible for EEE services at age three, if the child received consistent (e.g., one 60 minute intervention session per week) specialized instruction, developmental therapy services, or speech and language services through an IFSP/One Plan and the child:

- (1) Demonstrates a 25% developmental delay, as measured by ongoing assessment and use of a State approved diagnostic instrument, administered by qualified professionals, in one or more of the following developmental domains:
  - ~~(j)~~(i) Speech and language development (receptive and/or expressive communication; including articulation, fluency, and/or voice);
  - (ii) Adaptive development;
  - (iii) Social or emotional development;
  - (iv) Physical development, including gross or fine motor skills; and/or
  - (v) Cognitive skills such as perception, memory, processing, and reasoning; or

~~(2)~~—The child has a medical condition which may result in significant delays by the child's sixth birthday, and the school-based Evaluation Planning Team (EPT) has determined that the child is in need of Part B EEE services.

~~(3)~~—

~~(4)~~(2)

~~(f)~~—For the purposes of this section, “medical condition” means a condition diagnosed by a licensed physician such as but not limited to autism, cerebral palsy, Down syndrome, attention deficit disorder with hyperactivity that may result in significant delays by the child's sixth birthday.

~~(g)~~(d)

- (e) If the child previously received Part C services, a meeting notice of the initial IEP meeting will be sent to the CIS/EI Part C service coordinator, or other CIS/EI service representative at the request of the parent.
- (f) For all children who transition from CIS/EI Part C services to Part B EEE services, the IEP team must consider the IFSP/One Plan content when developing the initial IEP (including the natural environments statement).

#### **2360.5.10.1 Part C Records Forwarded to LEA:**

Within ~~90~~ninety days of the child's third birthday and with parental consent, copies of the following IFSP/One Plan records shall be sent to the LEA where the child resides:

- (a) A signed consent from the parent to release identifying information to the LEA;
- (b) Evaluation and procedures used to determine child's potential eligibility for Part B EEE services;
- (c) IFSP/One Plans;
- (d) Pertinent ongoing assessment reports and contact notes.

#### **2360.5.10.2 Consent for Part B Placement and the Initial Provision of Part B Services**

For children who transition to Part B EEE services, the parent shall be asked to sign consent for:

- (a) Their child's placement under Part B for the period of time between the age of three and the date the initial evaluation under Part B is completed.

- (1) The initial consent for evaluation and placement under Part B shall occur when the child's initial evaluation under Part C expires after ~~three~~3 years or sooner if requested by the parent or LEA.
- (b) Consent for the initial provision of IEP services.

### **2360.6 Records**

- (a) Children's Integrated Services/Early Intervention (CIS/EI) records shall be the property of the co-lead agencies, the AOE and AHS. The child's record at the CIS/EI Program shall be the central record for children referred for early intervention services. Records at the CIS/~~Early Intervention~~ EI Program shall contain the following:
  - (1) Record of Access;
  - (2) Consents for Release of Information;
  - (3) Consent for Evaluation;
  - (4) Documentation that parental rights have been given in writing and explained;
  - (5) Evaluation reports or summaries used to determine eligibility;
  - (6) Eligibility form;
  - (7) Written notice of IFSP/One Plan meetings;
  - (8) All of the child's IFSPs/One Plans;
  - (9) Information related to IFSP/One Plan reviews; and
  - (10) Information related to transition planning.
- (b) Additional components of the child's record (e.g., summary reports, on-going assessment, evaluation summary, etc.) may be maintained by service providers and copies must be provided to regional CIS/EI Program as part of the child's permanent record.

### **2360.7 Procedural Safeguards.**

If a parent disagrees with the decisions made by the IFSP/One Plan team the parent may pursue any of the dispute resolution options set forth in Rule 2365.



# PART B

## Vermont Rules Governing Services to Children

Ages Three through 21~~Twenty-one~~

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## Part B of the Individuals with Disabilities Education Act (IDEA) Serving Children and Students Ages Three through ~~21~~Twenty-one

### 2361 Part B – Serving Children/Students Ages Three Through ~~21~~Twenty-One:

IDEA Part B in Vermont is categorized into two distinct age groups. Children ages three through age five are served through Essential Early Education/Early Childhood Special Education (EEE/ECSE). The second age group, ages six through ~~21~~twenty-one, are students served through the LEA ~~local education agency~~ where the student resides.

#### 2361.1 Part B Definitions

The following definitions shall apply to terminology used throughout Part B of these ~~r~~Rules:

- (~~a~~) **Accommodations**. Accommodations mean ~~s~~ those evaluation procedures, curricula, materials or programmatic adaptations, behavior management interventions, and supplemental aids and services that are necessary for an eligible student to benefit from his or her general education or to participate in non-academic or extra-curricular activities.
- (~~b~~) **Adaptive behavior skills**. Adaptive behavior skills are the skills essential to independent functioning, personal responsibility, and social responsibility.
- (~~c~~) **Assistive Technology device**. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(d4) **Assistive technology service.** Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

- (1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for a child with a disability and/or, if appropriate, that child's family; and
- (6) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, and/or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(f)(a) **Basic skills.** Basic skills are those skills enumerated in Rule 2362(g).

(g)(b) **Child.** Child means an individual under the age of six and may include an infant or toddler ages birth to three with a disability

(g7) **Child in state custody.** A "child in state custody" means a child placed in custody pursuant to Chapters 49 and 55 of Title 33. A "child in state custody" shall be afforded all rights and protections as a "ward of the State" as provided in 20 U.S.C. § 1401(36).

(h8) **Child with a disability.** In this document, "child with a disability" is a child who has been found eligible for special education and related services consistent with the process found in Rules 2361 and 2362.

(i9) **Consent.** Consent means that—:

- (1a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
- (2b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- (3e) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
- (4d) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(j10) **Core curriculum.** Core curriculum means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, ~~and~~ geography, and physical education which have instructional approaches that are based on scientifically validated research supporting the curriculum's effectiveness and demonstrate a high probability of success for a majority of students.

(k11) **Day.** Whenever a limit of "days" appears within these regulations, the following definitions shall apply:

- (1a) "Day" is defined as a calendar day, unless stated to be "business day" or "school day".
- (2b) "Business day" means weekdays, excluding ~~F~~ederal and State holidays, unless the latter are specifically included.
- (3e) "School day" means any day, including partial days, when children attend school for instructional purposes. The term school day has the same meaning for all children in school, including children with and without disabilities.

- (l) **Educational Surrogate Parent** is an individual appointed by the AOE to ensure the rights of the child and student are protected when:
- (1) The parents of the child or student are not known or cannot be located after reasonable efforts;
  - (2) The child or student is in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§ 9301-9316); or
  - (3) The child or student is an unaccompanied homeless youth as defined in §725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4))
- (~~m13~~) **Eligibility**. See Rule 2360.5.5 for children ~~under three years from birth through 2 years 11 months~~ of age. See Rule 2361 for children ages ~~three through five3 up to the sixth birthday~~. See Rule 2362 for children and students ages ~~six6~~ through 21.
- (~~n14~~) **Evaluation**. Evaluation means procedures used in accordance with Rule 2362 with the following exception: The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
- (~~o15~~) **Evaluation Planning Team (EPT)**. Evaluation Planning Team means a group of individuals including the parent that is responsible for developing an evaluation plan and reviewing the results to determine if a student is or continues to be eligible for special education and related services. The membership requirements are the same as those outlined for the IEP ~~T~~team in Rule 2363.3(a)2(b).
- (~~p16~~) **Extended School Year Services (ESY)**. The term extended school year services means special education and related services that are provided to a child with a disability beyond the normal school year of the LEA in accordance with the child's IEP and ~~S~~state standards and at no cost to the parents of the child.

~~(q17)~~ **Functional Performance.** Functional performance is the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social, and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other life-long learning opportunities.

~~(r18)~~ **Free Appropriate Public Education (FAPE).** A FAPE means special education and related services that—:

- ~~(1a)~~ Are provided at public expense, under public supervision and direction, and without charge to the parent or student;
- ~~(2b)~~ Meet the standards of the State, including the requirements of Part B of the IDEA and; include preschool, elementary school, or secondary school education; and
- ~~(3e)~~ Are provided in conformity with an individualized education program (IEP) that meets the requirements of Rules 2363.

~~(s19)~~ **Highly Qualified Special Education Teachers.** Highly Qualified Special Education Teachers shall meet one of the following:

- ~~(1a)~~ Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified means that the special education teacher shall carry an endorsement appropriate to the assignment and shall meet the content knowledge requirements for the highest grade level of the students who receive primary instruction from the teacher.
- ~~(2b)~~ Requirements for special education teachers in general.
  - (i) When used with respect to any public elementary school or secondary school special education teacher, highly qualified requires that:
    - (A) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), and holds a license to teach in the State as a special education teacher;

- (B) The teacher does not have provisional special education certification or licensure; and
  - (C) The teacher holds at least a bachelor's degree.
- (ii) A teacher will be considered to meet the standard in paragraph ~~(2b)~~(i) of this section if that teacher is participating in an alternative route to special education certification program under which:—
- (A) The teacher:—
    - 1) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
    - 2) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
    - 3) Assumes functions as a teacher only for a specified period of time not to exceed three years; and
    - 4) Demonstrates satisfactory progress toward full certification as prescribed by the State of Vermont.

~~(t20)~~ **Homeless children.** Homeless children means individuals who lack a fixed, regular, and adequate nighttime residence; and includes:

- ~~(1a)~~ Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
- ~~(2b)~~ Children and youth who have a primary night-time residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- ~~(3e)~~ Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and



(4d) Migratory children who qualify as homeless because the children are living in circumstances described in sections (1a) through (3e).

(u24) **Individualized Education Program.** Individualized Education Program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Rule 2363.

(v22) **Individualized Education Program Team.** Individualized education program team or IEP team means a group of individuals described in Rule 2363 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

(w23) **Limited English Proficient.** Limited English Proficient means an individual, aged ~~three~~ through 21, who is enrolled or preparing to enroll in an elementary school or secondary school; and who meets one of the following criteria:

- (1a) Who was not born in the United States or whose native language is a language other than English; or
- (2b) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and
  - (i) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
  - (ii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
  - (iii) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
    - (A) The ability to meet the proficient level of achievement on State assessments;
    - (B) The ability to successfully achieve in classrooms where the language of instruction is English; or

(C) The opportunity to participate fully in society.

~~(x24)~~ **Local Education Agency.** Local Education Agency (LEA) means the supervisory union unless there is a unanimous vote at a supervisory union meeting that the supervisory union will only coordinate special education services on behalf of member districts in which case the LEA is the local school district (16 V.S.A. § 261a(6)).

~~(y25)~~ **Local Education Agency Plan (LEAP).** The Vermont Agency of Education has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. Each LEA assures its commitment to that goal by submitting its LEAP consistent with SBE Rule 13112366.10

~~(z)~~ **Meeting.** A meeting is a session held for the development or review of a child's evaluation plan, eligibility determination, or an IEP. A meeting does not include informal or unscheduled conversations involving school personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities in which school personnel might engage to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

~~(aa)(z)~~

~~(aa27)~~ **Native language.** Native language, when used with respect to an individual who is limited English proficient, means the following:

- ~~(1a)~~ The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in subsection paragraph (aa)(2) of this section.
- ~~(2b)~~ In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

(3e) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication ~~is that~~ normally used by the individual (such as sign language, Braille, or oral communication).

(bb) **Parent** means:

- (1) A biological or adoptive parent of a child or student; when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child or student;
- (2) A foster parent, or developmental home provider who has been appointed the educational surrogate parent by the Vermont Educational Surrogate Parent Program; or
- (3) A guardian generally authorized to act as the child's or student's parent, or authorized to make early intervention, education, health, or developmental decisions for the child or student (but not the State if the child or student is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child or student lives, or an individual who is legally responsible for the child's or student's welfare;
- (5) An educational surrogate parent who has been appointed by the Agency of Education; or
- ~~(6)~~—If a judicial decree or order identifies a specific individual to act as the “parent” of a child or student or to make educational decisions on behalf of a child or student, then such individual shall be determined to be the “parent” for purposes of this section, except that the LEA that provides education or care for the child or student may not act as the parent.

~~(7)(6)~~ \_\_\_\_\_

(cc29) **Personally identifiable.** Personally identifiable means information that contains:

- (1a) The name of the child, the child's parent, or other family member;
- (2b) The address of the child;
- (3e) A personal identifier, such as the child's social security number or student number; or

(4d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(dd30) **Print disability.** Print disability means a condition related to blindness, visual impairment, specific learning disability, or other physical condition in which the student needs an alternative or specialized format (i.e. Braille, large print, audio, digital text, etc.)~~at~~, in order to access and gain information from conventional printed instructional materials.

(ee31) **Related services.** Related~~s~~ services means developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation, transportation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students as described in Rule 2360.2.16.

(ff32) **Scientifically based research.** Scientifically based research means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and includes research that:

(1a) Employs systematic, empirical methods that draw on observation or experiment;

(2b) Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(3e) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

- (4d) Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
- (5e) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
- (6f) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(gg33) **Services plan.** Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child, grades K-12, with a disability enrolled in an independent school or in a registered home school, who has been designated to receive services, including the location of the services and any transportation necessary, and is developed and implemented in accordance with Rule 23678.

(hh34) **Special eEducation sServices.** ~~As defined in Rule 2360.2.12. The term "special education" means specially designed instruction that cannot be provided within the school's standard instructional conditions or provided through the school's educational support system, at no cost to the parent, to meet the unique needs of an eligible child with a disability. Specially designed instruction means adapting, as appropriate, to the needs of an eligible child, the content, methodology, or delivery of instruction.~~

(ii35) **Student.** For the purpose of this document, the term "student" shall refer to individuals ages six through ~~21~~twenty-two years of age, inclusive.

(jj36) **Supplementary aids and services.** Supplementary aids and services means aids, services, and other supports that are provided in general education classes, other education-related

settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in the least restrictive environment.

(~~kk37~~) **Universal dDesign.** The term “universal design”, as provided in the Assistive Technology Act of 2004, means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

(~~ll38~~) **Vulnerable adult in Sstate custody.** For purposes of these rules, “vulnerable adult in Sstate custody” is a student ~~who that~~ is 18 through 21 years of age and for whom guardianship authority to make educational decisions on behalf of the student has been granted by a court to the Commissioner of the Department of Disabilities, Aging and Independent Living pursuant to Chapter 215 of Title 18. A vulnerable adult in Sstate custody meets the definition of, and shall be afforded, all rights and protections as a “ward of the Sstate” pursuant to 20 U.S.C. § 140-1(36).

(~~mm39~~) **Ward of the Sstate.** All rights and protections as a “ward of the Sstate” pursuant to 20 U.S.C. § 1401(36) shall be afforded to a “child in Sstate custody” or a “vulnerable adult in Sstate custody” as those terms are defined in this section.

### **2361.2 Essential Early Education (EEE) Eligibility of Children Age Three Years Through Five Up To the Sixth Birthday**

Essential Early Education (EEE) is IDEA Part B Early Childhood Special Education (ECSE) services for children ages three through five, inclusive. Special education and related services are

provided by LEAs to ensure children receive age appropriate services within inclusive early childhood settings, including the child's home, to the extent possible.

(a) A child under age three may be eligible for placement in Part B under IDEA on or up 90 days prior to their third birthday if the LEA determines the child meets criteria set forth in Part C Rule 2360.5.10.

(1) If the child is eligible for Part B, an IEP must be developed by the child's third birthday.

(2) Given parental consent under Rule 2363.8, a child shall receive ECSE services from the period of time between initiation of services up to their three-year evaluation date. The three-year evaluation date is three years from the date of initial eligibility determination under Part C CIS/EI as written in the child's One Plan.

— Before the three-year evaluation date is due, the LEA shall conduct and complete an initial comprehensive evaluation under Part B using ECSE eligibility criteria.

(3)

~~(a)~~ (a) A child age three years ~~through five years up to the sixth birthday~~ shall be eligible for EEE services if the child meets at least one of the following:

~~(b) (1) The child meets criteria set forth in Part C Rule 2360.5.9(e):~~

~~Received consistent (e.g., one 60 minute intervention session per week) specialized instruction, developmental therapy services or speech and language services through an IFSP/One Plan; and~~

~~CIS/EI IFSP/One Plan team has determined the child as 'potentially eligible' for EEE services within six months of the child's third birthday; or~~

~~(e)(b) The child has a medical condition which may result in significant delays by the child's sixth birthday, and the school-based Evaluation Planning Team (EPT) has determined that the child is in need of Part B EEE services; or~~

~~(1) (2) —~~ After the Evaluation Planning Team (EPT) reviews the results of the comprehensive evaluation and concludes that the child has a disability caused by a developmental delay and the child is in need of early childhood special education services; or

~~(2) (3) —~~ The child has a medical condition which may result in significant delays, and the child is in need of early childhood special education services; or

~~(4)~~ For a child enrolled in kindergarten, the EPT may consider using eligibility criteria for children ages ~~six~~6 through 21 (school age) pursuant to Rule 2362, including the

determination of a disability, adverse effect on educational performance, and need for special education.

(3)

~~(a)~~

~~(b)~~ For the purposes of this section, “medical condition” means a condition diagnosed by a licensed physician such as, but not limited to, autism, cerebral palsy, Down Syndrome, or attention deficit disorder with hyperactivity that may result in significant delays by the child's sixth birthday.

(c)

~~(a)~~

~~(e)~~ For the purposes of this section, “developmental delay” is determined through a comprehensive evaluation as measured by at least two appropriate assessment measures, one of which must be a standardized diagnostic instrument. Other measures may include, but are not limited to, observation of a child’s function across daily routines and settings, interview with teachers, family, and/or caregivers, review of ongoing assessment, and, if warranted, a functional behavior assessment. To meet developmental delay criteria a child must demonstrate at least one of the following:

- (1) A 40% delay in one or more developmental domains; or
- (2) A 25% delay in two or more developmental domains; or
- (3) A 2.0 standard deviation at, or below the mean (2<sup>nd</sup> percentile) in one or more developmental domains; or
- ~~(4)~~—A 1.5 standard deviation at, or below the mean (7<sup>th</sup> percentile) in two or more developmental domains.

(4)

(e) Developmental Domains are defined as:

- (1) Speech and language development including receptive and/or expressive communication, articulation, fluency, and/or voice;
- (2) Adaptive development (self-help skills);
- (3) Social or emotional development;



- (4) Physical development including gross or fine motor skills; or
  - (5) Cognitive skills such as perception, memory, processing, and reasoning.
- (f) ~~(e)~~ The administration of any assessments shall be in compliance with the evaluation requirements set forth in Rule 2362.2.1.
- (g) ~~(f)~~ The percentage delay in a child's performance on a norm referenced assessment may be measured by dividing the child's age equivalent score in months by the child's actual age in months, and then multiplying the quotient by 100. The result is then subtracted from 100 to determine the child's percentage of delay.
- (hg) If the EPT has determined the child eligible to receive special education and related services an IEP shall be written within 30 days of the eligibility determination.
- (ih) The content of the child's IEP shall be as set forth in Rule 2363.7. For a preschool age child, the IEP shall address how the child's disability affects his/her access to and participation in age appropriate activities.

**2361.3 Educational Placement in the Least Restrictive Environment (LRE) (34 C.F.R. § 300.115)**

- (a) At all times, a child's LRE placement must be based on their unique abilities and needs, and must provide the opportunity for a meaningful educational benefit. In determining the educational placement of a preschool child with a disability, each LEA shall provide a full continuum of placement options and ensure that:
- (1) Placement decisions (provision of early childhood special education and related services) shall be made by the IEP team in conformity with the provisions regarding placement in the least restrictive environment set forth in Rule 2364, and
  - (2) The child's educational placement shall be:
    - (i) Determined at least annually;
    - (ii) Based on the child's IEP;
    - (iii) In as close proximity as possible to the child's home; and

(iv) Based on consideration of community-based early care and education settings, such as public or private Universal Prekindergarten Education (UPK) pre-K classrooms, private childcare, Head Start or as appropriate for the child, within the home.

(A) A child may receive ECSE services in a State-approved public or private prequalified UPK program. The LEA may, but is not required to, provide ECSE services outside of the LEA, even if the child is enrolled in an out-of-district UPK program.

(B) All public and private UPK programs shall adhere to applicable federal and state laws including, but not limited to, IDEA Part B; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act (ADA); Title VII of the Civil Rights Act of 1964; Vermont's Act 166 of 2014; SBE Rule Series 2600; and the Vermont Agency of Human Services (AHS), Child Development Division (CDD) licensing regulations.

(C) For children who are enrolled in public or private UPK programs and receive ECSE services, the UPK program shall allow access to ECSE service providers and permit announced and unannounced visits by representatives of AOE, AHS, and school district staff.

#### **2361.4 Transition for Children Moving into Kindergarten**

- (a) In order to ensure a smooth transition to kindergarten, the IEP team shall:
- (1) Meet three to six months prior to the child's entrance into kindergarten to ensure that the child's IEP is ready to be implemented at the beginning of the school year. The child's re-evaluation date is determined three years from the child's evaluation date as stated on the child's current IEP.
  - (2) Include in the meeting the parents of the child with a disability, a kindergarten teacher in thewhose school the child will be attending, and a special education teacher or other school representative from the LEA who is:
    - (i) Knowledgeable about the LEA's resources;

- (ii) Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities; and
- (iii) Knowledgeable about the general education curriculum.
- (iv) Other individuals with knowledge or special expertise regarding the child may be included in the meeting.

### **2361.5 IEP Content**

The content of the ~~child~~student's IEP shall be as set forth in Rule 2363.7. For ~~a preschool age child~~preschoolers, the IEP ~~shall~~may also address how the child's disability affects ~~their~~his or her ~~participation in developmentally appropriate play activities~~ access to and active participation in age appropriate activities within the LRE. The IEP present levels of performance, goals, and objectives shall align with the following early childhood outcome areas:

- (a) Positive Social and Emotional Skills and Relationships;
- (b) Acquisition and Use and Knowledge and Skills; and
- ~~(a)~~(c) Taking Appropriate Action to Meet Needs.

## 2362 Eligibility for Children Ages Six Years through ~~21~~Twenty One

(34 C.F.R. § 300.306)

- (a) A child shall be eligible for special education if:
- (1) He or she has one or more of the disabilities described in Rule 2362.1;
  - (2) Except for the disability categories of Deaf-Blindness and Specific Learning Disability, ~~the~~ the disability results in an adverse effect on the child's educational performance in one or more of the basic skill areas as described in subsection (g), below; and
  - (3) The student needs special education services to access and benefit from his or her educational program and this support cannot be provided through the educational support system, standard instructional conditions or supplementary aids and services provided in the school.
- (b) The three criteria listed in subsection (a) above shall also be applied at the time the student receives a re-evaluation to determine eligibility.
- (c) A formal evaluation process, documented in a report as required by Rule 2362.2.~~65~~, shall be used to determine whether the above criteria are met.
- (d) Adverse Effect.
- (1) In this section, “adverse effect” and to “adversely affect” are used interchangeably and mean to have a negative impact on the basic skills areas. This impact does not need to be substantial, significant, or marked. It is more than a minor or transient hindrance, evidenced by findings and observations based on data sources and objective assessments with replicable results. An adverse effect on educational performance does not include a developmentally appropriate characteristic of age/grade peers in the general population. To conclude that a disability has an adverse effect on the student's educational performance, the EPT shall determine and document that, as a result of his or her disability, the student is functioning significantly below grade norms compared to grade peers in one or more of the basic skills defined in Rule 2362(g).
  - (2) The EPT must identify areas of adverse effect due to disability in the basic skills areas using a range of diagnostic and performance data appropriate to the student where the disability category requires a finding of adverse effect. The EPT and IEP team will consider academic and nonacademic aspects of the child’s functioning. “Significantly below grade norms” means the 15<sup>th</sup> percentile or below, or a 1.0 standard deviation or

~~more below the mean, or the equivalent, as reflected by performance on at least three of the six following measures of school performance, generally over a period of time:~~

- ~~(i) Individually administered nationally normed achievement test;~~
  - ~~(ii) Normed group administered achievement tests, including nationally normed curriculum-based measures;~~
  - ~~(iii) Grades;~~
  - ~~(iv) Curriculum-based measures which could include benchmark assessments and continuous progress monitoring outcomes;~~
  - ~~(v) Criterion-referenced or group-administered criterion-referenced assessments;~~
  - ~~(vi) Student work, language samples or portfolios.~~
- (3) The documentation of adverse effect on educational performance must also substantiate that the educational deficiencies persist or will persist over time in spite of specific alternative strategies that are provided within the general education setting. The EPT should document evidence that scientific, research-based interventions have been implemented with fidelity. The EPT will consider these efforts and their impact when determining adverse educational performance. With respect to each basic skill considered, the EPT shall specifically identify in its report:
- ~~(i) Each type of measure considered by the Team;~~
  - ~~(ii) The finding of the Team, with respect to each measure considered, as to whether and why the measure met (or did not meet) the 15<sup>th</sup> percentile, 1.0 standard deviation, or equivalent standard, in order to support a finding of adverse effect;~~
  - ~~(i) The specific testing data/scores, student work, and/or education records relied upon by the Team to support its finding under subparagraph (ii) that a measure did or did not meet the standard; and~~
  - ~~(iv) A statement of each basic skill area in which the disability was determined to have an adverse effect, based upon (i)-(iii).~~

- (e) A child may not be determined to be eligible under these rules if the determinant factor for that eligibility decision is lack of instruction in reading, including the essential components of reading instruction (phonemic awareness, phonics, fluency including oral reading skills, vocabulary development, reading comprehension strategies), or math, or limited English proficiency; and the child does not otherwise meet the eligibility criteria of these rules.

- (f) If a child has a disability that results in an adverse effect on his or her educational performance in one or more of the basic skills, the EPT shall, in the following order:
- (1) Consider the interventions, services, and accommodations the student may need, and
  - (2) Determine and provide justification that the student requires specially designed instruction that cannot be provided within the school's standard instructional conditions, or provided through the school's educational support system.
- (g) Basic skill areas—
- (1) Unless otherwise specified in the disability category in these rules, basic skill areas are:
    - (i) Oral expression;
    - (ii) Listening comprehension;
    - (iii) Written expression;
    - (iv) Basic reading skills;
    - (v) Reading comprehension;
    - (vi) Mathematics calculation;
    - (vii) Mathematics reasoning;
    - ~~(viii)~~ Motor skills; and
    - ~~(viii)~~(ix) Functional skills.
  - (2) For an individual with a sensory impairment, one or more comparable basic skills shall be considered to serve as an appropriate substitute for one or more of the above basic skills, for example, Braille skills for basic reading skills.
  - ~~(3)~~ ~~(3)~~—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
  - (4) “Functional skills” means the acquisition of essential and critical skills needed for a child with disabilities to learn specific daily living, personal, social, and employment skills or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for post-secondary and other life-long opportunities.

### **2362.1 Categories of Disability ~~-(34 C.F.R. § 300.8)~~**

The existence of one or more of the following categories of disability shall be established according to the criteria set forth below.

(a) **Autism Spectrum Disorder**

- (1) Is a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three. Included in the spectrum are: autism, pervasive developmental disorder – not otherwise specified, Rett’s Disorder, Asperger’s Disorder, and childhood disintegrative disorder.
- (2) Other characteristics often associated with autism spectrum disorder are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Characteristics vary from mild to severe as well as in the number of symptoms present. Autism spectrum disorder does not apply if a child’s educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in Rule 2362.1(c).
- (3) A child who manifests the characteristics of autism spectrum disorder after age three could be identified as having autism spectrum disorder if the criteria in subsections (1) ~~and~~ (2) are satisfied.
- (4) The EPT shall obtain an opinion of a licensed psychologist and/or medical physician who has ~~ve~~ training and experience in understanding autism spectrum disorders and other developmental disorders as to the existence of an autism spectrum disorder and its effect on the student's ability to function and whether there is an adverse effect on the child’s educational performance.

- (b) **Deaf-blindness** means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

(c) **Emotional disturbance** means a condition including schizophrenia, exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance.

(1) Characteristics of an emotional disturbance:

- (i) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (iii) Inappropriate types of behavior or feelings under normal circumstances.
- (iv) A general pervasive mood of unhappiness or depression.
- (v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(2) A student who is socially maladjusted shall not be considered to be emotionally disturbed unless, he or she also meets the definition of emotional disturbance as set forth in ~~subsection~~division (1). A social maladjustment is a persistent pattern of violating societal norms, such as multiple acts of truancy, or substance or sex abuse, and is marked by struggle with authority, low frustration threshold, impulsivity, or manipulative behaviors. A social maladjustment unaccompanied by an emotional disturbance is often indicated by some or all of the following:

- (i) Unhappiness or depression that is not pervasive;
- (ii) Problem behaviors that are goal-directed, self-serving, and manipulative;
- ~~(iv)~~ (iii) Actions that are based on perceived self-interest even though others may consider the behavior to be self-defeating;
- (iv) General social conventions and behavioral standards are understood, but are not accepted;
- (v) Negative counter-cultural standards or peers are accepted and followed;
- (vi) Problem behaviors have escalated during pre-adolescence or adolescence;
- (vii) Inappropriate behaviors are displayed in selected settings or situations (e.g., only at home, in school or in selected classes), while other behavior is appropriately controlled; and/or



- (viii) Problem behaviors are frequently the result of encouragement by a peer group, are intentional, and the student understands the consequences of such behaviors.
- (3) \_\_The EPT shall obtain an opinion of a licensed psychologist or psychiatrist as to the existence of an emotional disturbance and its effect on the student's ability to function, based on the above criteria.
- (4) \_\_Upon determination of the existence of an emotional disturbance disability, the parent shall be informed of the availability of interagency coordination of services, as defined by 33 V.S.A. § 4301 et seq.
- (d) **Hearing Loss** means deafness or hard of hearing as determined by an audiologist, otologist, or otolaryngologist, and demonstrated by a 25 decibel HL threshold (ANSI, 69) or worse for one or more of the frequencies 250-8000HZ, in one or both ears, with or without amplification.
- (e) **Intellectual disability** means a delay in learning of sufficient magnitude to cause a student's performance to fall at or below -1.5 standard deviations from the mean of a test of intellectual ability, existing concurrently with deficits in adaptive behavior.
- (f) **Multiple disabilities** means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.
- (g) **Orthopedic impairment** includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). The EPT shall obtain an opinion from a licensed physician as to the existence

of the orthopedic impairment and its effect on the student's ability to function.

- (h) **Other health impairment** means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:
- (1) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, non-verbal learning disability, and Tourette syndrome; and adversely affects a child's educational performance.
  - (2) In order to determine the existence of an-other health impairment and its effect on the student's ability to function, the EPT shall obtain an opinion from a person:
    - (i) Whose professional licensure authorizes him or her to offer an opinion on the existence of the specific condition suspected to be another health impairment and its effect on the student's ability to function, and
    - (ii) Who has specific training and experience in diagnosing and recommending treatment for the specific condition suspected.
- (i) **Specific Learning Disability**
- (1) The term "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.
  - (2) Disorders include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
  - (3) The term "specific learning disability" does not include a learning problem that is primarily the result of: visual, hearing, or motor disabilities; intellectual disability; emotional disturbance; or environmental, cultural, or economic disadvantage.
- (j) **Speech or language impairment** means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects a student's educational performance and shall be demonstrated by significant deficits in

listening comprehension or oral expression. The EPT shall obtain an opinion from a licensed speech-language pathologist as to the existence of a speech or language impairment and its effect on the student's ability to function. The determination of a speech or language impairment shall be based on the following criteria:

- (1) Listening comprehension. A significant deficit in listening comprehension exists when a student demonstrates at least 2.0 standard deviations below the test mean on at least one composite score and other measures of auditory processing or comprehension of connected speech. Auditory processing or comprehension include:
  - (i) phonology,
  - (ii) morphology,
  - (iii) syntax,
  - (iv) semantics, or
  - (v) pragmatics.
- (2) Oral Expression. For purposes of determination of a speech and language impairment, a significant deficit in oral expression exists when a child demonstrates one or more of the following conditions:
  - (i) Voice. A significant deficit in voice exists when both of the following are present:
    - (A) Documentation by an otolaryngologist that treatment is indicated for a vocal pathology or speech related medical condition, and
    - (B) Abnormal vocal characteristics in pitch, quality, nasality, volume, or breath support, which persist for at least one month.
  - (ii) Fluency. A significant deficit in fluency exists when the student exhibits one or more of the following behaviors:
    - (A) Part word repetitions or sound prolongations occur on at least 5% of the words spoken in two or more speech samples, or
    - (B) Sound or silent prolongations exceed one second in two or more speech samples, or
    - (C) Secondary symptoms or signs of tension or struggle during speech which are so severe as to interfere with the flow of communication.
  - (iii) Articulation. A significant deficit in articulation attributed to an organic or functional disorder exists when a student is unable to articulate two or more of the unrelated phonemes in connected speech, set forth below, and it is not attributed to dialect or

second language difficulties.

Age	Phonemes
6.0 – 6.11	m, n, h, w, p, b, t, d, k, g, f, v (y), (ch), (th) as in the word “mother”, (sh), and “j” as in jump
7.0 – 7.11	(th) as in the word “thin”, -l
8.0 and above	s, z, r, (zh) as in “measure”, ng and consonant blends with s, l, and r

(iv) Oral Discourse. A significant deficit exists when a student demonstrates a deficit of at least 2.0 standard deviations below the test mean on at least one composite score and other measures of oral discourse. Oral discourse includes:

- (A) phonology,
- (B) morphology,
- (C) syntax,
- (D) semantics, or
- (E) pragmatics

(k) **Traumatic brain injury** means an injury to the brain caused by an external physical force or by an internal occurrence such as a stroke or aneurysm, resulting in total or partial functional disability or psychosocial impairment, or both. The EPT shall obtain an opinion of a licensed physician as to the existence of a traumatic brain injury and its effect on the student's ability to function, as defined by the following criteria:

- (1) The condition includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.
- (2) The condition does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

- (l) **Visual impairment** including blindness means an impairment in vision as evaluated by an optometrist or ophthalmologist.

(1) This term includes, but is not limited, to the following:

(i) partial sight and blindness;

(ii) a visual acuity of 20/70 or less in the better eye;

(iii) reduced visual field to 20 degrees;

(iv) a diagnosis of cortical visual impairment;

(v) a diagnosis of a degenerative condition that is likely to result in a significant loss of vision; or

(vi) other vision conditions that may adversely affect a child's educational performance, such as convergence insufficiency disorder.

~~,- demonstrated by central visual acuity that is 20/70 or worse in the better eye with correction, or a peripheral field that subtends an angle not greater than 20 degrees at its widest diameter. (2) \_\_\_\_\_~~ For the purposes of this disability, mobility and orientation shall also be considered to be special education services. ~~The term includes both partial sight and blindness.~~

## **2362.2 Procedures for Evaluation and Determination of Eligibility-Definition and Purpose**

- (a) For purposes of this section, "evaluations" are defined as observations, tests, and other diagnostic measures, individually selected and administered to determine the existence of a disability, the effect the disability has on the child's educational and functional performance, and the need for specialized services, and for an appropriate program. An evaluation is a compilation of information that is designed to assist:
- (1) The EPT in determining eligibility for special education;
  - (2) The IEP team in developing the student's ~~IEP individualized educational program~~ including special education services, and as required, related services, transition services, assistive technology, and supplementary aids and services; and
  - (3) The IEP team in determining an appropriate placement in the least restrictive environment.
- ~~(b)~~ \_\_\_\_\_ The EPT membership for a student/child suspected of having a specific learning

disability shall also include the following people:

- (1) The student/child's general education teacher, or
- (2) If the student/child does not have a general education teacher, a general education teacher qualified to teach a student/child of his or her age; or
- (3) For a student/child of less than school age, an individual qualified to teach a student/child of his or her age; and
- (4) At least one person qualified to conduct individual diagnostic examinations of students/children, such as a school psychologist, speech and language pathologist, special education teacher, or remedial reading teacher.

~~(4)(c)~~ Where the EPT cannot achieve consensus, as a member of the EPT, the LEA representative shall make the final decision.

~~(d) (e)~~ The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 C.F.R. § 300.302).

### **2362.2.1 Initial Evaluations (34 C.F.R. § 300.301)**

Either a parent of a child, or an LEA, or the AOE, or other State agency, may initiate a request for an initial evaluation to determine if a child or student is eligible for special education and related services. Implementation of Response to Intervention (RTI), Multi-tiered System of Supports (MTSS) or other strategies for academic and behavioral support shall not cause the evaluation of a child or student suspected of having a disability to be delayed or denied.

(a) Each LEA shall conduct a comprehensive and individual initial evaluation before the initial provision of special education and related services to a student with a disability under these rules.

(b) Upon receipt of a request for an evaluation, the school district shall, within ~~15~~fifteen calendar days, either:

(1) Request parent consent to initiate the evaluation;

(2) Convene an ~~Evaluation Planning Team (EPT)~~ meeting; or

(3) Provide written reasons for denial of the request.

(c) The initial evaluation shall be completed and the report issued within ~~60~~sixty days from either:

       (1) The date parental consent has been received by the LEA; or

       (2) The date on the LEA's ~~n~~Notice, which informs parents that it will be reviewing existing data as the sole basis for the initial evaluation.

(d) If completion of the initial evaluation will be delayed for a period exceeding ~~60~~sixty days as specified in subsections (1) and (2) above, the parent shall be given written notice of the delay and a schedule of evaluation activities. Such notice shall be sent to a parent before the expiration of the ~~60~~sixty-day period. A notice of delay shall only be used for exceptional circumstances related to the student and/or family, which shall be documented.

(e) Consent shall be obtained before individual tests can be administered to students who receive special education services unless the assessment is being administered as an alternate assessment to district-wide or statewide assessments.

(f) The ~~60~~sixty-day time limit for the completion of an initial eligibility evaluation identified in subsection (~~cb~~) shall not apply to an LEA if the parent of a student repeatedly fails or refuses to make a student available for the evaluation or if:

       (1) A student moves to a new LEA before the eligibility evaluation in the old LEA has been completed;

       (2) The new LEA is making sufficient progress to ensure a prompt completion of the evaluation; and

       (3) The parent and new LEA have agreed to the specific time when the evaluation will be completed.

### **2362.2.2 Evaluation Planning Team (EPT) – Membership**

(a) Evaluations shall be arranged for, or conducted by an EPT with assistance, where appropriate, from other professionals (e.g., ~~m~~Medical, psychological, etc.)

- (b) The EPT membership shall include:
- (1) An ~~local education agency (LEA)~~ representative who:
    - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children and students with disabilities;
    - (ii) Is knowledgeable about the general curriculum;
    - (iii) Is knowledgeable about the availability of resources of the LEA;
    - (iv) An LEA representative may designate any LEA personnel member of the EPT to also serve as the LEA representative, if the criteria in subsections (i) ~~(ii)~~ (iii) are satisfied.
  - (2) At least one special education teacher of the student/child, or if appropriate, at least one special education service provider for the student/child;
  - (3) At least one general education teacher of the student/child, to the extent appropriate, if the student/child is, or may be, participating in the general education environment; The student when his or her post-secondary transition needs or services will be considered and other agencies likely to be responsible for providing or paying for transition services;
  - (4) At the discretion of the parent or the school district, other individuals who, in the opinion of the parents or school district, have knowledge or special expertise regarding the student/child, including related services personnel, as appropriate;
  - (5) An individual who can interpret the instructional implication of evaluation results, who also may be a member of the team as described in sections (1), (2), (3), and ~~(4)~~ above;
  - (6) The parent(s), guardian, or educational surrogate parent of the student/child who shall be given meaningful opportunity to contribute information to the development of an evaluation plan; and
  - (7) If appropriate, the student/child.
- (c) The EPT membership for a student/child suspected of having a specific learning disability shall also include the following people:
- (1) The student/child's general education teacher, or
  - (2) If the student/child does not have a general education teacher, a general education



- teacher qualified to teach a student/child of his or her age; or
- (3) For a student/child of less than school age, an individual qualified to teach a student/child of his or her age; and
  - (4) At least one person qualified to conduct individual diagnostic examinations of students/children, such as a school psychologist, speech and language pathologist, special education teacher, or remedial reading teacher.
- (d) Where the EPT cannot achieve consensus, as a member of the EPT, the LEA representative shall make the final decision.

### **2362.2.3 Re-Evaluation Requirements (34 C.F.R. § 300.303)**

- (a) ~~—~~The LEA shall ensure that a reevaluation of each child with a disability is conducted:
- ~~(1) (1)~~ If the LEA determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
  - ~~(1)~~
  - (2) ~~(2)~~ If the child's parent or teacher requests a reevaluation.
- (b) A reevaluation conducted under sub-section (a):
- (1) May occur not more than once a year, unless the parent and the LEA agree otherwise; and
  - (2) Shall occur at least once every ~~three~~3 years, unless the parent and the LEA agree that a reevaluation is unnecessary.

### **2362.2.4 Evaluation Procedures (34 C.F.R. § 300.304) ~~—~~**

- (a) The LEA shall provide notice to the parents of a child with a disability in accordance with 2365.1.1 that describes any evaluation procedures the LEA proposes to conduct.
- (b) In conducting the evaluation, the LEA shall:
- (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:

- (i) Whether the child is eligible for special education services; and
  - (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
- (2) Not use any single measure or assessment as the sole criterion for determining special education eligibility and for determining an appropriate educational program for the child; and
- (3) Assess all student characteristics and other factors that may have a significant influence on eligibility, services to be offered or accommodations to be made, including, but not limited to:
- (i) Physical characteristics:
    - (A) Vision;
    - (B) Hearing;
    - (C) Health;
    - (D) Medical; and
    - (E) Nutrition.
  - (ii) Social, behavioral, or emotional characteristics:
    - (A) Self-esteem;
    - (B) Self-control; and
    - (C) Interaction with peers and adults.
  - (iii) Adaptive behavior across settings:
    - (A) Independence skills;
    - (B) Coping skills; and
    - (C) Self-care skills.
  - (iv) Relevant life circumstances:
    - (A) Family;
    - (B) Community; and
    - (C) Environmental factors.
  - (v) Speech characteristics:
    - (A) Articulation;
    - (B) Fluency; and
    - (C) Voice.

- (vi) Language and communication skills.
  - (vii) Intellectual or cognitive characteristics:
    - (A) Learning abilities;
    - (B) Learning styles; ~~and~~
    - (C) Reasoning.
  - (viii) Areas of concern in the basic skills areas:
    - (A) Oral expression;
    - (B) Listening comprehension;
    - (C) Written expression;
    - (D) Basic reading skills;
    - (E) Reading comprehension;
    - (F) Mathematics calculation;
    - (G) Mathematics reasoning; ~~and~~
    - (H) Motor skills.
  - (ix) Vocational needs.
  - (x) Skills in the learning environment.
  - (xi) Assistive technology needs related to devices and services.
  - (xii) The EPT shall assess the student's current level of performance in all curriculum areas with respect to which special education, related services and supplementary aids and services may be required.
- (4) Ensure that assessments and other evaluation materials used to assess a child are:
- (i) Selected and administered so as not to be discriminatory on a racial or cultural basis;
  - (ii) Provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer;
  - (iii) Used for the purposes for which the assessments or measures are valid and reliable;
  - (iv) Administered by trained and knowledgeable personnel; ~~and~~
  - (v) Administered in accordance with any instructions provided by the producer of the assessments; ~~and~~
  - (vi) Those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient; ~~and~~

- (vii) Selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
  - (5) Ensure that assessments of children with disabilities who transfer from one LEA to another LEA in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.
  - (6) Ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been found eligible.
  - (7) Ensure that assessment tools and strategies provide relevant information to directly assist the IEP team in determining that the educational needs of the child are provided.
- (c) As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the EPT and other qualified professionals, as appropriate, shall:
- (1) Review existing evaluation data on the child, including:
    - (i) Evaluations and information provided by the parents of the child;
    - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
    - (iii) Observations by teachers and related services providers; and
  - (2) On the basis of that review, and input from the student's parents, identify what additional data, if any, are needed to determine:
    - (i) Whether the student is or continues to be eligible for special education and related services;
    - (ii) The present levels of academic achievement and related developmental needs of the student; and
    - (iii) Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP

of the student and to participate, as appropriate, in the general education curriculum.

- (d) The EPT may conduct its review without a meeting.
- (i) If a parent requests that the EPT review data through a formal meeting, then a formal meeting with required notices shall be held.
  - (ii) A formal meeting shall be required whenever the initial eligibility of the child will be determined. When a satisfactory agreement on such time or place cannot be reached, the LEA shall use other, mutually agreed upon methods, to ensure parent participation, including individual or conference telephone calls, or video conferencing.
- (e) The LEA shall administer such assessments and other evaluation measures as may be needed to produce the data identified under ~~subsection paragraph (c) of this section.~~
- (f) If the EPT determines that no additional data are needed to determine whether the child continues to be eligible for special education and related services, the LEA shall notify the child's parents of:
- (1) That determination and the reasons for the determination; and
  - (2) The right of the parents to request additional testing to determine eligibility.
    - (i) The LEA is not required to conduct additional testing unless requested to do so by the child's parents.
- (g) The LEA shall evaluate a child before determining that the child is no longer eligible for special education and related services, unless the termination of a child's eligibility is due to graduation from secondary school with a regular diploma, or due to reaching the age of 22.
- (1) ~~(i)~~ Under these circumstances, the LEA shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.
  - (2) ~~(ii)~~ The LEA shall send a notice to the student and his/her parent(s) that a change of placement is scheduled to occur and give the reasons why.

- (h) Prior to conducting an initial or re-evaluation for eligibility purposes, the EPT shall complete a written evaluation plan which lists the areas to be assessed, the procedures to be used in carrying out the evaluation, and personnel by title responsible for performing the evaluations. All EPT members shall have the opportunity to provide input in the development of the written evaluation plan.

### **2362.2.5 Additional Procedures for Identifying Children With Specific Learning Disabilities**

#### **(34 C.F.R. §§ 300.307-300.311)**

- (a) In making the determination that a student has a specific learning disability the LEA shall decide whether to use ~~a discrepancy model~~ or a model based on whether the student responds to scientific, research-based intervention or to use a model based on other alternative research-based procedures for determining whether a child has a specific learning disability.
- (1) Eligibility determinations for a student who is determined to have a specific learning disability shall not be required to include an assessment of adverse effect as outlined in Rule 2362(d). When using a discrepancy model, the EPT shall document that the student exhibits a discrepancy of 1.5 standard deviations or greater between ability and expected levels of performance in one or more of the basic skill areas.
- (2) When using a model based on whether the student responds to scientific, research-based intervention, the EPT shall document use of the following:
- (i) High-quality instruction and scientific research-based tiered interventions aligned with individual student need;
- (ii) Frequent monitoring of student progress to make results-based academic decisions; and
- (iii) Use of student response data to evaluate the effectiveness of interventions.
- (b) The determination of whether a student has a specific learning disability shall be made by the student's parents and a team of qualified professionals, which shall include:
- (1) The child's general education teacher; or
- (i) If the child does not have a general education teacher, a classroom teacher qualified to teach a child of his or her age; or
- (2) For a child of less than school age, an individual licensed by the Vermont Agency of Education to teach a student of his or her age; and

- (3) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, special education teacher, or remedial reading teacher.
- (c) The EPT may determine that a student has a specific learning disability if:
- (1) When provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, the student does not achieve adequately in one or more of the following areas:
    - (i) Oral expression.
    - (ii) Listening comprehension.
    - (iii) Written expression.
    - (iv) Basic reading skill.
    - (v) Reading fluency skills.
    - (vi) Reading comprehension.
    - (vii) Mathematics calculation.
    - (viii) Mathematics problem solving.
  - (2) The student does not make sufficient progress to meet age or State--approved grade level standards in one or more of the areas identified in (c)(1)- when using ~~either a discrepancy model or~~ a model based on whether the student responds to scientific, research--based intervention.
  - (3) The EPT determines that its findings under paragraphs (c)(1) and (2) of this subsection are not primarily the result of:
    - (i) A visual, hearing, or motor disability;
    - (ii) Intellectual ~~d~~Disability;
    - (iii) Emotional disturbance;
    - (iv) Cultural factors;
    - (v) Environmental or economic disadvantage; or
    - (vi) Limited English proficiency.
- (d) To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the EPT shall consider, as part of the evaluation, the following:

- (1) Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
  - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.
- (e) The LEA shall promptly request parental consent to evaluate the student to determine if the student needs special education and related services, and shall adhere to the timeframes described in Rule 2362.2.1 unless extended by mutual written agreement of the student's parents and other members of the EPT if:
- (1) Prior to a referral, a student has not made adequate progress after an appropriate period of time when provided scientifically research-based instruction/intervention; and
  - (2) Whenever a student is referred for an evaluation.
- (f) At least one member of the child's EPT, other than the child's current teacher, who is trained in observation, shall observe the child, and the learning environment, including the general classroom setting, to document academic performance and behavior in the areas of difficulty.
- (1) Students who are enrolled in a program of home study or who receive instruction delivered in a home, hospital, preschool, childcare setting, or other out of school setting shall be observed in instructional environments appropriate for children of that age, by trained personnel who are not the teacher. This observation shall be reported in writing to the EPT.
  - (2) If, after reasonable efforts have been made, it is not possible to conduct a classroom observation due to chronic truancy or other extenuating circumstances, there shall be documentation of efforts made to observe the student in an instructional environment.

### **2362.2.6 Evaluation and Planning Team Report**

- (a) When all necessary information is collected, the EPT shall prepare a written report that documents whether the child is eligible. When a student is found eligible, the report shall be available for use by the IEP team in program planning. The report shall include the following and shall be provided to the parent by the EPT:



- (1) A conclusion supported by a rationale as to whether or not the student is eligible for special education based on the following:
    - (i) The presence or absence of a disability;
    - (ii) If there is a disability, whether it has an adverse effect on educational performance in one or more of the basic skill areas; and
    - (iii) Whether the student needs special education services to benefit from his or her educational program and that this support cannot be provided through the educational support system, standard instructional conditions, or supplementary aids and services provided in the school.
  - (2) The evaluation procedures used, including:
    - (i) A description of any modifications or changes made from the evaluation procedures specified in the evaluation plan; or
    - (ii) Changes which were necessary in test administration as described in Rule 2362.2.4(b)(4)3(h);
  - (3) A summary of all educationally relevant information collected during the evaluation, including educational, medical, and psychological information and a summary of other factors considered;
  - (4) Recommendations as to the need for accommodations in curriculum, assessments, material, or programmatic adaptation, behavior management interventions, and supplemental aids and services;
  - (5) The initials of all team members indicating agreement or disagreement with the eligibility conclusion. A group member who does not agree with the conclusion shall submit a separate statement presenting his or her conclusions and this statement shall become part of the Evaluation Plan and Report; and
  - (6) The written report of an observation of the student, if an observation has been conducted.
- (b) For a student suspected of having a specific learning disability, the evaluation report shall include documentation of:
- (1) Whether the student has a specific learning disability;
  - (2) The basis for making the determination, including an assurance that the determination has been made in accordance with Rules 2362.2.3 and 2362.2.4.
  - (3) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;

- (4) Any educationally relevant medical findings;
- (5) Whether:
  - (i) The student does not achieve adequately for the student's age or to meet Vermont grade-level standards in one or more of the basic skill areas, when provided with learning experiences and instruction appropriate for the student's age or grade level expectations; and
  - (ii) The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, Vermont standards and grade level expectations or intellectual development consistent with the characteristics of a specific learning disability.
- (6) The determination of the EPT concerning the effects of -visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and
- (7) If the student has participated in a process that assesses the student's response to scientific, research-based intervention:
  - (i) The instructional strategies used and the student-centered data collected; and
  - (ii) The documentation that the student's parents were notified about:
    - (A) The amount and nature of student performance data that would be collected and the general education services that would be provided;
    - (B) Strategies for increasing the student's rate of learning; and
    - (C) The parent's right to request an evaluation.

### **2362.2.7 Students Who Are Determined to Have a Disability, But Are Not Eligible for Special Education**

- (a) When an EPT determines that a student has a disability, but is not eligible for special education, it shall recommend accommodations, as needed, in such areas as assessment procedures, curriculum, material or programmatic adaptations, behavior management interventions, and supplemental aids and services. These recommendations shall be included in the written Evaluation Plan and Report. The Evaluation Plan and Report for such a student shall be referred to the student's building administrator who shall arrange for a Section 504 ~~T~~Team to consider whether:

- (1) The student's disability and needs will require a Section 504 Plan or
  - (2) The student's needs can be met within the school's standard instructional conditions and through its educational support system.
- (b) If the EPT determines that the student has a disability, but is not eligible for special education, it may proceed to operate as a Section 504 team to determine whether the child is eligible for reasonable accommodations under Section 504.

### **2362.2.8 Independent Educational Evaluation (34 C.F.R. § 300.502)**

An “independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question.

- (a) Upon completion of a LEA evaluation, a parent may request an independent educational evaluation at public expense if he or she disagrees with the evaluation obtained by the LEA. Except as provided in this rule, the LEA shall either pay the full cost of the requested evaluation, or ensure that the evaluation is otherwise provided at no cost to the parent.
- (b) A parent is entitled to only one independent educational evaluation at public expense for each evaluation performed by the LEA with which the parent disagrees.
- (c) If a parent requests an independent educational evaluation, the LEA shall, without unnecessary delay, either:
  - (1) Initiate a hearing to show that its evaluation is appropriate; or
  - (2) Ensure that an independent educational evaluation is provided at no cost to the parent.
- (d) An LEA shall provide to a parent who requests an independent educational evaluation, information about where such an evaluation may be obtained.
- (e) Any LEA criteria, under which an independent evaluation may be obtained, including the location of the evaluation and the qualification of the examiner, shall be the same as the criteria that the LEA uses when it initiates an evaluation. Criteria established by an LEA under this section shall not interfere with the parent's right to an independent educational evaluation.
- (f) Except as provided in (c) above, timelines or conditions related to obtaining an independent educational evaluation may not be imposed by the LEA.
- (g) An LEA may pursue mediation or a due process hearing to demonstrate that an independent educational evaluation obtained by a parent does not meet LEA criteria.

- (h) If the LEA initiates a hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at the LEA's expense.
- (i) If a parent requests an independent educational evaluation, the LEA may ask for the parent's reason why he or she objects to the district's evaluation. However, an explanation by the parent may not be required, and the LEA may not unreasonably delay either providing the independent educational evaluation at no cost to the parent or initiating a due process hearing to defend the district's evaluation.
- (j) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:
  - (1) Shall be considered by the LEA's EPT, if the evaluation meets the district's criteria, whenever it makes any decision with respect to the provision of FAPE to the child; and
  - (2) May be presented as evidence at a hearing regarding the child.
- (k) —If a hearing officer requests an independent educational evaluation as part of a hearing, the LEA is responsible for ensuring that the independent evaluation is completed at no cost to the parent.

## **2363 Individualized Education Programs (IEP) (34 C.F.R. § 300.320)**

The term “Individualized Education Program” or “IEP” means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this rule and includes:

- (a) A description of all special education services, related services, and supplementary aids and services that the child will need to be able to derive benefit from his or her educational program;
- (b) A description of the special education program; and
- (c) Accommodations and/or modifications necessary for the child to progress in the general education curriculum.

### **2363.1 Timelines (34 C.F.R. § 300.323)**

An IEP shall be:

- (a) Developed within ~~30~~<sup>thirty</sup> days of an initial determination that the child is eligible for special education and related services;
- (b) Revised, as appropriate, to address the results of any re-evaluation for special education and related services;
- (c) In effect before special education and related services are provided to the child;
- (d) In effect at the beginning of each school year unless the child has been determined to be eligible within 30 days prior to the first day of school, in which case subparagraph (a) above applies; and
- (e) Implemented as soon as possible following the IEP meeting.

### **2363.2 Responsibility of LEAs for IEPs**

Except as otherwise provided by these rules, each LEA shall ensure that an IEP is developed and implemented by the responsible LEA for each eligible child residing and attending public school in that district.

**2363.3 IEP Team** - (34 C.F.R. § 300.321)

- (a) The LEA shall ensure that the IEP team for each eligible child includes:
- (1) A local education agency representative (LEA Representative) who:
    - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
    - (ii) Is knowledgeable about the general curriculum;
    - (iii) Is knowledgeable about the availability of resources of the LEA;
    - (iv) An LEA representative may designate any LEA personnel member of the IEP ~~T~~eam to also serve as the LEA representative, if the criteria in subsections (i)~~, (ii)~~ and (iii) are satisfied; and
  - (2) Not fewer than one special education teacher of the child, or if appropriate, not fewer than one special education service provider for the child;
  - (3) Not fewer than one general education teacher of the child, to the extent appropriate, if the child is, or may be, participating in the general education environment. The teacher shall, to the extent appropriate, participate in the development of the IEP of the child including the determination of appropriate positive behavioral interventions and strategies, supplementary aids and services, program modifications, and supports for school personnel that will be provided to allow the child an opportunity for participation and progress in the general curriculum and the attainment of annual IEP goals;
  - (4) At the discretion of the parent or the LEA, other individuals who, in the opinion of the parents or LEA, have knowledge or special expertise regarding the child, including related services personnel, as appropriate;
  - (5) An individual who can interpret the instructional implications of evaluation results, who also may be a member of the team as described in sections (1), (2), (3)~~, and~~ (4) above;
  - (6) The parent(s), guardian~~s~~ or educational surrogate parent of the child;
  - (7) If appropriate, the child;
  - (8) In the case of a child with a specific learning disability, at least one person qualified to conduct individualized diagnostic examinations of children, such as a school psychologist, speech-language pathologist, special education teacher, or remedial reading teacher~~; and~~ and
  - (9) In the case of a child previously served under the Children's Integrated Services/Early Intervention (CIS/EI), at the request of the parent, the Part C service coordinator or other

representatives of the Part C system may be invited to assist in the smooth transition of special education services. Parents shall be notified of their right to request such an invitation.

- (b) Additional participants when the transition services of the student will be discussed.
- (1) Not later than the IEP to be in effect when a student is age 16 (or younger, if determined appropriate by the IEP team), the LEA shall continue inviting the student to attend his/her IEP meetings to discuss transition services.
  - (2) If the student does not attend the IEP meeting when invited, the LEA shall take other steps to ensure that the student's preferences and interests are considered.
  - (3) In implementing the requirements with respect to transition services, the LEA also shall invite a representative of any other agency that is likely to be responsible for providing or paying for such services.
  - (4) If an agency invited to send a representative to a meeting does not do so, the LEA shall take other steps to obtain participation of the other agency in the planning of any transition services.

(c) IEP Team attendance

- (1) A member of the IEP Team is not required to attend an IEP meeting, in whole or in part, if the parent of the child and the local educational agency agree, in writing, that the attendance of such member is not necessary because the member's area of curriculum or related services is not being modified or discussed in the meeting.
- (2) A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the parent and local education agency agree, in writing, that a team member may be excused from the IEP meeting in which the member's area of curriculum or related services is being discussed. This agreement requires that the excused member submit, in writing to the parent and IEP Team, their input into the IEP development prior to the IEP meeting.

(d) Decisions by the IEP team

If the team cannot reach consensus, the LEA Representative shall determine the contents of the IEP pursuant to Rule 2363.7 and shall notify the parents of their rights to revoke consent pursuant to Rule 2363.8(e), seek mediation, file an administrative complaint or request a due process hearing.

#### **2363.4 Parent Participation in IEP Meeting (34 C.F.R. § 300.322)**

- (a) Each LEA shall take steps to ensure that one or both ~~of the~~ parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including:
- (1) Notifying the parents of the meeting early enough that they will have an opportunity to attend; and
  - (2) Scheduling the meeting at a mutually agreed upon time and place.
    - (i) The LEA shall schedule meetings with parents at a mutually agreed upon time and place. When a satisfactory agreement on such time or place cannot be reached, the district shall use other, mutually agreed upon methods to ensure parent participation, including individual or conference telephone calls, or video conferencing.
    - (ii) When the district is unable to arrange the parents' participation, the district shall convene the IEP meeting to meet its obligation to provide appropriate services to the child as set forth in rule 2363.2 of this section.
- (b) A meeting may be conducted without a parent in attendance, if the LEA is unable to convince the parent to attend. Under these circumstances, the LEA shall maintain a record of at least three attempts to arrange a mutually agreed upon time and place, such as:
- (1) Detailed records of telephone calls made or attempted and the results of those calls;
  - (2) Copies of correspondence sent to the parents and any responses received; and
  - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (c) The LEA shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for a parent who is deaf or whose native language is other than English.
- (d) When the student reaches age 17, the LEA shall notify the parent and the student that at age 18, the student, unless he/she is under guardianship, will become an adult under Vermont law. At that time, the LEA shall send a notice to the student of his/her IEP meetings. The parent shall be given a copy of the notice unless, as set forth in rule 2365.1.12, the student is incarcerated. When a student becomes an adult, the parents may attend an IEP meeting at the discretion of the student pursuant to Rule 2363.34(a)(4).
- (e) A teacher or parent may request an IEP meeting at any time when they believe a component of the IEP should be changed. When the LEA receives the request:



- (1) The LEA shall convene a properly notified IEP meeting within 30 days of receipt of the request, not counting days between the student's regular school sessions or days of school vacation in excess of ~~five~~ school days, or
- (2) Refuse to convene an IEP meeting and shall provide written notice to the parent explaining why the LEA has concluded a meeting is not necessary to ensure the provision of FAPE to the student.
- (3) The LEA's notice shall inform the parent of his or her right to initiate a due process hearing if the parent disagrees with the LEA's decision not to convene a meeting under this subsection.

**2363.5 Notice About IEP Meeting (34 C.F.R. § 300.322(b))**

- (a) A notice of an IEP meeting shall:
  - (1) Indicate the purpose, time, and location of the meeting;
  - (2) State who will be in attendance; and
  - (3) Inform the parents of the right of the LEA and the parents to invite other people who, in their opinion, have knowledge or special expertise about the child.
- (b) Beginning not later than the first IEP to be in effect when the student is age 16, or younger if appropriate, for a student with a disability the notice shall advise the parents and student of the requirements of Rule 2363.4(b).

**2363.6 Development, Review, and Revision of IEP (34 C.F.R. § 300.324)**

- (a) In the development, review, and revision of an IEP, the IEP team shall consider:
- (1) The strengths of the child and the concerns of the parent for enhancing the education of their child;
  - (2) The results of the initial or most recent evaluation of the child;
  - (3) As appropriate, the results of the child's performance on any general State or district-wide assessment programs; and
  - (4) The academic, developmental, and functional needs of the child
- (b) The IEP team shall also consider the following special factors:
- (1) In the case of a child with limited English proficiency, the language needs of the child as those needs relate to the child's IEP;
  - (2) In the case of a child who is blind or visually impaired, provision for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
  - (3) The communication needs of the child, and in the case of a child who is deaf or hard of hearing, the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;
  - (4) Whether the child requires assistive technology devices and services;
  - (5) When the evaluation data indicates that the student's behavior is impeding his or her learning or the learning of others, positive behavioral interventions and supports, and other strategies to address the behavior and to assist the child to develop skills in areas such as:
    - (i) Social skills;
    - (ii) Anger management; and/or
    - (iii) Conflict resolution.
  - (6) Supplementary aids and services, program modifications, or supports for the child or school personnel who will be working with the child to help him/her:
    - (i) Attain IEP annual goals;

- (ii) Progress in the general curriculum;
  - (iii) Participate in extra-curricular activities; and
  - (iv) Be educated in the least restrictive environment.
- (7) Whether a child needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the child to receive a FAPE.
- (c) Each LEA shall ensure that the IEP team:
- (1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
  - (2) Revises the IEP as appropriate to address:
    - (i) A lack of expected progress toward the annual goals;
    - (ii) A lack of expected progress in the general curriculum, if appropriate;
    - (iii) The results of any re-evaluation;
    - (iv) Information about the child provided to, or by, the parents;
    - (v) The child's anticipated needs; or
    - (vi) Other matters.
  - (3) In making changes to the IEP, after the annual review meeting, the parent of the child and the school may agree, in writing, not to convene an IEP meeting for the purpose of making such changes and, instead, may develop a written document to amend or modify the child's current IEP.
    - (i) Parents shall be given a copy of the written agreement document.
- (d) To the extent possible, schools shall encourage the consolidation of re-evaluation meetings and other IEP meetings for the child.

### **2363.7 Content of IEP (34 C.F.R. § 300.320)**

An IEP that contains information under one component need not repeat the same information under another component. The IEP for each child with a disability shall include:

- (a) A statement of the child's present levels of academic achievement and functional performance, including:
  - (1) The child's abilities, acquired skills, and strengths;
  - (2) How the child's disability affects the child's involvement and ability to make progress in the general curriculum; or

- (3) For preschool children, how the disability affects the child's participation in activities appropriate for the child;
  - (4) For children, not later than one year before the child reaches the age 18, a statement that the child has been informed of their rights under these regulations that will transfer to them upon reaching the age of majority (18).
- (b) Measurable annual goals related to the child's present levels of academic and functional performance which shall:
- \_\_\_\_\_
- (1) Use pertinent data to inform the development of appropriate goals and objectives.
  - ~~(2)~~ Be written as measurable short-term objectives or benchmarks with projected dates for accomplishment, including a description of the evaluation procedures and, including the specific data that will be used to assess goals progress to be used to measure the child's progress towards meeting the short term objectives or benchmarks;
  - ~~(3)~~ Enable the child to be involved in and progress, to the extent appropriate, in the same curriculum as children without disabilities. For preschool children, goals shall include participation in activities appropriate for children without disabilities;
  - ~~(4)~~ Enable the child to meet other educational needs that result from his or her disability;
  - ~~(5)~~ Be accompanied by a method of reporting the child's progress to the parents at least as often as other parents in the school receive progress reports. A progress report shall inform parents of:
    - (i) Their child's progress toward the annual goals; and
    - (ii) The extent to which the progress is sufficient to enable the child to achieve the goals by the end of the year.
- (c) Special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of individual accommodations, program modifications, or supports that will be provided for school personnel to enable the child:
- (1) To advance appropriately toward attaining his or her IEP annual goals;
  - (2) To be involved in and progress in the general curriculum, to participate in extra-curricular and other -non-academic activities and in physical education services- pursuant to the requirements in Rule 2360.2; and-
  - (3) To be educated and participate with a variety of children who do and do not have disabilities.

- (d) The projected date for the beginning of the services and modifications, the title of the service provider, anticipated frequency, location, and duration of those services and modifications.;
- (e) The IEP ~~t~~Team shall determine the child's placement in accordance with Rule 2364.3. The IEP shall also include an explanation of the extent, if any, to which the child will not participate with children without disabilities in a general education class, general curriculum, extracurricular and other non-academic activities.;
- (f) Where the student's placement is a residential placement pursuant to Rule 236~~46.49~~, the student's IEP shall contain annual goals and short-term objectives or benchmarks designed to reintegrate the student into a local LEA placement, and a description of how they will lead to reintegration.
- (g) A statement of any individual accommodations in the administration of State, district-wide, or local assessments of student achievement that are needed in order for the child to participate in the assessment.;
- (1) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of:
  - (i) Why that assessment is not appropriate for the child; and
  - (ii) How the child will be assessed.
- (h) A description of any extended school year services (ESY) which the IEP team finds are necessary to provide a FAPE to the student.
  - (1) ESY services shall be provided only if a child's IEP team determines that the services are necessary for the provision of FAPE to the child because one or more of the following factors is evident:
    - (i) ESY is essential to permit the student an opportunity to reach reasonably set educational goals;
    - (ii) There has been a significant amount of regression over the past winter, spring, and summer vacations and recoupment did not occur within a reasonable amount of time;
    - (iii) The severity of the student's disability presents a danger of substantial regression; or
    - (iv) The student's transition goals require continued programming beyond the school year IEP.

- (2) An LEA or IEP team may not limit extended school year services to students with particular disabilities.
  - (3) An LEA shall not adopt a policy that limits the type, amount, or duration of ESY services for all children.
- (i) Transition services
- (1) For students, beginning with the first IEP in effect -when the ~~student~~child is 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, there shall be:
    - (i) Age appropriate and measurable postsecondary goals based upon age appropriate assessments related to:
      - (A) Education/training;
      - (B) Employment; and
      - (C) If appropriate, independent living.
    - (ii) Evidence that the student’s interests and preferences were taken into consideration during the formulation of the goals.
  - (2) Contingent upon prior consent from the parent or adult student, representatives of any agency that is likely to be responsible for providing or paying for transition services to implement the goals, shall be invited to participate in the IEP meeting.
  - (3) If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
  - (4) Nothing in these ~~rules regulations~~ shall relieve any participating agency of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.
  - (5) When a student is going to graduate, a “summary of performance” report shall be written for the student as described at Rule 2362.2.43(g)(i).

(j) Parent Input. The IEP shall contain a section for parents to provide written comments regarding their child’s IEP. Following an IEP meeting to write or amend an IEP, the LEA shall send the IEP to the parent together with prior written notice of decision. The parent shall be provided 10 days to complete and return the parent input section of the IEP. The purpose of the parent input section is to facilitate feedback from families to ensure they have an opportunity to express any opinions about the IEP or the IEP process. Upon receipt of the

parent input, the LEA may, but is not required to, schedule a meeting to discuss parental concerns.

**2363.8 Consent for Initial Provision of Special Education Services (34 C.F.R. § 300.300(b))**

- (a) A consent form shall be signed by the parent and received by the LEA prior to the initial provision of IEP services.
- (b) If the parent of a child fails to respond or refuses to consent to services the LEA may not use due process procedures, or mediation, in order to obtain agreement or a ruling that the services may be provided to the child.
- (c) If the parent of the child refuses to consent to the initial provision of special education or related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the LEA:
  - (1) Will not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the special education and related services for which the LEA requests consent.
  - (2) Is not required to convene an IEP meeting or develop an IEP for the child for the special education and related services for which the LEA requests such consent.
- (d) If the parent provides written consent for the initial provision of IEP services before they have begun and then revokes the consent, the services shall not commence. The student shall remain eligible for services and the LEA may attempt to resolve the matter with the parent by:
  - (1) Discussing the matter through appropriate informal means;
  - (2) Requesting mediation; or
  - (3) Requesting that the student be reevaluated to determine if he or she continues to be eligible for special education services. A reevaluation could consist of a review of existing data.
- (e) A parent may revoke consent at any time subsequent to the initial provision of special education and related services. The revocation of consent shall be in writing, on a form provided by the LEA or in any other written form, and should indicate the date of revocation. Upon receipt of such a revocation of consent, the LEA:

- (1) ~~(1)~~ Shall provide prior written notice to the parent that it is ceasing the provision of special education and related services and then may not continue to provide special education and related services;
- (2) ~~(2)~~ May not use due process procedures, or mediation, in order to obtain agreement or a ruling that the services may be provided to the child;
- (3) ~~(3)~~ Will not be considered to be in violation of the requirement to make available a free, appropriate public education to the child for the failure to provide the child with the special education and related services for which the LEA requests consent; and
- (4) Is not required to convene an IEP ~~t~~Team meeting or develop an IEP for the child after the date of the revocation of consent.
- (4)
- (f) Revocation of consent is not retroactive and the LEA is not required to amend the child's education records to remove any references to the child's prior receipt of special education services.

#### **2363.9 Distribution and Explanation of the IEP Document (34 C.F.R. § 300.323(d))**

- (a) The student's IEP shall be made accessible to each general education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. ~~;~~ ~~and~~
- (b) Each teacher and provider described above shall be informed of:
- (1) His or her specific responsibilities related to implementing the —child's IEP; and
  - (2) The specific accommodations, modifications, and supports that shall be provided for the child in accordance with the IEP.
- (c) The LEA shall give the parent a copy of the student's IEP, or amended portions of the IEP, at no cost to the parent.

#### **2363.10 IEP Requirements for Placements by LEAs in Independent Schools or Tutorial Programs (34 C.F.R. § 300.325)**

- (a) Before an LEA places a student eligible for special education services in, or refers a student to, an independent school, or a tutorial program, the LEA shall initiate and conduct a meeting to develop an IEP for the student that reflects the change in placement.



- (b) The LEA's placement shall be at no cost to the parents and the independent school or tutorial program shall provide an education that meets the standards that apply to education provided by the local LEA.
  - (1) Placements by LEAs in independent schools shall be in schools that have been approved according to Rule 2228.
  - (2) Placements by LEAs in tutorial programs shall be in programs that have been approved according to Rule 2230.
- (c) The LEA shall ensure that a representative of the independent school or tutorial program either attends the meeting or is able to participate by other methods including individual or conference telephone calls.
- (d) After a child with a disability enters an independent school or a tutorial program, any meetings to review and revise the student's IEP may be initiated and conducted by the school or tutorial program in accordance with the written agreement as entered into in conformance with Rule 2228.4.2. If the independent school or tutorial program initiates and conducts these meetings, the LEA shall ensure, to the extent required by Rule 2363.4, that an LEA Representative is involved in any decision about the student's IEP and agrees to any proposed changes in the IEP before those changes are implemented. Parent participation shall be required and documented as set forth in Rule 2363.4.
- (e) When an independent school or a tutorial program implements a student's IEP, responsibility for compliance with the special education regulations with respect to that student remains with the LEA.
- (f) A child placed in an independent school or a tutorial program by an LEA shall retain all of the rights of a child on an IEP who is attending a public school.

**2363.11 IEP For A Student Moving Into The LEA When The Student Has Been Eligible Or Was Being Evaluated For Special Education In Another State Or In Another Vermont LEA (34 C.F.R. § 300.323(e) and (f))**

- (a) Child Moving From Another Vermont LEA: —If a child eligible for special education services moves from one Vermont LEA to another, the receiving LEA shall either adopt the IEP the former LEA developed for the child or develop a new IEP for the child. The receiving LEA shall implement the current IEP to the extent possible until a new IEP is developed. In

the absence of exceptional circumstances, IEP services shall commence within one week of the time the child enrolls in the receiving LEA.

- (b) **Child Moving From an Out-Of-State LEA:**— If a child eligible for special education services in another state moves into a Vermont LEA within the same school year, the receiving LEA, in consultation with the parent, shall provide a FAPE to that child, including services comparable to those described in the child’s IEP from the previous school, until the Vermont LEA:
- (1) ~~(1)~~ Conducts an evaluation to determine initial eligibility in Vermont; and
  - (2) ~~(2)~~ If eligible, develops, adopts, and implements a new IEP.
- (c) **Child Moving During an Evaluation Process:**— If a child transfers to another LEA within the state or moves into a Vermont school from out of state, the completion of the evaluation shall be coordinated and completed by the new school, including documentation with the parents of the child of the expected completion date of the evaluation should it differ from the original expected date of completion. This evaluation should be completed as expeditiously as possible.
- (d) To facilitate the transition of a child described in (a) and (b) of this rule the previous LEA and the child’s new LEA shall take reasonable steps to promptly send and receive, in accordance with the provisions of Family Education Rights and Privacy Act (FERPA), the child’s records, including the IEP, supporting documents and any other records relating to the child’s special education and related services. This rule may not be interpreted to limit either the previous LEA or the new LEA’s responsibilities pursuant to Rule 2365.2.12 and 2365.2.13.

### **2363.12 IEP Accountability**

- (a) Each LEA shall:
- (1) Provide special education and related services to an eligible student in accordance with the student's IEP; and
  - (2) Make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.
- (b) These rules do not require that an LEA, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives. However, these rules do not prohibit an LEA from establishing its own accountability systems.

- (c) Nothing in this section limits a parent's right to ask for revisions of the student's IEP or to invoke due process procedures if the parent feels that the efforts required in paragraph (a) of this section are not being made.

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## **2364 Least Restrictive Environment (LRE)**

### **2364.1 General LRE Requirements (34 C.F.R. § 300.114)**

(a) Each LEA shall ensure that:

- (1) A student eligible for special education services shall be educated with his or her non-disabled chronological age peers, to the maximum extent appropriate in the school he or she would attend if he or she did not have a disability; and
- (2) Special classes, separate schooling or other removal of children with disabilities from the general educational environment shall occur only if the nature or severity of the child's disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) Pursuant to 16 V.S.A § 2959(b), the IEP team may consider the cost of the provision of special education or related services to the child if:

- (1) The IEP has been developed with the parents in accordance with Rules 2363;
- (2) The IEP team has determined that the child's placement contained in the IEP is appropriate for the child,
- (3) Each of the options under consideration by the IEP team for fulfilling the requirements of the child's IEP would constitute a free appropriate public education in the least restrictive environment for the child, and
- (4) The funding mechanism for the special education service was not used to deny a free appropriate public education to the student.

### **2364.2 Continuum of Alternative Placements (34 C.F.R. § 300.115)**

(a) Each LEA shall ensure that a continuum of alternative placements is available to meet the needs of children who are receiving IEP services.

(b) The continuum shall include:

- (1) Instruction in general education classes, special classes, special schools, independent schools, home instruction, and instruction in hospitals, and residential facilities; and

- (2) Provisions for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with general education class placements.

### **2364.3 Placements (34 C.F.R. § 300.116)**

- (a) The IEP team shall determine the educational placement for the child given the following:
- (1) Educational placement refers to the provision of special education and related services rather than a specific site; and
  - (2) The LEA determines the specific site of the educational placement, such as the specific classroom or specific school.
- (b) Placement decisions shall be made on the basis of the student's individual circumstances and not on the basis of the student's disability category.
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.
- (d) Barriers to the participation of students with disabilities in the general education environment shall be addressed whenever possible by the provision of accommodations, modifications, and supplementary aids and services rather than by placement in separate programs.
- (e) A child with a disability shall not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum.
- (f) In selecting the LRE, consideration shall be given to any potential harmful effect on the student or on the quality of services that he or she needs.
- (g) The placement decided upon shall be:
- (1) Determined at least annually;
  - (2) Consistent with the other provisions of the child's IEP; and
  - (3) As close as possible to the child's home, unless the parent agrees otherwise.

### **-23646.49 Residential Placements by LEAs**

#### **23646.49.12 Individual Residential Placements**

Funding of individual residential placements shall be in accordance with 16 V.S.A. Chapter 101, subchapter 2 and 16 V.S.A. § 2958(c)(2). Applications for funding of individual residential

placements shall undergo the residential review process set forth in 16 V.S.A. § 2958 and Rule 23646.49.1.12.

### **23646.49.12.1 Residential Placement Review Team**

As needed, the Secretary may appoint Agency of Education employees and others to a residential placement review team. Members of the team shall be subject to the confidentiality provisions of State and federal law. The team shall have those responsibilities set forth in 16 V.S.A. § 2958(b). The team shall be composed of at least two members: (1) one who has knowledge about the child's area of disability and (2) the other who has knowledge of available resources and services in the LEA's region of the State, and, where relevant to the provision of a continuum addressing the student's disability, elsewhere in the State and in their region of the United States.

### **23646.49.12.2 Early Notification to the Secretary**

- (a) Each LEA shall provide timely notification to the Secretary, in writing, with a copy sent to the student's parents, that residential placement is being considered as a possible option for inclusion in the student's IEP when there has been:
- (1) A recommendation by the Evaluation and Planning Team for residential placement;
  - (2) A unilateral residential placement by the parents or by another State agency, pursuant to 16 V.S.A. § 2942(7);
  - (3) An annual review for a student already in residential placement; or
  - (4) When any circumstance warrants consideration by the LEA that residential placement is a possible option for inclusion in a student's IEP.
- (b) Nothing herein shall be construed to mean that a student who falls within one of the above four categories necessarily requires residential placement. Additionally, nothing herein shall be construed to mean that notice to the Secretary represents a decision of the IEP participants.
- (c) Reimbursement for residential placements shall be for placements from the date the Agency receives the notification in accord with this section. This requirement shall not apply to emergency placements made due to life-threatening events to a child or to other exceptional circumstances approved by the Secretary or designee after request by an LEA and recommendation of the residential review team.

### **23646.49.12.3 Timelines**

Unless extraordinary circumstances are presented, each LEA shall notify the Secretary at least 30 days prior to a change of placement to a residential placement, or other program, or 30 days prior to the IEP meeting where continuation at a residential placement or program is being considered. Such notice shall be given as soon as possible so that the involvement of the review team, if deemed necessary by the Secretary, does not interfere with the timelines for the placement decision.

### **23646.49.12.4 Receipt of IEP**

Prior to an IEP team's determination that a student requires residential placement, the LEA shall forward the following documents to the Secretary:

- (a) The student's most recent Evaluation Plan and Report;
- (b) Current IEP;
- (c) Residential placement application form; and
- (d) Any other relevant information.

### **23646.49.12.5 Residential Review Team Procedures**

- (a) Upon receiving notice under Rule 23646.49.12.2 or the IEP under Rule 23646.49.12.4, or upon request by a parent to establish a residential placement review team to review his or her child's case, whichever comes earlier, the Secretary may establish a review team. Within ten working days of receipt of the notice, the IEP, or the parental request, the Secretary or the Secretary's designee shall notify the LEA and the parents whether or not a review team has been constituted or reconvened.
- (b) The review team or any designated member thereof shall promptly investigate the need for residential placement of a student and provide technical assistance to the LEA concerning the need for residential placement, alternatives to residential placement, and alternative cost-effective residential facilities.
- (c) Within 30 days, or fewer, -of its establishment, the team, after investigation, may take any of the following actions, depending on the circumstances associated with the request for residential placement:

- (1) ~~(a)~~ Advise the LEA and parents on alternatives to residential placement;



- (2) ~~(b)~~–Review the individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;
- (3) ~~(c)~~–Assist the LEA in locating cost effective and appropriate residential facilities where necessary;
- (4) ~~(d)~~–Request, but not require, a new IEP when it believes that appropriate alternatives to residential placement are available; or
- (5) ~~(e)~~–Offer mediation as a means of resolving disputes relating to the need for residential placement, the particular residential facility recommended for a student with a disability, or the associated costs.
- (6) ~~(f)~~–The residential review team shall provide notice in writing to the LEA’s IEP team if and when it determines, as a result of its review, that residential placement, or that a particular residential placement, is not appropriate. The notice shall set forth the reasons(s) for the team’s conclusions.
- (d) ~~(4)~~–The Secretary may waive any provision of Rule 23646.49.12.5, not otherwise inconsistent with law for emergency placements or administrative efficiency.
- (e) Where the team or its designee finds that the placement practices or policies of an LEA are substantially inconsistent with least restrictive environment provisions of State or federal law, it may require the agency to submit a plan of correction.
- (f) Where the residential review team has identified, with the timelines noted above, residential facilities or alternative educational programs that are available, appropriate, and less costly, and has presented such facilities or programs to the IEP team for consideration during the IEP team’s consideration of placement alternatives, and the IEP team has chosen to place the child in a more costly residential facility or program, the amount of reimbursement by the State to the LEA shall be based upon the less costly placement. In such an instance, the LEA may appeal the decision of the Secretary to the State Board of Education in accordance with Rule 1230.
- (g) ~~(7)~~–Where the recommendation of the residential review team to IEP team is for a residential program or facility operated or developed by, or funded directly or indirectly through, another State agency, it shall be the responsibility of the residential review team, the LEA, and the IEP team to work with the State agency in a timely manner and in accordance with the Part B Interagency Agreement, as amended.

- (h) ~~(8)~~ If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child. (34 C.F.R. § 300.104)
- (i) ~~(9)~~ The Secretary, or the Secretary's designee, shall establish a system whereby the Agency of Education identifies and maintains current information on residential facilities, or other programs in Vermont and elsewhere, that provide educational programs to students with a variety of disabilities. Information about such facilities or programs may include, but not be limited to, the categories of disabilities served by the facility or program; the state's approval status; the costs associated with tuition and services for which the facility or program charges a fee; and any other pertinent information. Any information system created by the Agency shall include a description of procedures for gathering updated information.

#### **2364.49.12.6 Due Process Hearing**

When the residential review team recommends that a student does not require residential placement, the Secretary may initiate a special education due process hearing under Rule 2365.1.6 to determine the appropriate placement for the child.

#### **2364.54 LRE for Non-Academic and Extra-curricular Activities (34 C.F.R. § 300.117)**

- (a) In providing or arranging for the provision of non-academic (e.g., ~~examples:~~ meals and recess periods) and extra-curricular services and activities, the LEA shall ensure that an eligible student participates with non-disabled students in those services and activities to the maximum extent appropriate to the needs of that student.
- (b) The LEA shall ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in non-academic and extra-curricular activities.

#### **2364.65 Technical Assistance, Training ~~and~~ Monitoring Activities for LRE**

**(34 C.F.R. § 300.119-120)**

- (a) The Vermont Agency of Education shall:

- (1) Provide training and technical assistance to teachers and administrators in public and independent schools approved for the provision of special education services to assist them in implementing the LRE requirements in Rule 2364.
- (2) Monitor an LEA's compliance with LRE requirements in Rule 2364. If there is evidence that an LEA makes placements that are inconsistent with LRE requirements, the Agency shall:
  - (i) Review the LEA's justification for its actions;
  - (ii) Assist in planning and implementing any necessary corrective action; and
  - ~~(ii)~~ Apply as necessary the enforcement policy and procedures contained in the Vermont State Board of Education policy on "Denial of Federal Special Education Funds to an LEA."

~~(iii)~~(ii)

#### **2364.76 Instruction for Homebound or Hospitalized Special Education Students**

- (a) Children who are eligible for essential early education services who are homebound or hospitalized due to a medical condition and are unable to access the services outlined in their current IEP shall receive direct instruction as determined by the child's IEP team unless inconsistent with medical recommendations.
- (b) Homebound or hospitalized elementary special education students and elementary special education students whose IEPs call for tutorial services outside school shall receive instruction sufficient to provide a FAPE pursuant to their IEPs, for no less than six hours per week unless inconsistent with medical recommendations.
- (c) Homebound or hospitalized secondary special education students and secondary special education students whose IEPs call for tutorial services outside school, shall receive instruction sufficient to provide a FAPE pursuant to their IEPs for no less than an average of two hours per subject per week unless inconsistent with medical recommendations.

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## **2365 Parental Rights and Confidentiality of Information**

### **2365.1 Parental Rights**

#### **2365.1.1 Notice: Content of Notice (34 C.F.R. § 300.503)**

An LEA shall provide written notice to the parent or guardian of a student within a reasonable time before it proposes to initiate or change, or refuses to initiate or change, a student's identification, evaluation, educational placement, or the provision of a free appropriate public education. This written notice shall contain:

- (a) A description of the action proposed or refused by the ~~LEA~~ agency;
- (b) An explanation of why the LEA proposes or refuses to take the action;
- (c) A description of other options the IEP team considered and reasons these options were rejected;
- (d) A description of evaluation procedures, tests, records, or reports upon which the action is based;
- (e) A description of other factors that are relevant to the proposed or refused action;
- (f) A statement that the parents of special education students have procedural protections as set forth in the Parental Rights in Special Education Notice developed by the ~~AOE~~ agency and, if this notice is not pertaining to an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (g) Sources for parents to contact to obtain assistance in understanding the provisions of their parental rights in special education; and
- (h) The prior written notice shall be:—
  - (1) Written in language understandable to the general public; ~~and~~
  - (2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
  - (3) If the native language or other mode of communication of the parent is not a written language, the LEA shall take steps to ensure--
    - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
    - (ii) That the parent understands the content of the notice; and
    - (iii) That there is written evidence that the requirements in ~~subsections paragraphs~~ (i) and (ii) ~~of this section~~ have been met.

- (4) Available to the parent by electronic mail, if the LEA makes that option available and the parent elects to receive notices through this mode of communication.

### **2365.1.2 Procedural Safeguards Notice (34 C.F.R. § 300.504)**

- (a) A copy of the Parental Rights in Special Education Notice shall be given to the parents only one time a year, except that a copy also shall be given to the parents upon:
  - (1) Initial referral or parent request for an evaluation;
  - (2) Receipt of the first administrative complaint under Rule 2365.1.5 or a due process complaint under Rule 2365.1.6 in that school year;
  - (3) Request by a parent; and
  - (4) In accordance with the discipline procedures in Rule 4313.1(h).
- (b) The Parental Rights notice includes a full explanation of all of the procedural safeguards available to the parent as they relate to:
  - (1) Independent educational evaluation;
  - (2) Prior written notice;
  - (3) Parental consent;
  - (4) Access to educational records;
  - (5) The opportunity to present and resolve complaints through the due process complaint and administrative complaint procedures, including:—
    - (i) The time period in which to file a complaint;
    - (ii) The opportunity for the agency to resolve the complaint; and
    - (iii) The difference between the due process complaint and the State administrative complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
  - (6) The child's placement during pendency of due process complaint proceedings;
  - (7) Procedures for students who are subject to placement in an Interim Alternative Educational Setting (IAES);
  - (8) Requirements for unilateral placement by parents of children in private independent schools at public expense;
  - (9) The availability of mediation;
  - (10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;

- (11) Civil actions including the time period in which to file those actions; and
  - (12) Attorneys' fees.
- (c) The Parental Rights notice shall be:
- (1) Written in language understandable to the general public;
  - (2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the LEA shall take steps to ensure:
    - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
    - (ii) That the parent understands the content of the notice; and
    - ~~(iv)~~(iii) That there is written evidence that (i) and (ii) above have been met.

### **2365.1.3 Parental Consent (34 C.F.R. § 300.300)**

- (a) Informed parental consent shall be required:
- (1) Before conducting an initial evaluation or reevaluation which consists of more than a review of existing data pursuant to Rule 2362.2.1 and 2362.2.3;
  - (2) Before the initial provision of special education and related services pursuant to Rule 2363.9. Consent for initial evaluation may not be construed as consent for initial provision of special education services.
- (b) Consent, where given:
- (1) Shall be after the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; and;
  - (2) Shall be in writing and shall indicate that it is given voluntarily with the knowledge that it may be revoked at any time, with the understanding that the revocation is not retroactive;
- (c) Parental consent is not required:
- (1) Before reviewing existing data as part of an evaluation or a reevaluation;
  - (2) Before administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or

- (3) Before a reevaluation, if the LEA can demonstrate that it has taken reasonable measures to obtain consent and the parent failed to respond.
- (d) If the parents of a child refuse consent for an initial evaluation or a re-evaluation which includes the gathering of new information:
  - (1) The LEA may continue to pursue these evaluations by seeking mediation, using due process, or reviewing existing data.
  - (2) The LEA may decide not to pursue the evaluation and shall document its justification for doing so in the child's record.
  - (3) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under subsection paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the LEA may pursue the initial evaluation of the child by utilizing mediation or due process. The public school shall not have violated its obligation to locate, identify, and evaluate children suspected of being children with disabilities if it declines to pursue an evaluation to which a parent has failed to consent.
- (e) Except as otherwise provided in these regulations, an LEA may not use a parent's refusal to consent to an initial evaluation to deny the parent or child any LEA service, benefit, or activity outside of special education.

#### **2365.1.4                      Mediation (34 C.F.R. § 300.506)**

- (a) A mediation process administered by the Secretary shall be available to parents of students with disabilities, LEAs, and other public agencies with a special education dispute, including matters arising prior to the filing of a due process complaint.
- (b) The mediation process shall be voluntary on the part of the parties and shall not be used to deny or delay a parent's right to file a due process complaint or right to a due process hearing or any other rights. Mediation may be terminated at any time by any of the parties or by the mediator.
- (c) The Secretary shall provide the services of mediators at no cost to the parties.
- (d) Written requests for mediation shall be submitted to the Vermont Agency of Education, Special Education Mediation Service (AOE-SEMS). Upon receipt of such request, the Agency shall send each parent who requests mediation the Parents' Rights in Special Education Notice and shall send its mediation procedures to all parties to the mediation. The



agreement to mediate shall be in writing on a form approved by the Secretary and signed by all parties. If the request cannot be in writing due to special circumstances, such as an inability to communicate in writing, the request may be made through other means of communication.

- (e) The Agency of Education shall maintain a list of qualified and impartial mediators who are trained in effective mediation techniques.
- (f) Mediators shall:
  - (1) Be knowledgeable in law and regulations relating to the provision of special education and related services.
  - (2) Not be employees of the Agency, an LEA, or any other public agency that is involved in the education or care of the child and shall not have any personal or professional conflicts of interest.
  - (3) Be assigned to a case by the Secretary on a random, rotational, or other impartial basis from the list.
  - (4) Be assigned to a case by the Agency no later than five days from receipt of a joint written request for mediation or upon receipt of one party's written request and telephone or other confirmation by the other party or parties.
- (g) Each party to mediation shall ensure that a person in attendance has decision-making authority for the party.
- (h) Parents may be accompanied to the mediation by legal counsel, an advocate, a support person, and/or family members. If the parents plan to be accompanied to the mediation by legal counsel, they shall notify the LEA prior to the mediation. LEAs may be accompanied by legal counsel in the mediation only when the parents are accompanied by legal counsel in the mediation.
- (i) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties. If the mediation was initiated subsequent to the initiation of a due process of the same matter, but not after the resolution period in Rule 2365.1.6.8(b) has lapsed, the due process timeline of Rule 2365.1.6 shall commence following the end of the resolution period.
- (j) The parties to mediation shall be required to sign a confidentiality pledge prior to the commencement of the mediation to ensure that all discussions that occur during mediation

remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding, except pursuant to subsection (k)(1) of this- ~~rule~~section.

- (k) If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth that resolution and that:
- (1) States that all discussions that occurred during the mediation process will remain confidential; the mediator shall not be called as a witness in any future due process proceeding to testify regarding any information gained during the course of mediation. Any statements made at the mediation shall not be used as evidence in any subsequent due process hearing or civil proceeding arising from that dispute; however, signed mediation agreements may be released for the purpose of enforcement thereof in a due process proceeding or court of competent jurisdiction; and
  - (2) Is signed by the parent, a representative of each other party who has the authority to bind such party, and the mediator. The mediation agreement shall be confidential unless otherwise agreed upon; however, a copy shall be provided to the Vermont Agency of Education.
  - (3) Is enforceable in a due process proceeding, any state court of competent jurisdiction, or in a district court of the United States.
- (l) The mediation agreement shall become a part of the child's educational record or the parties shall, at a minimum, reference relevant provisions of the mediation agreement in the child's IEP.

### **2365.1.5 Administrative Complaints (34 C.F.R. § 300.151)**

- (a) Any person or organization alleging that an LEA or public agency has ~~violated~~ a requirement of Part B of the IDEA or implementing federal or ~~State~~ special education regulations, may file a signed written complaint with the Secretary of Education.
- (b) The complaint may be filed utilizing the available state form, or other form, and shall include-
- (1) A statement that a public agency has violated a requirement of Part B of the IDEA;
  - (2) The facts on which the statement is based;
  - (3) The signature and contact information for the complainant; and
  - (4) If alleging violations against a specific child:—
    - (i) The name, age, and address of the residence of the child;
    - (ii) The name of the school the child is attending;

- (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)), available contact information for the child, and the name of the school the child is attending;
  - (iv) A description of the nature of the problem of the child, including facts relating to the problem; and
  - (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- (c) Except for due process complaints covered under Rule 2365.1.6, the complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received.
- (d) The party filing the complaint shall forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the Secretary of Education.
- (e) The Secretary will not accept a complaint that fails to comply with (b) through (d).
- (f) Upon receipt of a complaint, the Secretary shall inform the complainant and the LEA of the option to use mediation. The Secretary shall appoint a complaint investigator to conduct an investigation.
- (1) The complaint investigator shall examine evidence presented on behalf of the complainant and on behalf of the LEA.
  - (2) At the discretion of the complaint investigator, the complaint may be investigated by way of a document review, meeting, hearing, on-site investigation, or any combination thereof. The complaint investigator will give the LEA the opportunity to respond to the complaint and at the LEA's discretion, the opportunity to respond with a proposal to resolve the complaint. Once the Secretary notifies the complainant that s/he has received the complaint, the investigator will give the complainant 15 days to submit additional information either orally, or in writing about the allegations in the complaint.
  - (3) If a hearing is scheduled, the complaint investigator shall have the powers and duties set forth below:
    - (i) Conduct pre-hearing conferences;
    - (ii) Conduct any hearings that may be required;
    - (iii) Prepare proposed findings of facts and conclusions of law for a decision by the Secretary; and
    - (iv) Any other powers and duties set forth in State Board of Education Rule —1236.1.

- (4) No later than ~~60~~sixty days after receipt of the complaint, the Secretary shall issue a written decision. This time limit may be extended only if exceptional circumstances exist with respect to a particular complaint or if the complainant and the LEA agree to extend the time to engage in mediation.
- (g) If the Secretary determines that the LEA has violated a requirement of Part B of the IDEA or implementing federal or ~~S~~state special education regulations, the investigation report shall address how to remediate the violation as well as any resulting denial of those services, including, as appropriate, requiring the evaluation planning team or IEP team to reconvene to reconsider an evaluation determination or offer of special education and related services, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child, as well as appropriate future provision of services for all children with disabilities.
- (h) Administrative Complaints filed under this rule and due process hearings filed under Rule 2365.1.6 are subject to the following:
- (1) If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, the Secretary shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action shall be resolved using the time limit and procedures described above.
  - (2) If the subject of an administrative complaint filed under this rule has previously been decided in a due process hearing involving the same parties:
    - (i) The due process hearing decision is binding; and
    - (ii) The Secretary shall inform the complainant to that effect.
  - (3) If a parent, who prevailed at a due process hearing, files an administrative complaint alleging that an LEA failed to implement the hearing officer's decision, the Secretary shall resolve the complaint.
- (i) The Secretary's written decision in subsection (f)(4) is not subject to appeal. Nothing herein shall be interpreted to preclude a parent or an LEA from filing a due process complaint on any matters regarding the identification, evaluation, or placement of the child or the provision of a FAPE pursuant to Rule 2365.1.6.2. If a parent or LEA files a due process complaint pursuant to Rule 2365.1.6.2 and the matter was previously the subject of an administrative complaint, the hearing officer will hear the case *de novo* (anew).

- (j) A complaint may also be filed regarding provision of Part C of the IDEA. Investigation of a Part C complaint shall be completed in coordination with the Agency of Human Services, Department of Health, Child Development Division. A written complaint should be sent to the Director of the Children's Integrated Services/Early Intervention (CIS/EI) and the Secretary of Education.

## **2365.1.6 Due Process Complaint Procedures**

### **2365.1.6.1 Timeliness of Due Process Complaint Request**

- (a) A written due process complaint notice shall be filed with the Secretary:
- (1) Within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint.
  - (2) Notwithstanding (1) above, within 90 days of a unilateral special education placement by the child's parent, where the request is for reimbursement of the costs of such placement.
  - (3) Exceptions to the timeline. The timelines described in (a)(1) and (2) above (i) and (ii) of this section do not apply to a parent if the parent was prevented from filing a due process complaint due to:
    - (i) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or
    - (ii) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.
  - (4) Where the parent has not been given proper notice of special education rights under state and federal law, including notice of the limitations in this section, such limitations shall run from the time notice of those rights is properly given.
  - (5) With same day notification to the LEA pursuant to rule 2365.1.6.3.

### **2365.1.6.2 Initiation of Due Process Hearing by a Parent, an LEA, or the Secretary (34 C.F.R. §§300.508 and 509)**

- (a) The Secretary shall make available a model form for a parent or LEA to use to initiate a due process complaint. However, the Secretary may not require the use of this model form. If the parent or LEA use a document other than the model form, that document shall meet the content requirements for filing a due process complaint in subsection (c).

- (b) A parent or an LEA may file a due process complaint on any matters regarding the identification, evaluation, or placement of the child or the provision of a free appropriate public education by sending a written Due Process Complaint Notice to the Secretary with a copy sent to the other party. If the notice cannot be in writing due to special circumstances, such as an inability to communicate in writing, the notice may be made through other means of communication.
- (c) The party requesting a hearing shall submit the written due process complaint to the Secretary and to all other parties, which shall contain the following information:
- (1) The name and date of birth of the child;
  - (2) The address of the residence of the child; in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)), available contact information for the child;
  - (3) The name of the school the child is attending;
  - (4) A description of the nature of the problem relating to the proposed, or refused initiation or change of the child's identification, evaluation, and/or educational placement, and the facts relating to the problem; and
  - (5) A proposed resolution of the problem to the extent known and available to the complainant at the time.
- (d) A party may not have a hearing on a due process complaint or engage in a resolution session until the party, or the attorney representing the party, files a due process complaint that meets the requirements of ~~subsection paragraph (c)~~ above of this section.
- (e) The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the complaint filed, unless the other parties agree otherwise.
- (f) The Secretary may request a due process hearing in accordance with 16 V.S.A. § 2958(c)(1) to challenge the need for residential placement where the residential placement review team recommends that a less restrictive educational placement is both available and appropriate for a child who is eligible for special education services.
- (g) If a parent requests the information or if a due process complaint notice is received, the Secretary shall inform the parent of any free or low-cost legal and other relevant services available in the area.

### **2365.1.6.3 Notification by Secretary to LEA of Receipt of Request for Hearing**

If the due process complaint is initiated by a parent, the Secretary shall within 24 hours notify the LEA by facsimile transmission, telephone, or electronic mail, confirmed in writing by first class mail. Notification to the LEA by the Agency shall be made specifically to the special education administrator, if the LEA has a special education administrator on staff. If the LEA does not have a special education administrator on staff, notification to the LEA shall be made to the superintendent.

### **2365.1.6.4 Commencement of the Due Process Complaint; Elements of Complaint Process**

- (a) The hearing process shall commence on the date the Secretary receives a request for a hearing. If received outside of regular business hours, the process shall commence on the next business day.
- (b) A due process hearing shall include the following:
  - (1) An initial telephone conference call pursuant to Rule 2365.1.6.7(a)(2) and (b).
  - (2) A prehearing conference as in Rule 2365.1.6.11 for the due process hearing, that results in a hearing officer's prehearing order.
  - (3) A hearing that, except for good cause shown, shall be limited to two business days. The hearing officer will grant additional time only if necessary for a full, fair disclosure of the facts necessary to arrive at a conclusion.
  - (4) A hearing officer's decision pursuant to Rule 2365.1.6.16 that shall be the final decision of the Agency of Education.

### **2365.1.6.5 Sufficiency of Complaint**

- (a) The due process complaint shall be deemed sufficient unless an opposing party receiving the due process complaint notifies the hearing officer and the complaining party in writing, within 15 days of receipt of the due process complaint, that the opposing party believes that the due process complaint does not meet the requirements in Rule 2365.1.6.2(c). Filing of such a notification by an opposing party shall not be grounds to delay the resolution session required under Rule 2365.1.6.8.
- (b) Within five days of receipt of notification under subsection paragraph (a) of this section, the hearing officer shall make a determination on the face of the due process complaint of

whether the due process complaint meets the requirements of Rule 2365.1.6.2(b), and shall immediately notify the parties in writing of that determination and the status of the due process complaint. If the hearing officer determines that the due process is insufficient, he or she shall identify how the complaint is insufficient.

- (c) A party may amend its due process complaint only if:
  - (1) The other party ~~'sies~~ consent in writing to the amendment and are given the opportunity to resolve the amended due process complaint through a resolution meeting held pursuant to Rule 2365.1.6.8; or
  - (2) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.
- (d) If a party files an amended due process complaint, the timelines for the resolution session and the resolution period begin again with the filing of the amended due process complaint.

#### **2365.1.6.6 Response to Issues Raised in Complaint (34 C.F.R. § 300.508)**

- (a) LEA Response:
  - (1) If the LEA has not sent a prior written notice under Rule 2365.1.1 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA shall, within ~~ten~~10 days of receiving the due process complaint, send to the parent a response that includes:
    - (i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint;
    - (ii) A description of other options that the IEP team considered and the reasons why those options were rejected;
    - (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
    - (iv) A description of other factors that are relevant to the agency's proposed or refused action.
  - (2) A response by the LEA under subsection (a)(1) ~~of this section~~ shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient.
- (b) Party Other Than an LEA Response. Except as provided in subsection paragraph (a) ~~of this section~~, the party receiving a due process complaint shall, within ~~ten~~10 days of receiving the



due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

### **2365.1.6.7 Scheduling of Resolution Session, Mediation, Prehearing Conference, and Due Process Hearing**

- (a) Within three business days of receipt of the complaint, the Secretary shall schedule and notify the parties in writing of the following:
- (1) The appointed hearing officer to preside at the due process hearing;
  - (2) The time and date of an initial telephone conference call with the hearing officer to be held with the parties or their attorneys no later than five business days from receipt of the complaint;
  - (3) The legal authority under which the hearing is held;
  - (4) A copy of the request for due process hearing;
  - (5) The right to have an attorney present to represent each party at the party's expense with the exception of Rule 2365.1.6.8(a)(1)(iii); and
  - (6) Information for the parent regarding any free or low-cost legal and other relevant services available in the area.
- (b) In the initial telephone conference call, the hearing officer will establish and issue a due process scheduling order detailing the following:
- (1) Whether the parties have agreed to waive in writing the resolution session and if they intend to attempt mediation.
  - (2) If the resolution session is not waived, a date and time for the resolution session.
  - (3) If the resolution session is waived and mediation accepted, the hearing officer will notify the Agency of a date by which mediation shall occur, and the Agency will assign a mediator.
  - (4) If the resolution session is waived and mediation rejected, the hearing process will commence consistent with the timelines in Rule 2365.1.6.8.
  - (5) The dates for the prehearing conference, ~~five~~5-day rule disclosure, due process hearing, and final decision using the timelines in Rules 2365.1.6.7, 2365.1.6.9, and 2365.1.6.16.
  - (6) If both parties agree, the hearing officer may also address any concerns about the sufficiency of the complaint.

- (7) The hearing officer may also address any modifications to Rule 2365.1.6 necessary to address special circumstances, such as a party's inability to communicate in writing or disability.
- (8) The scheduling shall allow for the following:
  - (i) A date for a resolution session or a date by which mediation shall occur, if the parties so decide;
  - (ii) A half business day for a prehearing conference; and
  - (iii) Two business days for a hearing, except for good cause shown pursuant to Rule 2365.1.6.4(b)(3) and Rules 2365.1.6.15(e).

### **2365.1.6.8 Resolution Session (34 C.F.R. § 300.510)**

#### **(a) Convening a Resolution Session**

- (1) The LEA shall convene a resolution session on the date scheduled by the hearing officer at the initial conference, if the parties have not been able to agree on a mutually convenient time and date. The resolution session shall be held no later than 15 days after receiving notice of the due process complaint. The session will include the parents and the relevant member or members of the IEP ~~t~~Team who have specific knowledge of the facts identified in the due process complaint, and:
  - (i) Shall include a representative of the LEA who has decision-making authority on behalf of the LEA;
  - (ii) The LEA and the parents determine the relevant members of the IEP team to attend the session; and
  - (iii) May not include an attorney of the LEA unless the parent is accompanied by an attorney.
- (2) The purpose of the session is for the party filing the complaint to discuss their due process complaint, and the facts that form the basis of the due process complaint, so that the other party has the opportunity to resolve the dispute that is the basis for the due process complaint.
- (3) The parties may agree in writing that discussions that occur during the resolution session are confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings arising from that dispute.

- (4) The session described in ~~subsections paragraph (a)(1) and (2) of this section~~ need not be held if:
- (i) The parents and the LEA agree in writing to waive the session and so notify the hearing officer; or
  - (ii) The parents and the LEA agree to use the mediation process described in Rule 2365.1.4 and so notify the hearing officer.
- (b) Resolution Period
- (1) If the LEA has not resolved the due process complaint to the satisfaction of the parents within 30 days of the receipt of the due process complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing shall commence.
  - (2) The timeline for issuing a final decision under Rule 2365.1.16 begins at the expiration of this 30-day period.
  - (3) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented by making a record of its attempts to arrange a mutually agreed upon time and place), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.
  - (4) If the LEA fails to hold the resolution session within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of the hearing officer to begin the due process hearing timeline.
  - (5) Adjustments to the 30-day resolution period. The 45-day timeline for the due process hearing in Rule 2365.1.6.16 starts the day after one of the following events:
    - (i) Both parties agree in writing to waive the resolution meeting and reject mediation;
    - (ii) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;
    - (iii) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or LEA withdraws from the mediation process.
  - (6) The timelines for resolution session may be shortened pursuant to an expedited hearing request under Rule 2365.1.6.17.
- (c) Written settlement agreement. If a resolution to the dispute is reached at the session described in paragraph (a) of this section, the parties shall execute a legally binding agreement that is:

- (1) Signed by both the parent and a representative of the LEA who has the authority to bind the LEA; and
  - (2) Enforceable by filing in any state court of competent jurisdiction or in a district court of the United States.
- (d) Agreement review period. If the parties execute an agreement pursuant to subsection paragraph (c) of this section, a party may void the agreement within three business days of the agreement's execution. Nothing in this rule shall preclude either party from consulting with an attorney at any time.

#### **2365.1.6.9 Time of Hearing; Withdrawal or Other Action for Dismissal of Hearing**

- (a) The hearing shall be scheduled to begin as soon as possible but no later than 35 days after expiration of the resolution period pursuant to Rule 2365.1.6.8(b), provided that when an expedited hearing under Rule 2365.1.6.17 is requested, the hearing shall be scheduled to begin no later than 20 days after the receipt of the request by the Secretary.
- (b) A parent may withdraw a request for a due process hearing without prejudice until such time as the parent retains legal counsel. "Withdrawal without prejudice" does not stop or in any other way alter the statutory period(s) of limitations described in Rule 2365.1.6.1.
- ~~(e)~~ Upon motion by a party or by independent action of the hearing officer, the hearing officer may order dismissal of a complaint for failure of any party to prosecute.

~~(d)~~(c)

#### **2365.1.6.10 Voluntary Production of Information; Motion for Production of Information**

- (a) Each party shall attempt in good faith to make a complete response to requests, as soon as practicable, for the voluntary production of information.
- (b) When a dispute between parties arises concerning a request for the voluntary production of information, releases or documents, any party may file a motion requesting that the hearing officer order the parties to comply with information requests.
  - (1) The motion shall be filed at least seven business days before the prehearing conference, and a response shall be filed and provided to the moving party at least one business day prior to the prehearing conference, or as soon as possible after receiving a notice of intent to object to all or part of a request for production.
  - (2) The moving party's motion shall:

- (i) List with specificity the information it is seeking to discover; and
  - (ii) Set forth in detail those factors which it believes justify its request for information.
- (3) When a party has demonstrated that such request for information is relevant to the issues described in the hearing notice or identified by the hearing officer as a result of the prehearing conference and is necessary for a full and fair presentation of the evidence at the hearing, the hearing officer shall grant the motion.

### **2365.1.6.11 Prehearing Conference Procedures**

- (a) The prehearing conference required by Rule 2365.1.6.4(b)(2) shall be conducted by a hearing officer at a neutral site located in or near the LEA in which the due process matter is pending. The prehearing conference shall be as follows:
- (1) Detailed Written Statement: At least three days before the prehearing conference, the complaining party shall provide the hearing officer and the opposing party a detailed written statement of what he/she believes are the issues to be addressed in the due process hearing, including any procedural violations. At least one day before the prehearing conference, the opposing part(ies) shall provide to the hearing officer and the complaining party a detailed written statement of any defenses. Any procedural violations known to a party or defenses not raised at or before the prehearing conference may be excluded at the due process hearing at the discretion of the hearing officer.
  - (2) Witness List: At the prehearing conference, the parties shall provide to the hearing officer and the opposing parties a preliminary list of the witnesses they plan to call and a general summary of the testimony they expect from each witness. This list may be supplemented at the time of the final five--day rule submissions.
  - (3) Statement of Facts: No later than the prehearing conference, each party shall provide to the hearing officer and the opposing party, a statement of facts. The intent of the statement of facts is to outline those facts which are not expected to be contested, so that only those issues which remain in dispute need be addressed at the hearing.
  - (4) Core Exhibits: No later than the prehearing conference, the LEA shall submit to the hearing officer and the parents a binder of proposed core exhibits consisting of the relevant portions of the student's file that the LEA expects will be introduced. Either party may supplement but not duplicate those proposed exhibits with the other material as long as the

supplement is received by the hearing officer and the opposing party at least five days before the hearing.

- (5) Order of Presentation at Hearing: The party that has initiated the hearing shall present its case first unless the hearing officer determines that the change in order of presentation would not materially prejudice any party's right to a full and fair hearing, and:
- (i) ~~(i)~~—The hearing would proceed in a more timely manner if the party not initiating the hearing presents their case first; or
  - (ii) ~~(ii)~~—The hearing would proceed in a more efficient manner if the party not initiating the hearing presents their case first.
- (6) ~~(6)~~—Hearing Officer's Prehearing Order: Following the prehearing conference, the hearing officer shall issue a prehearing order containing rulings on any motions heard at the conference, any decisions made about evidence or order of presentation, scheduling, or other related matters, and a clear and specific identification of the issues to be heard.
- (7) ~~(7)~~—Record of the Prehearing Conference: The hearing officer shall ensure that an electronic verbatim record shall be made of the prehearing conference. The recording shall become a part of the record of the case. Copies shall be made available to the parties on request.

### **2365.1.6.12 Use of Affidavits**

- (a) At hearing, parties may submit otherwise admissible testimony, in whole or in part, in the form of affidavits, so long as the witnesses are present at hearing for cross-examination by the opposing party.
- (b) Testimony may also be submitted at hearing by affidavit, without an opportunity to cross examine the witness, by prior agreement of the opposing party.
- (c) Affidavits to be introduced as evidence at hearing shall be disclosed to the opposing party no fewer than three business days prior to the hearing.

### **2365.1.6.13 Final Disclosure of Evidence Occurring Five Days before Hearing.**

- (a) At least five business days prior to a hearing, each party shall disclose to all other parties all evidence, including a final witness list with a brief description of each witness's testimony and copies of documentary evidence including all evaluations completed by that date and recommendations based on such evaluations, that the party intends to use at the hearing. If neither party objects, the parties shall submit copies of their exhibits to the hearing officer two business days prior to a hearing.
- (b) Any evidence supplementing the core exhibits shall be legibly labeled in the upper right-hand corner with consecutive Arabic numerals as either "LEA Exhibit (nNumber)" or "Parent Exhibit (number)", as appropriate. An index, by title, of all exhibits submitted shall also be exchanged.
- (c) Unless the other party consents to the inclusion, a hearing officer may exclude evidence, including an evaluation or recommendation, not disclosed in accordance with this section.

### **2365.1.6.14 Notification Concerning Agreement**

- (a) If the parent and the LEA reach a settlement agreement prior to the hearing, the LEA shall notify the hearing officer in writing and include a written statement signed by both parties requesting the cancellation of the hearing and the dismissal of the case with prejudice.
- (b) A settlement agreement, whether reached through a resolution session, mediation, or other means of negotiation between the parties, shall not constitute a final decision or order of the hearing officer.
- (c) A legally binding settlement agreement, whether reached through a resolution session subject to a review period pursuant to Rule 2365.1.6.8(d), mediation, or other means of negotiation

between the parties, shall be enforceable in a due process hearing, any State court of competent jurisdiction, or in a district court of the United States.

**2365.1.6.15 Hearing Procedures (34 C.F.R. § 300.512)**

- (a) All hearings shall be electronically recorded by the hearing officer or his/her designee. The hearing officer shall also arrange for a stenographic recording of the hearing.
- (b) The order of the presentation shall be determined pursuant to Rule 2365.1.6.11(a)(5).
- (c) Any party to a due process hearing has the right to:
  - (1) Be accompanied and advised by legal counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
  - (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses and the production of relevant documents.
  - (3) Request that the hearing officer prohibit the introduction of affidavits pursuant to Rule 2365.1.6.12 that have not been disclosed to that party at least three business days before the hearing or any other evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
  - (4) Obtain a written, or at the option of the parents, electronic, verbatim record of the completed hearing; and
  - (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.
  - (6) The record of the hearing and the findings of fact and decisions shall be provided at no cost to the parents.
- (d) Parents involved in a hearing may:
  - (1) Have the child who is the subject of the hearing present; and
  - (2) Open the hearing to the public. If a due process hearing is open to the public, the hearing officer shall seat the members of the public in such a way that does not interfere with the proceedings.
- (e) Each party shall have one day to present its case, unless the hearing officer determines that additional time is necessary for a full, fair disclosure of the facts necessary to arrive at a conclusion. The party filing the due process complaint has the burden of proof. The time allowed for each party's presentation shall include both direct examination of its witnesses and cross examination of its witnesses by the opposing party.



- (f) The hearing officer may limit the number and examination of witnesses to eliminate redundant, cumulative, or irrelevant testimony.

**2365.1.6.16 Decision; Extension of 45-Day Period (34 C.F.R. § 300.515)**

- (a) The Secretary shall ensure that not later than 45 days after expiration of the resolution period under Rule 2365.1.6.8(b):
  - (1) A final decision is reached in the hearing;
  - (2) A copy of the decision is sent by first class mail to each of the parties; and
  - (3) The final decision includes a statement regarding the appeal rights pursuant to Rule 2365.1.8.
- (b) A hearing officer may grant extensions of time beyond the period set out in (a) above, except as to expedited hearings, for specific periods of time at the request of either party if:
  - (1) The child's educational progress or well-being would not be jeopardized by the delay;
  - (2) The party would not have adequate time to prepare and present the party's position at the hearing in accordance with the requirements of due process; and
  - (3) The need for the delay is greater than any financial or other detrimental consequences likely to be suffered by a party in the event of the delay.
- (c) Decision of hearing officer
  - (1) Subject to ~~subsection~~ ~~division~~ (2)- ~~below of this subsection~~, a hearing officer shall make a decision on substantive grounds based on a determination of whether the child received a FAPE.
  - (2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:—
    - (i) Impeded the child's right to a FAPE;
    - (ii) Significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the parents' child; or
    - (iii) Caused a deprivation of educational benefit.
  - (3) Nothing in this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under Rule 2365.1 through 2365.1.13.
  - (4) The Vermont Agency of Education, after deleting any personally identifiable information, shall:

- (i) Transmit the hearing officer's findings and decisions to the State Special Education Advisory Panel; and
- (ii) Make those findings and decisions available to the public.

### **2365.1.6.17 Expedited Due Process Hearings**

- (a) An expedited due process hearing procedure shall be available for disciplinary issues in accordance with Rule 4313.3.
- (b) The expedited procedure shall provide a full due process hearing consistent with the requirements of Rules 2365.1.6.2(c) and (g), 2365.1.6.3, 2365.1.6.4, 2365.1.6.7, 2365.1.6.8, 2365.1.6.10 through 2365.1.6.16, but under a restricted time schedule as set out in subsections (c)—(j) of this section.
- (c) Expedited hearings shall:
  - (1) Not exceed two days; and
  - (2) Be scheduled to be heard within 20 school days where the issue before the hearing officer will be whether there is a substantial likelihood of injury to self or others if the child is returned to the placement from which the child was removed.
- (d) Upon being appointed, the hearing officer shall immediately arrange with the parties two days of hearing to occur within 20 school days of the filing of a complaint under Rule 2365.1.6.17(e)(2). At the same time, the hearing officer shall schedule an expedited resolution session to be held no later than seven days of the receipt of the written complaint. Unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the complaint, the due process hearing may proceed. The hearing officer shall schedule a prehearing conference prior to the hearing.
- (e) At least five business days prior to the hearing, each party shall disclose to all other parties all evaluations completed by that date and evidence to be offered at the hearing, and recommendations based on the offering party's evaluations that the party intends to use at the hearing. Any party to the hearing has the right to request that the hearing officer prohibit the introduction of evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.
- (f) Except for the timelines in subsections (c)(2), (d), (e), and (h), the hearing officer may waive any of the procedures in this section in a case, but only to the extent necessary to preserve the

full and fair nature of the due process hearing. At the agreement of both parties, the hearing officer may reduce the timelines in subsections (c)(2), (d), (e), and (h).

- (g) The hearing officer shall render a decision, including findings of fact and conclusions of law.
- (h) The hearing officer shall mail a written decision to the parties by first class mail within ~~ten~~10 school days following the hearing.
- (i) Any party aggrieved by a decision of the hearing officer may appeal the decision as provided in Rule 2365.1.8.

#### **2365.1.7 Impartial Hearing Officer (34 C.F.R. § 300.514)**

- (a) A hearing may not be conducted by a person who is an employee of the Agency of Education or the LEA, or by any person having a personal or professional interest that would conflict with his or her objectivity in the hearing. A person who otherwise qualifies to conduct a hearing is not an employee of the Agency solely because he or she is paid by the Agency to serve as a hearing officer.
- (b) The hearing officer shall be a licensed attorney who:
  - (i) Has the knowledge of, and the ability to understand, the provisions of the IDEA, federal and state regulations pertaining to the Act, and legal interpretations of the Act by federal and state courts;
  - (ii) Has the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
  - (iii) Has the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.
- (c) The Agency shall keep a list of individuals to serve as hearing officers and that list shall contain a statement of the qualifications of each of those persons.

#### **2365.1.8 Finality of A Due Process Hearing Decision; Appeal (34 C.F.R. § 300.514)**

- (a) The decision of a hearing officer is final unless appealed to a state or federal court of competent jurisdiction.
- (b) Parties have right to appeal the hearing decision by filing a civil action in a federal district court or a state court of competent jurisdiction in accordance with Rule 2365.1.9.

**2365.1.9 Civil Action (34 C.F.R. § 300.516)**

- (a) Any party aggrieved by the findings and decision arising out of a due process hearing pursuant to Rule 2365.1.6 has the right to bring a civil action with respect to the matter. The action shall be commenced within 90 days of the hearing officer's decision in a state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.
- (b) An award of attorneys' fees may be made pursuant to Rule 2365.1.10.
- (c) In any action brought under paragraph (a) of this rule, the court:
  - (1) Receives the records of the administrative proceedings;
  - (2) Hears additional evidence at the request of a party; and
  - (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.
- (d) Nothing in this rule restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under Rule 2365.1.6 shall be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

**2365.1.10 Attorneys' Fees (34 C.F.R. § 300.517)**

- (a) In any action or proceeding brought under Section 1415 of the IDEAAet, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to--
  - (1) The prevailing party who is the parent of a child with a disability;
  - (2) To a prevailing party who is the Vermont Agency of Education or an LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
  - (3) To a prevailing party who is the Vermont Agency of Education or an LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

- (b) Prohibition on use of funds.
- (1) Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under Section 1415 of the IDEA and subpart E of the federal regulations relating to procedural safeguards-
  - (2) ~~Subsection Paragraph~~(b)(1) ~~above of this section~~ does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under Section 1415 ~~of the~~ IDEA Act.
- (c) A court, in its discretion, may award reasonable attorneys' fees under Section 1415 of the IDEA Act consistent with the following:
- (1) Fees awarded under Section 1415 of the IDEA Act shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.
  - (2) (i) ~~—~~Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Section 1415 ~~of the~~ IDEA Act for services performed subsequent to the time of a written offer of settlement to a parent if:—
    - (A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ~~ten~~10 days before the proceeding begins;
    - (B) The offer is not accepted within ~~ten~~10 days; and
    - (C) The court or hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.
  - (ii) Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action.
  - (iii) A resolution session conducted pursuant to Rule 2365.1.6.8 shall not be considered:—
    - (A) A meeting convened as a result of an administrative hearing or judicial action; or
    - (B) An administrative hearing or judicial action for purposes of this ~~rule~~section.
- (3) Notwithstanding ~~subsection paragraph~~ (c)(2) ~~above of this section~~, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

- (4) Except as provided in subsection paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under Section 1415 -of the IDEA Act, if the court finds that:—
- (i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
  - (ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skills, reputation, and experience;
  - (iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
  - (iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with Rule 2365.1.6.2.
- (5) The provisions of subsection paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or LEA unreasonably protracted the final resolution of the action or proceeding or there was a violation of Section 1415 of the IDEA.

**2365.1.11 Child's Status During Proceedings (34 C.F.R. § 300.518)**

- (a) Unless placed in an interim alternative educational setting pursuant to Rules 4313.1, 4313.2, and 4313.4, the student shall remain in his or her current placement while waiting for the decision in a due process hearing or appeal, unless the State or the LEA and the parents of the student agree to another placement. The current placement shall be the placement that was in the last implemented IEP.
- (b) If the due process hearing involves an application for initial enrollment in public school, the student, with the consent of the parents, shall be placed in the public school until the completion of all the proceedings.
- (c) If the complaint involves an application for initial services under Part B from a child who is transitioning from Part C of the IDEA to Part B and is no longer eligible for Part C services because the child has turned three, the LEA is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and

related services under Rule 2365.1.3, then the LEA shall provide those special education and related services that are not in dispute between the parent and the LEA.

- (d) If the decision of a hearing officer in a due process hearing agrees with the child's parents that a change of placement is appropriate, that placement shall be treated as an agreement between the State and the parents for purposes of ~~subsection paragraph~~(a), above.

### **2365.1.12 Transfer of Parental Rights at Age of Majority (34 C.F.R. § 300.520)**

- (a) When a student who is eligible for special education services reaches the age of ~~18~~eighteen:
- (1) The LEA shall provide any notice required by these rules to both the student and his or her parents; and
  - (2) All other rights accorded to parents under these rules transfer to the student.
- (b) When a student who is eligible for special education services reaches the age of 18 ~~eighteen~~ and is incarcerated in a correctional institution, all other rights accorded to the parent transfer to the student and any notice required by these rules shall be provided to both the student and the parents.
- (c) When a student has been determined to be incompetent under State law, the guardian or educational surrogate parent shall receive any notice required by these rules.
- (d) Whenever rights are transferred under this rule, the LEA shall notify the student and the parents of the transfer of rights.
- (e) Beginning one year before a student reaches the age of 18, the student's IEP shall include a statement that the student has been informed of his or her rights under the IDEA, if any, that will transfer to the student on reaching the age of 18.
- (f) Rights afforded to parents under these rules transfer to the student when the student turns 18 years of age. All references to "parent" shall be read also to refer to a student who has turned 18.

### **2365.2 Confidentiality of Information and Student Records ~~-(34 C.F.R. § 300.610)~~**

#### **Definitions. For the purposes of Rule 2365.2 through 2365.2.15:**

- (a) "Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- (b) "Education records" means education records as defined in 34 C.F.R. Part 99, Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (FERPA).

- (c) “Participating agency” means any agency, school, or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.
- (d) “Personally identifiable information” means:
  - (1) The name of a child, the child’s parent, or other family member;
  - (2) The address of the child or the child’s parents;
  - (3) A personal identifier such as the child’s social security number or student number; or
  - (4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty or make the child’s identity easily traceable.

### **2365.2.1 Notice to Parents (34 C.F.R. § 300.612)**

- (a) The Vermont Agency of Education shall give notice, to the extent required by federal law, that is adequate to fully inform parents about confidentiality requirements of § 2365, including:
  - (1) A description of the extent that the notice is given in the native languages of the various population groups in the State;
  - (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
  - (3) A summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
  - (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 C.F.R. Part 99.
- (b) Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

### **2365.2.2 Access Rights to Records (34 C.F.R. § 300.612)**

- (a) Each participating agency shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the LEA under the IDEA.



The participating agency shall comply with a request to inspect and review without unnecessary delay and before any meeting regarding an IEP or any administrative complaint, mediation, resolution session, due process hearing, or expedited hearing, and in no case more than 45 days after the request has been made.

- (b) The right to inspect and review education records includes:
- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
  - (2) The right to request that the participating agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
  - (3) The right to have a representative of the parent inspect and review the records.
- (c) A participating agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable Vermont law governing such matters as guardianship, separation, and divorce.

### **2365.2.3 Record of Access (34 C.F.R. § 300.614)**

Each participating agency shall keep a record of parties obtaining access to a child's education records which are collected, maintained, or used under the IDEA, except access by parents and authorized employees of the participating agency. The record shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

### **2365.2.4 Records on More than One Child (34 C.F.R. § 300.615)**

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

### **2365.2.5 List of Types and Locations of Information (34 C.F.R. § 300.616)**

Each participating agency shall provide parents on request a written list of the types and locations of education records collected, maintained, or used by the agency.

**2365.2.6 Fees ([34 C.F.R. § 300.617](#))**

- (a) A participating agency may charge a fee for copies of records made for parents under these provisions, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
- (b) A participating agency may not charge a fee to search for or to retrieve information under these provisions.

**2365.2.7 Amendment of Records at Parent's Request ([34 C.F.R. § 300.618](#))**

- (a) A parent or eligible student who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the LEA that maintains the information to amend the information.
- (b) The participating agency shall decide whether to amend the information as requested within a reasonable period of time of receipt of the request.
- (c) If the participating agency refuses to amend the information as requested, it shall inform the parent or eligible student of the right to a hearing under Rule 2365.2.9.

**2365.2.8 Opportunity for a Hearing ([34 C.F.R. § 300.619](#))**

The participating agency shall, on request, provide an opportunity for a hearing within the agency where the parent or eligible student may challenge information in education records on the grounds that it is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

**2365.2.9 Result of Agency's Hearing ([34 C.F.R. § 300.620](#))**

- (a) If, as a result of the participating agency's hearing, the agency finds that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information as requested and so inform the parent in writing.
- (b) If, as a result of the participating agency's hearing, the agency finds that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent or eligible student of the right to place in the records it maintains on

the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the LEA.

- (c) Any explanation placed in the records of the child under this section shall:
- (1) Be maintained by the participating agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and
  - (2) Disclose the parent's or eligible student's explanation, if the records of the child or the contested portion are disclosed by the LEA to any party.

### **2365.2.10 Hearing Procedures (34 C.F.R. § 300.621)**

A participating agency shall, at a minimum, meet the following requirements when it conducts a hearing under this section. The agency's hearing shall:

- (a) Be held within a reasonable time after the agency received the request for the hearing from the parent or eligible student;
- (b) Give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing;
- (c) Have the hearing conducted by an official of the agency or other person appointed by the agency, who does not have a direct interest in the outcome of the hearing;
- (d) Give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised about information in the record. The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney;
- (e) Issue a written decision within a reasonable period of time after the hearing; and
- (f) Issue a decision based solely on the evidence presented at the hearing, and shall include a summary of the evidence and the reasons for the decision.

### **2365.2.11 Consent (34 C.F.R. § 300.622)**

- (a) With the exception of disclosures permitted to law enforcement and judicial authorities for which parental consent is not required by FERPA, parental consent shall be obtained before personally identifiable information is:—
- (1) Disclosed to anyone other than officials of participating agencies collecting or using the information, subject to subsections paragraph (b) and (c) below of this section; or
  - (2) Used for any purpose other than meeting a requirement of these rules regulations.

- (b) A participating agency subject to these regulations may not release information from education records to other participating agencies without parental consent, unless specifically authorized to do so by FERPA.
- (c) Disclosure of special education and disciplinary records may be made without the prior written consent of the parent or a student aged 18 or older, if:
  - (1) It is made in compliance with a lawfully issued subpoena or court order, and the school has made reasonable attempts to notify the parent or the student aged 18 or older of the order or subpoena before complying with the request, so he or she may seek protective action from the court, such as limiting the scope of the subpoena or quashing it; and
  - (2) The subpoena or court order mandating disclosure specifies that the existence or the contents of, or the information furnished in response to, such subpoena or court order should not be disclosed by the receiving party; or
  - (3) It is to law enforcement or other appropriate parties, and, if the required information from the educational records is needed in connection with an emergency and knowledge of the information is necessary to protect the health or safety of the student or other individuals.
  - (4) If a parent refuses to give written consent when required for disclosure of personally identifiable information, the responsible LEA may seek an order from a due process hearing officer allowing disclosure.

**2365.2.12 Safeguards (34 C.F.R. § 300.623)**

- (a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (b) One official in each participating agency shall be identified as responsible for ensuring the confidentiality of any personally identifiable information.
- (c) A participating agency shall have policies or procedures to ensure that all persons collecting or using personally identifiable information receive training or instruction regarding Vermont's policies and procedures under this rule and §34 C.F.R. Part 99.
- (d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

**2365.2.13 Destruction of Information (34 C.F.R. § 300.624)**

- (a) For purposes of an audit, when a participating agency has counted a child to justify receipt of IDEA funds, the LEA shall retain copies of the child's IEPs and special education eligibility evaluations, for a minimum of five years from the end of the school year in which the document was in effect.
- (b) The participating agency shall inform parents when personally identifiable information collected, maintained, or used under the IDEA is no longer needed to provide educational services to the child. The information shall be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

**2365.2.14 Children's Rights (34 C.F.R. § 300.625)**

The Vermont Agency of Education's policy shall be to protect the privacy rights of students with disabilities:

- (a) When a student's educational records are transmitted, stored, accessed, or destroyed, a responsible participating agency shall conform to the standards issued by the Vermont Agency of Education.
- (b) Under the regulations for FERPA at 34 C.F.R. § 99.5(a), the rights of parents regarding education records transfer to the students at age 18.
- (c) If the rights accorded to parents under these ~~r~~Rules are transferred to a student who reaches the age of majority, consistent with Rule 2365.1.12, the rights regarding educational records in Rule 2365 shall also be transferred to the student. However, the participating agency shall provide any notice required under the procedural safeguards provisions of the IDEA to the student and the parents.

**2365.2.15 Disciplinary Information in Student Records**

- (a) A participating agency shall include in the records of a child receiving special education services a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of children not receiving special education services.

- (b) The statement shall include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.
- (c) If the child transfers from one school to another, the transmission of any of the child's records shall include both the child's current ~~IEP individualized education program~~ and any statement of current or previous disciplinary action that has been taken against the child as consistent with subsection (a) of this ~~rule~~section.

## ~~2366~~ State Funding for Special Education

### ~~2366.1~~ Special Education Service Plan

- ~~(a) On or before October 15th of each year, each superintendent shall file a Special Education Service Plan with the Secretary of Education, as required by 16 V.S.A. §2964.~~
- ~~(b) The special education service plan shall be submitted in a form and manner prescribed by the Secretary, and at minimum, shall contain the following:~~
- ~~(1) Anticipated services to be provided to students with disabilities which will be made available by the LEA;~~
  - ~~(2) Anticipated extraordinary special education expenditures in the next fiscal year; and~~
  - ~~(3) Anticipated total special education expenditures in the next fiscal year for each LEA and member districts.~~

### ~~2366.2~~ Allowable Special Education Expenditures for State Formula Reimbursement

~~These rules define expenditures eligible for state reimbursement for special education provided to an LEA's kindergarten through 12<sup>th</sup> grade resident students and for the extraordinary cost for essential early education students under the following funding provisions:~~

- ~~(a) Mainstream Block Grant and matching funds pursuant to 16 V.S.A. §2961;~~
- ~~(b) Extraordinary Services Reimbursement and the matching local funds pursuant to 16 V.S.A. §2962; and~~
- ~~(c) Special Education Expenditures Reimbursement pursuant to 16 V.S.A. §2963.~~

~~The cost of providing special education services for Vermont state-placed students that is not covered by State Placed Student reimbursement pursuant to 16 V.S.A. §2950(a) can be claimed as long as the cost is an eligible cost based on the following definitions.~~

### ~~2366.2.1~~ — ~~Instructional Services~~

~~Except as provided under (1) and (2) in (a) below, expenditures for instructional services shall be allowable if required by a student's IEP. The allowable special education costs include:~~

~~(a) Salaries and benefits of licensed special education teachers including vocational special needs teachers, and instructional aides for the time they carry out special education responsibilities.~~

~~(1) The allowable cost that an LEA may claim includes a school period or service block during which the above staff member is providing special education services as defined in Rule 2360.2.12 to a group of eight or fewer students, and the majority of the students are receiving the special education services, in accordance with their IEPs.~~

~~(2) In addition to the time for carrying out special education responsibilities, an LEA may claim up to 20% of an above special education staff member's time, if that the staff spends the additional time performing consultation to assist with the development of and providing instructional services required by:~~

~~(i) A plan pursuant to Section 504 of the Rehabilitation Act; or~~

~~(ii) A plan for students who require additional assistance in order to succeed in the general education environment as determined by the Educational Support Team;~~

~~(b) Salaries and benefits for services of individual aides for the portion of time they carry out special education responsibilities;~~

~~(c) Contracted services to provide special education instruction to students with disabilities;~~

~~(d) Student transportation which is required to implement a part of the instructional program for students with disabilities;~~

~~(e) The portion of non-collaborative tuition of special education programs and excess costs charged by public schools which relate to allowable costs;~~

~~(f) The collaborative tuition for special education programs charged by public LEAs;~~



- ~~(g) Tuition and all reasonable and necessary costs of placement, as defined in Rule 2366.2.5, excluding any general education tuition in an independent school approved for the purpose of providing special education in accordance with 16 V.S.A. §2958(e) and Rule 2228, et seq.;~~
- ~~(h) Travel of special education personnel relating to educating students with disabilities as allowed by their local contractual agreement;~~
- ~~(i) Special textbooks, workbooks, other classroom supplies and other instructional materials for a student with disabilities to the extent required by a student's IEP; and~~
- ~~(j) The reasonable cost of rental, purchase and maintenance of specialized equipment for a student with disabilities required by the IEP and not otherwise available at no cost to the parent through any other sources.~~

### **2366.2.2 — Related Services**

Expenditures for related services are allowable if:

- ~~(1) They are for services defined as related services in federal and state law;~~
- ~~(2) The expenditure is for a related service required by the student's IEP, including transportation to and from home for students with disabilities who cannot be accommodated by general school bus service;~~
- ~~(3) The expenditure is for services provided by personnel beyond those required by the non-special education School Quality Standards (e.g. counseling, nursing); and~~
- ~~(4) The expenditure is not reimbursed by another source.~~

### **2366.2.3 — Special Education Administration**

Allowable expenditures for special education administration are as follows:

- ~~(1) Salary and benefits of special education administrators and support staff for time dedicated to administration of the educational program for students with disabilities. However, if an LEA elects not to hire a special education administrator and is implementing an alternative~~

~~organizational plan for the provision of special education administration for a given school year, in order for the cost to be considered an allowable expenditure, the plan shall be approved by the Agency of Education. The plan shall include a description of the functions and the responsibilities of the staff assigned to special education administration; the time spent on these functions; and the estimated costs to be allocated to special education administration;~~

- ~~(2) Supplies, office expenses and equipment for special education administration;~~
- ~~(3) Cost of in-service activities relating to special education up to a maximum amount per year established by the Secretary;~~
- ~~(4) Expense of a telephone in a special education classroom; and~~
- ~~(5) Advertising expenses in an amount not to exceed \$3,000 annually per LEA.~~

#### ~~2366.2.4 — Evaluation Costs~~

~~Reasonable and necessary expenditures are allowable for diagnostic medical services, other tests, and associated costs when part of a comprehensive evaluation, re-evaluation, or independent evaluation.~~

#### ~~2366.2.5 — Costs of Placement in Approved Independent Schools~~

- ~~(a) Subject to (b), reasonable and necessary costs, required by a student's IEP, excluding general education tuition, of a placement in an independent school are allowable if either:
  - ~~(1) The independent school is approved by the State Board of Education for purposes of providing special education pursuant to Rule 2228 for the category of disability under which the student was determined to be eligible for special education and has been reviewed and received reimbursement approval through the residential review process;~~
  - ~~(2) The student's placement has been recommended for reimbursement either through the residential review process or as an exception by the Secretary pursuant to Rule 2228.2.(2) of a high cost day or residential placement; or~~~~

- ~~(3) The student's placement is required by a due process hearing order issued following a hearing on the merits or a court order.~~
- ~~(b) Costs approved by the State Board of Education at an independent school are only allowable if covered by a written agreement pursuant to Rule 2228.4.1 and at a rate approved under Rule 2228.8 or for an out of state placement, the rates approved under that state's approval system.~~
- ~~(c) If the costs relating to a student's attendance at an independent school or program are pursuant to a legally binding settlement agreement, the parties shall, at a minimum, make reference in the IEP to the settlement agreement as the means by which the parties have agreed to resolve placement differences. The agreement shall provide for annual review by the parties of any resolution of placement issues.~~

#### ~~2366.2.6 Unallowable Expenditures~~

~~The following are not allowable for reimbursement under the State of Vermont special education funding formula:~~

- ~~(1) Attorney's fees and other legal costs;~~
- ~~(2) Overhead costs including building operations, general administration, and business services except that are part of a collaborative tuition attributable to overhead costs, and then only to the extent that overhead costs do not exceed 20% of the total program costs;~~
- ~~(3) Funds paid to union schools or supervisory unions by member school districts as assessments for special education;~~
- ~~(4) Any costs not allowable under Rules 2366.2.1 through 2366.6;~~
- ~~(5) Any costs for financial accounting and auditing; and~~
- ~~(6) Technical Education tuition established under 16 V.S.A. §1552(a).~~
- ~~(7) Any costs related to the provision of special education to a student that has reached age 22 unless the Secretary has granted an extension under 16 V.S.A. §2944(e) and~~

~~(8) Any costs related to parentally placed independent school students in excess of the proportionate share required by the IDEA except if pursuant to a hearing officer order reached on the merits or a court order.~~

### ~~2366.2.7~~ — ~~Transition from Residential Placement~~

~~Expenditures for certain transitional services which otherwise would not be reimbursed as allowable costs pursuant to Rule 2366 et seq. may be reimbursed for students who are being returned from residential placement under the following conditions:~~

- ~~(1) A plan for transitional and educational services shall be submitted to the Secretary of Education within a reasonable time prior to the change in placement and shall contain a description of the services to be provided and the estimated costs of those services. The contents of the plan shall be consistent with those prescribed by the Secretary. The plan for transitional services, including estimated costs, shall receive approval from the Secretary in order for reimbursement of the otherwise non-allowable costs to occur.~~
- ~~(2) The Secretary's approval of a plan for transitional and educational services shall specify the limit as to the amount that will be reimbursed and the period during which such reimbursement will be made.~~

### ~~2366.2.8~~ — ~~Special Education Administration Costs~~

~~Special Education administration costs shall not be included as a cost of an individual student when reporting and calculating extraordinary special education expenditures.~~

### ~~2366.3~~ — ~~Special Education Expenditures Defined~~

~~“Special education expenditures” under 16 V.S.A. §2963 shall mean a sum of money equaling all allowable expenditures for special education as defined under Rule 2366.2 less the following:~~

- ~~(1) Revenue from federal aid for special education.~~
- ~~(2) Mainstream service costs, as defined in 16.V.S.A. §2961(c)(1);~~

- ~~(3) Extraordinary special education expenditures, as defined in 16 V.S.A. §2962;~~
- ~~(4) Revenue from excess costs and special education tuitions received;~~
- ~~(5) All other state and federal funds used for special education costs. In this section, the term "other state funds" shall mean any state grant source except mainstream block grant, extraordinary services reimbursement, and special education expenditures reimbursement to which allowable special education expenditures are charged. The other state funds may include, but are not limited to the following:
  - ~~(a) Regional interdisciplinary team grants pursuant to 16 V.S.A. §2967(b)(3);~~
  - ~~(b) Regional multi-handicapped specialist grants pursuant to 16 V.S.A. §2967(b)(4);~~
  - ~~(c) Grants for building effective strategies for teaching students (BEST) pursuant to 16 V.S.A. §2969(c);~~
  - ~~(d) Training grants pursuant to 16 V.S.A. §2969(d); and~~
  - ~~(e) LEA reimbursement for state-placed students under 16 V.S.A. §2950(a).~~~~

#### **2366.4 Financial Expenditure Report**

Each LEA shall submit a financial report as required by 16 V.S.A. §2968(a) for the LEA and each member school district that expended funds for special education or received block grant funds. The report shall be completed as prescribed by the Secretary and signed by the superintendent or a person designated by the superintendent. Pursuant to 16 V.S.A. §2968(b), a late fee of \$100 per business day shall be assessed to each LEA which does not file a complete final Special Education Expenditure Report for the preceding fiscal year by the deadline established in statute.

#### **2366.4.1 Appealing Late Fee Penalties**

An LEA may appeal the late fee to the Secretary of Education. The appeal shall be received within 30 days of the due date of the report. The appeal shall be in writing and include:

- ~~(1) A statement of the reasons why the LEA was unable to file the complete report by the statutory deadline and~~
- ~~(2) The action to be taken by the LEA to ensure that future reports will be completed and filed by the due date.~~

#### ~~2366.4.2 Filing an Appeal of Penalties~~

~~The appeal shall only be granted if the report is filed by the time of the appeal.~~

#### ~~2366.4.3 Appeal Decision~~

~~The Secretary shall either grant the appeal of the penalty in whole or in part or deny the appeal in writing within 60 days of the due date of the report. The Secretary shall not grant an appeal of a late filing fee for the same LEA for two consecutive fiscal years.~~

#### ~~2366.4.4 Unforgiven Penalties~~

~~Any late penalty not forgiven on appeal shall be deducted from any payments due under any funding category covered under Title 16 of the Vermont Statutes Annotated. The penalty incurred by an LEA shall be divided among its member town(s). The proration of the penalty shall depend on which reporting entities within the LEA failed to submit final reports by the due date. If two or more reporting entities failed to meet the deadline, the penalty shall be divided equally among the late reporting entities. The penalty due to late reports from LEAs, joint contract districts and union schools shall be divided to the member towns by the same proportion that the total net cost is divided to the member towns. Any penalty attributed to the member towns of a unified union school district shall be assessed against the unified union school district.~~

#### ~~2366.5 Corrections Education~~

~~With respect to students in the custody of the Department of Corrections, the Secretary of education shall pay for the costs of special education in accordance with the provisions of 28~~

~~V.S.A. §120.~~

## ~~2366.6 Collaborative Programs~~

### ~~2366.6.1 Collaborative Program Definition; Tuition~~

~~A “collaborative program” is a program created pursuant to an agreement between two or more LEAs in accordance with 16 V.S.A. §267, for the purpose of cooperatively providing special education services. A collaborative program may offer one or more component programs (e.g. multi-handicapped, emotionally-disturbed, diversified occupations). A collaborative program may charge a tuition pursuant to 16 V.S.A. §826(b).~~

### ~~2366.6.2 Collaborative Program Accounting~~

~~The accounting for each collaborative program shall be in accordance with the Handbook for Financial Accounting of Vermont School Systems accounting procedures and:~~

- ~~(a) An enterprise fund as defined in the Handbook shall be established to account for the funds for each collaborative program;~~
- ~~(b) Notice of tuition shall be provided by the collaborative program to the appropriate school board(s) as set forth in 16 V.S.A. §826(a);~~
- ~~(c) Such tuition notice shall include a description of services to be provided, and the amount of the tuition for each component program;~~
- ~~(d) Tuition shall be proportionately calculated for students who are part time; and~~
- ~~(e) Final tuition charged shall be calculated based on the actual cost of the program.~~

### ~~2366.6.3 Non-collaborative Tuition~~

- ~~(a) An LEA may charge a special education tuition under 16 V.S.A. §826(b) for providing special education services. However, any such bill for tuition shall state the amount of the bill eligible for reimbursement under the state special education funding formula. In the case of a school~~

~~district, special education tuition shall not be charged for a student whose district of residence is the school district. In the case of a supervisory union, special education tuition shall not be charged for a student from within the supervisory union unless otherwise agreed pursuant to 16 V.S.A. §301.~~

~~(b) All the provisions of Rule 2366.6.2 apply to tuition under subsection (a) above, except that:~~

- ~~(1) It is permissible but not required that an enterprise fund be established and~~
- ~~(2) The notice of tuition establishes the maximum tuition which can be charged.~~

#### ~~2366.6.4 — Excess Costs Procedure~~

~~Excess costs which may be charged under 16 V.S.A. §826(e) are limited to allowable special education costs for services not covered by a general education tuition or a special education tuition. Allowable special education costs for this purpose are defined in Rules §2366.2.1, 2366.2.2 and 2366.2.4. The following procedures shall apply to excess costs:~~

- ~~(a) The district of residence or agency responsible shall be given prior notice by the billing district that an excess cost will be charged;~~
- ~~(b) Notice shall indicate the student's name, type, frequency of service to be provided, fee for services to be provided, and billing schedule;~~
- ~~(c) Excess cost shall be calculated based on the actual costs attributable to the student or proportionate costs in accordance with the Handbook for Financial Accounting of Vermont School Systems accounting and cost allocation procedures; and~~
- ~~(d) Excess costs shall be billed quarterly and final billings for any fiscal year shall be submitted to the sending districts prior to June 15th of that fiscal year.~~

#### ~~2366.6.5 — Allowable Costs Reporting~~

~~For financial and statistical reporting to the Secretary, the cost reported by an LEA for all allowable special education services shall be the actual cost of services provided minus the~~



~~revenue received or due for excess costs.~~

~~2366.6.6 (Reserved)~~

~~2366.6.7 Allocation of Attorney's Fees~~

~~All awards, costs and fees associated with a legal proceeding in which a collaborative program is a party shall be borne by the LEA of the student's residence unless otherwise agreed upon by the collaborative's members. However, the foregoing shall not be construed to mean that a collaborative or LEA shall be responsible for the legal fees of a parent unless ordered by a court or agreed to in mediation.~~

~~2366.6.8 Schedule of Special Education Payment and Reporting~~

~~Payments due under 16 V.S.A. §§2961 through 2963, shall be calculated and distributed pursuant to 16 V.S.A. §2969 as follows during each fiscal year:~~

- ~~(1) Mainstream Block Grants, pursuant to 16 V.S.A. §2961, shall be distributed on August 15<sup>th</sup> and December 15<sup>th</sup>. On each of these dates one-half of the state grant amount shall be forwarded.~~
- ~~(2) Special Education Expenditures Reimbursement payments shall be made, pursuant to 16 V.S.A. §2969, on the following schedule and in the amounts as indicated below:
  - ~~(a) By August 15<sup>th</sup>, 15% of the estimated reimbursement shall be forwarded. The amount shall be based on the recipient's Service Plan pursuant to 16 V.S.A. §2964.~~
  - ~~(b) By December 15<sup>th</sup>, an additional 35% of the estimated reimbursement shall be forwarded. The amount shall be based on the recipient's Service Plan, pursuant to 16 V.S.A. §2964, and adjusted according to the Special Education Expenditure Report, due on November 15<sup>th</sup>, pursuant to 16 V.S.A. §2968.~~~~

- ~~(c) By April 15<sup>th</sup>, an additional 40% of the reimbursement shall be forwarded, based on the recipient's Service Plan, pursuant to 16 V.S.A. §2964, and adjusted according to the second Special Education Expenditure Report, due March 15<sup>th</sup>, pursuant to 16 V.S.A. §2968.~~
- ~~(d) After the close of the fiscal year, the final balance of the reimbursement shall be forwarded, based on the recipient's final Special Education Expenditure Report due on August 1<sup>st</sup>, pursuant to 16 V.S.A. §2968.~~
- ~~(3) Extraordinary Services Reimbursement, pursuant to 16 V.S.A. §2962, shall be calculated as the amount due based on the recipient's previous Special Education Expenditure Report, pursuant to 16 V.S.A. §2968. Funds may be advanced in June based on estimated reports of extraordinary service costs.~~

### ~~2366.7 Reimbursement for the Costs of Educating State-Placed Children~~

~~2366.7.1 "State-placed Student" is defined in 16 V.S.A. §11(a)(28).~~

#### ~~2366.7.2 LEA reimbursement for special education costs~~

- ~~(1) For the costs of educating a state placed student, the LEA serving the child shall claim and the Secretary shall reimburse the allowable special education costs, other than costs for mainstream services pursuant to 16 V.S.A. §2950(a).~~
- ~~(2) For the purposes of this section, mainstream services means: consulting teacher services, special educator services, speech language pathology services, and special education administration as defined by Rule 2366.2.3. For the purposes of this section, the following definitions shall apply:~~
- ~~(a) "Consulting teacher services" means those services provided by a consulting teacher and include direct instruction or direct supervision of services provided by an aide, in accordance with the kind and amount of such services specified in the student's IEP.~~

~~(b) “Special educator services” means those services provided by special educator, intensive special education teacher, teacher of the blind and visually impaired, teacher of the deaf and hard of hearing or early childhood special educator, and include direct instruction in accordance with the kind and amount of such services specified in the student’s IEP.~~

~~(c) “Speech—Language Pathology Services” means those services provided by a Speech—Language Pathologist and include direct instruction or direct supervision of services provided by an aide or licensed teacher in accordance with the kind and amount of such services specified in the student’s IEP.~~

~~(3) Allowable special education costs for elementary and secondary students are as defined under Rule 2366.2, except that the ineligible portion of a non-collaborative tuition for a special education program is allowable under this section. For EEE children, allowable special education costs are the costs of providing the services specified in the student’s IEP. Special education costs funded through federal funds or any grant, are not eligible for state placed student reimbursement.~~

### ~~2366.7.3 — Payments for State-Placed Students in Residential Placements and Out-of-State Public Schools.~~

~~Payments for state placed students in residential placements and out-of-state public schools shall be in accordance with 16 V.S.A. §2950(a) & (b).~~

### ~~2366.8 — State Funding for Essential Early Education~~

~~2366.8.1 — Essential Early Education programs shall be funded in accordance with 16 V.S.A. §2948(c) and extraordinary costs allowable pursuant to 16 V.S.A. §2962 and Rule 2366.2(b).~~

## ~~2366.8.2~~ — ~~Essential Early Education Grant Funds~~

- ~~(a) Each LEA shall receive an Essential Early Education grant each year. Grants shall be calculated according to the estimated number of children from 3 through 5 years of age in the LEA. The estimated number of children who are 3 through 5 years of age shall be based on the last verified average daily membership of all children enrolled within the LEA in grades 1 through 3. The Secretary shall announce the estimated number of children three through five years of age in each LEA and the proposed grant allocation amounts by December 15<sup>th</sup>.~~
- ~~(b) Essential Early Education grant funds shall be used to provide a free, appropriate, public education to all children within the LEA who are three through five years of age and are eligible for special education.~~
- ~~(c) Once an LEA has fulfilled its obligations under subsection (b)(1) of this rule, Essential Early Education grant funds may be used:~~
- ~~(1) To provide child find activities as specified to determine eligibility of a child who is younger than three years of age; or~~
  - ~~(2) To provide services to children who are younger than six years of age who have been identified as being at risk of school failure.~~
- ~~(d) Extraordinary services reimbursement will be available for services which are required by an IEP for a child who is 3 through 5 years of age or who will be three years of age before the end of the school year.~~
- ~~(e) As a condition for receiving Essential Early Education grant funds, an LEA shall make reasonable efforts to coordinate services with local public and private agencies that provide services to children of three through five years of age.~~

## ~~2366.9 Residential Placements~~

### ~~2366.9.1 State-Operated Residential Schools and Day Programs~~

~~Funding for state-operated residential schools and day programs shall be in accordance with 16 V.S.A. §2948(f).~~

### ~~2366.9.2 Individual Residential Placements~~

~~Funding of individual residential placements shall be in accordance with 16 V.S.A. Chapter 101, subchapter 2 and 16 V.S.A. §2958(c)(2). Applications for funding of individual residential placements shall undergo the residential review process set forth in 16 V.S.A. §2958 and Rule 2366.9.2.~~

#### ~~2366.9.2.1 Residential Placement Review Team~~

~~As needed, the Secretary may appoint Agency of Education employees and others to a residential placement review team. Members of the team shall be subject to the confidentiality provisions of state and federal law. The team shall have those responsibilities set forth in 16 V.S.A. §2958(b). The team shall be composed of at least two members: (1) one who has knowledge about the child's area of disability and (2) the other who has knowledge of available resources and services in the LEA's region of the state, and, where relevant to the provision of a continuum addressing the student's disability, elsewhere in the State and in their region of the United States.~~

#### ~~2366.9.2.2 Early Notification to the Secretary~~

~~(a) Each LEA shall provide timely notification to the Secretary, in writing, with a copy sent to the student's parents, that residential placement is being considered as a possible option for inclusion in the student's IEP when there has been:~~

~~(1) A recommendation by the Evaluation and Planning Team for residential placement;~~

~~(2) A unilateral residential placement by the parents or by another state agency, pursuant to 16 V.S.A. §2942(7);~~

- ~~(3) An annual review for a student already in residential placement; or~~
- ~~(4) When any circumstance warrants consideration by the LEA that residential placement is a possible option for inclusion in a student's IEP.~~

~~Nothing herein shall be construed to mean that a student who falls within one of the above four categories necessarily requires residential placement. Additionally, nothing herein shall be construed to mean that notice to the Secretary represents a decision of the IEP participants.~~

- ~~(b) Reimbursement for residential placements shall be for placements from the date the Agency receives the notification in accord with this section. This requirement shall not apply to emergency placements made due to life threatening events to a child or to other exceptional circumstances approved by the Secretary or designee after request by an LEA and recommendation of the residential review team.~~

### **~~2366.9.2.3 — Timelines~~**

~~Unless extraordinary circumstances are presented, each LEA shall notify the Secretary at least 30 days prior to a change of placement to a residential placement, or other program, or 30 days prior to the IEP meeting where continuation at a residential placement or program is being considered. Such notice shall be given as soon as possible so that the involvement of the review team, if deemed necessary by the Secretary, does not interfere with the timelines for the placement decision.~~

### **~~2366.9.2.4 — Receipt of IEP~~**

~~Prior to an IEP team's determination that a student requires residential placement, the LEA shall forward the following documents to the Secretary:~~

- ~~(1) The student's most recent Evaluation Plan and Report;~~
- ~~(2) Current IEP;~~
- ~~(3) Residential placement application form; and~~

~~(4) Any other relevant information.~~

### ~~2366.9.2.5 Residential Review Team Procedures~~

- ~~(1) Upon receiving notice under Rule 2366.9.2.2 or the IEP under Rule 2366.9.2.4, or upon request by a parent to establish a residential placement review team to review his or her child's case, whichever comes earlier, the Secretary may establish a review team. Within ten working days of receipt of the notice, the IEP or the parental request, the Secretary or his designee shall notify the LEA and the parents whether or not a review team has been constituted or reconvened.~~
- ~~(2) The review team or any designated member thereof shall promptly investigate the need for residential placement of a student and provide technical assistance to the LEA concerning the need for residential placement, alternatives to residential placement, and alternative cost-effective residential facilities.~~
- ~~(3) Within 30 days, or less, of its establishment, the team, after investigation, may take any of the following actions, depending on the circumstances associated with the request for residential placement:
  - ~~(a) Advise the LEA and parents on alternatives to residential placement;~~
  - ~~(b) Review the individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;~~
  - ~~(c) Assist the LEA in locating cost effective and appropriate residential facilities where necessary;~~
  - ~~(d) Request, but not require, a new individualized education program when it believes that appropriate alternatives to residential placement are available; or~~
  - ~~(e) Offer mediation as a means of resolving disputes relating to the need for residential placement, the particular residential facility recommended for a student with a disability or the associated costs.~~~~

- ~~(f) The residential review team shall provide notice in writing to the LEA's IEP team if and when it determines, as a result of its review, that residential placement, or that a particular residential placement, is not appropriate. The notice shall set forth the reasons(s) for the team's conclusions.~~
- ~~(4) The Secretary may waive any provision of Rule 2366.9.2.5, not otherwise inconsistent with law for emergency placements or administrative efficiency.~~
- ~~(4) Where the team or its designee finds that the placement practices or policies of an LEA are substantially inconsistent with least restrictive environment provisions of state or federal law, it may require the agency to submit a plan of correction.~~
- ~~(5) Where the residential review team has identified, with the timelines noted above, residential facilities or alternative educational programs that are available, appropriate and less costly, and has presented such facilities or programs to the IEP team for consideration during the IEP team's consideration of placement alternatives, and the IEP team has chosen to place the child in a more costly residential facility or program, the amount of reimbursement by the State to the LEA shall be based upon the less costly placement. In such an instance, the LEA may appeal the decision of the Secretary to the State Board of Education in accordance with Rule 1230.~~
- ~~(7) Where the recommendation of the residential review team to IEP team is for a residential program or facility operated or developed by, or funded directly or indirectly through, another State agency, it shall be the responsibility of the residential review team, the LEA and the IEP team to work with the State agency in a timely manner and in accordance with the Part B Interagency Agreement, as amended.~~
- ~~(8) If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child. (34 CFR 300.104)~~
- ~~(9) The Secretary, or his designee, shall establish a system whereby the Agency of Education identifies and maintains current information on residential facilities, or other programs in Vermont and elsewhere, that provide educational programs to students with a variety of disabilities. Information about such facilities or programs may include, but not be limited to,~~



~~the categories of disabilities served by the facility or program; the state's approval status; the costs associated with tuition and services for which the facility or program charges a fee; and any other pertinent information. Any information system created by the Agency shall include a description of procedures for gathering updated information.~~

#### **~~2366.9.2.6~~ — Due Process Hearing**

~~When the residential review team recommends that a student does not require residential placement, the Secretary may initiate a special education due process hearing under Rule 2365.1.6 to determine the appropriate placement for the child.~~

#### **2366.10 Local Educational Agency Plan (LEAP)**

~~Each LEA, which receives IDEA-B federal funds, shall submit a local education agency plan as required by the Vermont Agency of Education.~~

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**23678 Children with Disabilities Enrolled in Independent Schools and in Homein-Home Study (34 C.F.R. § 300.129)**

**23678.1 Children with Disabilities Enrolled by their Parents in Independent Schools and in Homein-Home Study (34 C.F.R. § 300.130)**

Independent school children means children who are enrolled by their parents in kindergarten through grade twelve in recognized or approved independent schools, as defined in 16 V.S.A § 166, including religious elementary and secondary schools. Home study children means children enrolled with the Vermont Agency of Education in a home study program pursuant to 16 V.S.A § 166b. For the purposes of ~~Rule 2367~~~~this section~~, home study children shall be deemed the same as children enrolled by their parents in an independent school.

This section does not apply to children who are either:

- (a) Placed in independent schools by the LEA based on an IEP team's determination that the independent school, rather than the LEA's school, is the appropriate placement and least restrictive environment for the child, or
- (b) Attend an independent school because the LEA does not maintain a public school.

**23678.1.1 Child Find (34 C.F.R. § 300.131)**

- (a) Each LEA shall locate, identify, and evaluate all independent school and home study children with disabilities who are enrolled by their parents in independent, including religious, ~~elementary~~elementary, and secondary schools and home study programs located in the LEA.
- (b) Child Find design. The LEA's Cehild Ffind process shall be designed to ensure:
  - (1) The equitable participation of independent school and home study children; and
  - (2) An accurate count of those children.
- (c) Activities. In carrying out the requirements of this section, the LEA shall undertake activities similar to the activities undertaken for the LEA's public school children.
- (d) Cost. The cost of carrying out the Cehild Ffind requirements in this section, including individual evaluations, may not be considered in determining if the LEA has met its proportionate share expenditures obligation.
- (e) Completion period. The ~~C~~Cehild ~~F~~Ffind process shall be completed in a time period comparable to that for other students attending public schools in the supervisory including completion of

the initial evaluations within a 60-day time period, consistent with the evaluation process described in Rules 2362.2.1 through 2362.2.5.

### **23678.1.2 Child-Count (34 C.F.R. § 300.133(c))**

- (a) Each LEA shall:—
- (1) Conduct the consultation required by Rule 23678.1.5.1; and
  - (2) Ensure that the count is conducted on December 1 of each year.
- (b) The child count shall be used to determine the amount that the LEA shall spend on providing special education and related services to independent school and home study children with disabilities in the subsequent fiscal year.
- (c) Supplement, not supplant. Local funds may supplement and in no case supplant the proportionate amount of IDEA-B flow through funds required to be expended for independent school and home study children who are eligible for special education.

### **23678.1.3 Proportionate Share of IDEA-B Funds (34 C.F.R. § 300.133(b))**

The child count shall be used to determine the amount of IDEA-B flow-through funds that the LEA shall spend on providing special education and related services to independent school and home study children with disabilities in the next fiscal year.

- (a) Formula. Each LEA shall spend the following on providing special education and related services (including direct services) to independent school and home study children with disabilities:
- (1) For children aged ~~three~~ through 21, an amount that is the same proportion of the LEA's allocation for the next fiscal year of ~~F~~federal IDEA-B Basic flow-through funds as the number of independent school and home study children eligible for special education aged ~~three~~ through 21 who are enrolled by their parents in independent schools or home study programs located in the LEA is to the total number of children eligible for special education in its jurisdiction aged ~~three~~ through 21.
  - (2) For children aged ~~three through five~~~~3-5~~, an amount that is the same proportion of the LEA's allocation for the next fiscal year of ~~F~~federal IDEA-B Preschool flow-through funds as the number of independent school and home study children eligible for special education aged ~~three~~ through ~~five~~~~5~~ who are enrolled by their parents in independent schools and home study programs located in the LEA is to the total number of children

eligible for special education in its jurisdiction aged ~~three~~<sup>3</sup> through ~~five~~<sup>5</sup>.

- (b) Calculating proportionate amount. In calculating the proportionate amount of ~~F~~ederal flow-through IDEA-B funds to be provided for independent school and home study children with disabilities, the LEA, after timely and meaningful consultation with representatives of independent schools and home study programs, shall conduct a thorough and complete ~~C~~hild ~~F~~ind process to determine the number of independent and home study children with disabilities located in the LEA.

#### **236~~7~~<sup>8</sup>.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or ~~in-Home~~<sup>in-Home</sup> Study (34 C.F.R. § 300.137(a))**

No parentally-placed child has an entitlement to a FAPE in an independent school or home study program.

- (a) Where services are provided, they shall be provided at the discretion of the LEA in which the independent school or home study program is located.
- (b) The LEA of the parent's residence shall offer to make a FAPE available in the event the child's parent seeks enrollment in public school. Additionally, the LEA of residence shall be prepared to develop an IEP for such eligible child if he or she enrolls in public school.

#### **236~~7~~<sup>8</sup>.1.5 Services Determined**

##### **236~~7~~<sup>8</sup>.1.5.1 Consultation (34 C.F.R. § 300.134)**

To ensure timely and meaningful consultation, an LEA representative shall consult with independent school representatives and representatives of parents of independent school and home study children with disabilities during the design and development of special education and related services for the children regarding the following:

- (a) Child Find. The ~~C~~hild ~~F~~ind process, including:—
- (1) How parentally-placed independent school children suspected of having a disability can participate equitably; and
  - (2) How parents, teachers, and independent school officials will be informed of the process.
- (b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve independent school and home study children with disabilities under Rule

23678.1.3(b), including the determination of how the proportionate share of those funds was calculated.

- (c) Consultation process. The consultation process among the LEA representative, independent school officials, and representatives of parents of independent school and home study children with disabilities, including how the process will operate throughout the school year to ensure that independent and home study children identified through the Cehild Ffind process as children eligible for special education, can meaningfully participate in special education and related services.
- (d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for independent school and home study children with disabilities, including a discussion of:—
  - (1) The types of services, including direct services and alternate service delivery mechanisms; ~~and~~
  - (2) How special education and related services will be apportioned if funds are insufficient to serve all independent school and home study children; and
  - (3) How and when those decisions will be made.;
- (e) Written explanation by the LEA regarding services. How, if the LEA disagrees with the views of the independent school officials or parents of a home study child on the provision of services or the types of services (whether provided directly or through a contract) the LEA will provide to the independent school officials or home study parents a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

#### **23678.1.5.2 Written Affirmation (34 C.F.R. § 300.135)**

- (a) When timely and meaningful consultation, as required by Rule 23678.1.5.1, has occurred, the LEA representative shall obtain a written affirmation signed by the representatives of participating independent schools and home study programs.
- (b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA representative shall forward documentation of the consultation process to the Agency.

#### **23678.1.5.3 Compliance (34 C.F.R. § 300.136)**

- (a) General. An independent school official or home study parent has the right to submit an administrative complaint to the Agency that the LEA:—



- (1) Did not engage in consultation that was meaningful and timely; or
  - (2) Did not give due consideration to the views of the independent school official or home study parent.
- (b) Procedure.
- (1) If the independent school official or home study parent wishes to submit a complaint, the official shall provide to the ~~AOE~~ ~~agency~~ the basis of the noncompliance by the LEA with the applicable independent school provisions in these rules; and
  - (2) The LEA shall forward the appropriate documentation to the ~~AOE~~ ~~agency~~.
  - (3) ~~(i)~~—If the independent school official is dissatisfied with the decision of the ~~AOE~~ ~~agency~~, the official may submit a complaint to the Secretary of the U.S. Office of Education by providing the information on noncompliance described in paragraph (b)(1) of this section; and
  - ~~(4)~~ ~~(ii)~~—The ~~AOE~~ ~~agency~~ shall forward the appropriate documentation to the Secretary.

#### **23678.1.6 Services Plan ~~and~~ Record Keeping (34 C.F.R. § 300.132)**

- (a) Consistent with Rule 23678.1.3 and 23678.1.4, a services plan shall be developed and implemented for each child with a disability who has been designated by the LEA in which the independent school or home study program is located to receive special education and related services.
- (b) Record keeping. Each LEA shall maintain in its records, and provide to the Agency, the following information related to independent school and home study children:
  - (1) The number of children evaluated;
  - (2) The number of children determined to be children with disabilities; and
  - (3) The number of children served.

#### **23678.1.7 Equitable Services Determined (34 C.F.R. § 300.137)**

- (a) No independent school or home study child who is eligible for special education and related services has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
- (b) Decisions.
  - (1) Decisions about the services that will be provided to independent school and home study children who are eligible for special education and related services shall be made in

- accordance with ~~subsection paragraph (c) below of this section~~ and Rule 23678.1.5.1(c).
- (2) The LEA where the independent school or home study program is located shall make the final decisions with respect to the services to be provided to eligible parentally-placed independent school or home study children.
- (c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school or home study program by the child's parents and will receive special education or related services from an LEA, the LEA shall--
- (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 23678.1.7.1 (b); and
- (2) Ensure that a representative of the independent school or home study program attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the independent school or home study program, including individual or conference telephone calls.

#### **23678.1.7.1 Equitable Services Provided (34 C.F.R. § 300.138)**

- (a) General.
- (1) The services provided to independent school and home study children who will be receiving services through a services plan shall be provided by personnel meeting the same standards as personnel providing services in the public schools.
- (2) Independent school and home study children who are eligible for special education and related services and will be receiving services through a services plan may receive a different amount of services than children with disabilities in public schools.
- (b) Services provided in accordance with a services plan.
- (1) Each independent school or home study child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Rules 23678.1.5.1 and 23678.1.6, it will make available to independent school and home study children who are found eligible for services.
- (2) The services plan shall, to the extent appropriate:--
- (i) Meet the requirements of an IEP with respect to the services provided; and
- (ii) Be developed, reviewed, and revised consistent with the requirements for either plan.

### **23678.1.8 Location of Services; Transportation (34 C.F.R. § 300.139)**

- (a) Services on independent school or home study premises. Services to independent school and home study children on a services plan may be provided on the premises of independent, including religious, schools or home study program, to the extent consistent with law.
- (b) Transportation.
  - (1) General.
    - (i) If necessary for the child to benefit from or participate in the services provided under this part, an independent school or home study child with a disability shall be provided transportation--
      - (A) From the child's school or the child's home to a site other than the independent school; and
      - (B) From the service site to the independent school, or to the child's home, depending on the timing of the services.
    - (ii) LEAs are not required to provide transportation from the child's home to the independent school.
  - (2) Cost of transportation. The cost of the transportation described in subsection paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the minimum proportionate share requirement.

### **23678.1.9 —Funds May Not Benefit an Independent School or Home Study Program (34 C.F.R. § 300.141)**

- (a) ~~An~~ LEA may not use funds provided under Part B of the IDEA to finance the existing level of instruction in an independent school or home study program or to otherwise benefit the independent school or home study program.
- (b) The LEA shall use funds provided under Part B of the IDEA to meet the special education and related services needs of independent school and home study children with disabilities, but not for--
  - (1) The needs of an independent school or home study program; or
  - (2) The general needs of the students enrolled in the independent school or home study program.

**236~~78~~.1.10 Use of Public and Independent School Personnel to Provide Services (34 C.F.R. § 300.142)**

- (a) Provision of equitable services. The provision of services shall be provided:
  - (1) By employees of an LEA; or
  - (2) Through contract by the LEA with an individual, association, agency, organization, or other entity.
- (b) Special education and related services provided to independent school and home study children with disabilities, including materials and equipment, shall be secular, neutral, and non-ideological.
- (c) Use of public school personnel. An LEA may use IDEA-B flow-through grant funds to make public school personnel available in other than public facilities:--
  - (1) To the extent necessary to provide services under a services plan for independent school and home study children with disabilities; and
  - (2) If those services are not normally provided by the independent school.
- (d) Use of independent school personnel. AN LEA may use IDEA-B flow-through grant funds to pay for the services of an employee of an independent school to provide services under a services plan if:--
  - (1) The employee performs the services outside of his or her regular hours of duty; and
  - (2) The employee performs the services under public supervision and control.

**236~~78~~.1.11 Property, Equipment, and Supplies (34 C.F.R. § 300.144)**

- (a) An LEA shall control and administer the funds used to provide special education and related services under Rules 236~~78~~.1.7 and 236~~78~~.1.8, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.
- (b) The LEA may place equipment and supplies in an independent school or home study program for the period of time needed for the Part B program.
- (c) The LEA shall ensure that the equipment and supplies placed in an independent school or home study program--
  - (1) Are used only for Part B purposes; and
  - (2) Can be removed from the independent school or home study program without remodeling the independent school or home study facility.

- (d) The LEA shall remove equipment and supplies from an independent school or home study program if:
  - (1) The equipment and supplies are no longer needed for Part B purposes; or
  - (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
- (e) No IDEA-B funds may be used for repairs, minor remodeling, or construction of independent school or home study facilities.

### **23678.1.12 Complaints (34 C.F.R. § 300.140)**

Independent school and home study children with disabilities have the right to file a complaint for due process under Rule 2365.1.6 only for the purpose of pursuing complaints that an LEA has failed to meet its responsibilities with regard to Cehild\_ Ffind, including following procedures for evaluation and determination of eligibility. All other complaints may be pursued by way of the Agency of Education's administrative complaint procedure.

### **23678.2 School Districts without a Public School**

A school district that does not maintain a public school or has not designated, in accordance with applicable law, an approved independent school at the grade level needed by a resident student eligible for special education, shall provide the student a free appropriate public education. All special education evaluations, planning and due process procedures, as required by these rules and by federal law, shall be made available to students who are referred for a special education evaluation or who are eligible for special education and to their parents. The location for IEP services shall be determined in the following manner:

- (a) The choice of a specific school(s) appropriate to fulfill the IEP, including the requirements to educate the student in the least restrictive environment, shall be determined by a student's IEP team after the IEP is developed. If the IEP team does not reach consensus about the location of services, the LEA representative shall determine the location of services. This shall be communicated to the parents within five working days of this determination.
- (b) If the parents choose to have their child served, pursuant to his or her IEP, at a school other than that selected by the IEP team or by the LEA representative, and the IEP team agrees that the IEP can be adequately implemented at the school chosen by the parents, the following shall be applicable:

- (1) Public School: If the parents select a public school, the LEA shall pay any special education tuition or excess costs allowed by law.
- (2) Independent School:
  - (i) If the parents select an independent school approved for special education purposes that is generally attended by general education students that a non-special education student from the LEA could choose to attend, the LEA shall fund the actual costs associated with the parents' placement minus any costs that would accrue to the parents of a non-special education student placed at the same school.
  - (ii) If the parents select an independent school not generally attended by general education students, the LEA shall pay the actual educational costs associated with the parents' placement to the amount that would have been spent on the school chosen by the IEP team provided the school selected by the parents is approved for special education in the area of the child's disability.

**23678.3 Placement of Children by Parents if FAPE is at Issue (34 C.F.R. § 300.148)**

- (a) LEAs are not required to pay for the cost of education, including special education and related services, of a child eligible for special education at an independent school or facility, if the LEA has offered to make a FAPE available to the child and the parents elected to place the child in an independent school or facility. However, the LEA shall include that child in the population whose needs are addressed consistent with Rules 23678.1.1 through 23678.1.11.
- (b) Reimbursement for independent school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of an LEA, enroll the child in an independent elementary school, or secondary school without the consent of, or referral by the LEA, a court or a hearing officer may require the LEA to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the LEA had not made FAPE available to the child in a timely manner prior to that enrollment and that the independent placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the Agency and LEAs.
- (c) Limitation on reimbursement. The cost of reimbursement described in subsection paragraph
  - (b) ~~of this section~~ may be reduced or denied:--
    - (1) If:--

- (i) At the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the LEA to provide FAPE to their child, including stating their concerns and their intent to enroll their child in an independent school at public expense; or
  - (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the LEA of the information described in subsection paragraph (c)(1)(i) of this section;
- (2) If, prior to the parents' removal of the child from the public school, the LEA informed the parents, through the notice requirements described in Rule 2365.1.1 of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or
- (3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.
- (d) Exception. Notwithstanding the notice requirement in subsection paragraph (c)(1) of this section, the cost of reimbursement:
- (1) Shall not be reduced or denied for failure to provide the notice if:
    - (i) The school prevented the parent from providing the notice;
    - (ii) The parents had not been informed about the requirements placed on them in paragraph (c)(1) of this rule before they took action to place their child; or
    - (iii) Compliance with subsection paragraph (c)(1) of this section would likely result in physical harm to the child; and
  - (2) May, at the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:
    - (i) The parent is not literate or cannot write in English; or
    - (ii) Compliance with subsection paragraph (c)(1) of this section would likely result in serious emotional harm to the child.

## 2368 Educational Surrogate Parents

- (a) To ensure that the educational rights of a child or student are protected, an educational surrogate parent shall be assigned whenever the individual is eligible for special education or is being evaluated for special education eligibility, and one of the following applies:
- (1) The parents of the student are not known or cannot be located after reasonable efforts;
  - (2) The student is a child in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§9301-9316); or
  - (3) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4)).
- (b) The Secretary of Education or a designee shall assign an individual to act as an educational surrogate parent. The educational surrogate parent may represent the child in all matters relating to:
- (1) The identification, evaluation, and educational placements of the child; and
  - (2) The provision of FAPE to the child.
- (c) The Educational Surrogate Parent Program shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after an LEA or other responsible agency determines that the child needs a surrogate.
- (d) Before making the appointment, the Secretary or designee shall assure that the person appointed as an educational surrogate parent:
- (1) Has no personal or professional interest that conflicts with the interests of the student to whom the surrogate is assigned;
  - (2) Has knowledge and skills that ensure adequate representation of the child; and
  - (3) Is not an employee of the Agency of Education, the child's LEA, or any other agency that is involved in the education or care of the child.
- (e) In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates without regard to paragraph (d)(3).
- (f) A foster parent or developmental home provider shall not automatically have the rights of a parent, but may be appointed by the Secretary of Education or designee to serve as an educational surrogate parent for the child, pursuant to subsections (a), (b), and (d) above.



(g) Nothing in this section shall be interpreted to diminish, or otherwise alter, any authority or responsibility of a state agency regarding general education decisions for a child in state custody pursuant to Chapters 49 and 55 of Title 33 or a vulnerable adult in state custody pursuant to Chapter 215 of Title 18.

### **2369 Monitoring and Corrective Action**

—The Secretary shall periodically monitor all LEAs for compliance with Vermont statutes and rules, and federal requirements under the IDEA. The monitoring process shall include, but not be limited to, review of the State Performance Plan indicators and provision of FAPE for all eligible students.

(a)

(b) The monitoring procedures may include, but are not limited to:

(1) A self-assessment conducted by the LEA being monitored;

(2) Review of data, reports, and student records;

(3) On-site visits;

(4) Comparison of a sample of individualized education programs with the programs and services provided; and

—Development of an improvement plan by the LEA being monitored to address areas of noncompliance identified during the self-assessment.

(5)

—After the monitoring process is completed, a report shall be written and sent to the LEA. If the report indicates noncompliance, the LEA shall develop an improvement plan that includes areas of need identified through self-assessment as well as noncompliance cited by the Secretary, and submit it to the Secretary for approval. The Secretary shall review the improvement plan and notify the LEA if it is acceptable.

(c)

(d) An improvement plan shall include, but not be limited to, the following:

(1) Objectives and strategies for correcting each noncompliance item cited, including resources needed; and

—The dates by which noncompliance will be corrected.

(2)

—Corrective actions identified in the improvement plan shall be completed as soon as possible, but in no case later than one year after the Secretary’s identification of noncompliance.

(e)

(f) When an improvement plan is not submitted, found unacceptable, or not implemented, the Secretary shall notify the LEA of additional intended actions. These actions may include, but are not limited to:

(1) Further monitoring;

(2) Mandatory technical assistance or professional development;

—Withholding or directing of funding.

(3)

—An LEA shall provide documentation necessary for the Secretary to fulfill the Agency’s reporting obligations pursuant to federal regulations. Documentation shall be provided in accordance with the timeline and format specified by the Secretary.

(g)

(h) If documentation is not submitted consistent with subsection (g) of this Rule, the Secretary shall notify the LEA of additional intended actions.

**Effective Date:**

**These rules will take effect on July 1, 2022.**

# State of Vermont



# Special Education Rules



Effective July 1, 2022

**STATE OF VERMONT  
GOVERNOR**

Phil Scott

**VERMONT AGENCY OF EDUCATION  
SECRETARY**

Daniel M. French, Ed. D.

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# STATE OF VERMONT

## SPECIAL EDUCATION RULES

### STATUTORY AUTHORITY

#### Federal Statutory Authority:

Individuals with Disabilities Education Act of 2004

#### State Statutory Authority in accordance with 3 V.S.A. Chapter 25:

16 V.S.A. § 164(7)

16 V.S.A. Chapter 101

### Introduction:

#### INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004

The Individuals with Disabilities Education Act (IDEA), first enacted in 1975 and most recently revised in 2004, is a federal law governing how States provide accommodations, and services to support children and students with disabilities in their education.

IDEA is composed of four parts:

- ◆ Part A – General Provisions
- ◆ Part B – Assistance for Education of All Children with Disabilities (ages three through 21)
- ◆ Part C – Infants and Toddlers with Disabilities (birth up to age three)
- ◆ Part D – National Activities to Improve Education of Children with Disabilities

These Rules relate specifically to Part C and Part B of IDEA and also provide reference to other pertinent federal and State Rules governing special education in Vermont. Major Rules Sections are organized based on chronology:

- (1) General – Vermont Special Education Rules
- (2) Part C – Rules governing services to children birth up to age three
- (3) Part B – Rules governing services to students ages three through 21
- (4) Supplemental Rules Pertinent to Special Education and Section 504 of the Rehabilitation Act of 1975

# **General Provisions**

## **of Vermont's Special Education Rules**

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## **2360 Special Education**

### **2360.1 Statement of Purpose**

These rules are designed to ensure that:

- (a) Eligible Vermont students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; in accordance with state and federal laws and regulations and in a cost-effective manner; and
- (b) The rights of children with disabilities and their parents are protected.

### **2360.2 Free Appropriate Public Education (FAPE) (34 Code of Federal Regulations (C.F.R.) § 300.101)**

These rules implement the Individuals with Disabilities Education Improvement Act (IDEA), as amended. These rules provide for the education of children and students between the ages of three through 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Rule 4313. The Agency may use whatever State, local, federal, and private sources of support are available in the State to meet the requirements of this part. For example, if it is necessary to place a child with a disability in a residential facility, the State could use joint agreements between the agencies involved for sharing the cost of that placement.

Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. Consistent with Rule 2363.1 the Agency shall ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

#### **2360.2.1 FAPE for children beginning at age three (34 C.F.R. § 300.101)**

An eligible child shall be entitled to a free appropriate public education beginning no later than the child's third birthday and continuing, unless otherwise provided herein, through 21 years of age.

An individualized education program (IEP), rather than an individualized family service plan (IFSP/One Plan), shall be in effect for an eligible child by his or her third birthday. If a child's

third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin.

#### **2360.2.2 FAPE for students who have graduated (34 C.F.R. § 300.102(a)(3))**

A student who has graduated from high school with a regular high school diploma shall not be entitled to a FAPE. A student who has not yet graduated and whose entitlement to a FAPE ends because the upper age limit of eligibility is reached as described in Rule 2360.2, may be allowed to complete the remaining academic year with IEP team approval and approval from the Agency of Education.

#### **2360.2.3 FAPE for students who have dropped out of school:**

If a student drops out of school, that student may return at any time and request to be provided with a FAPE until the student graduates with a high school diploma or the student's entitlement to a FAPE ends because the upper age limit of eligibility is reached as described in Rule 2360.2.

#### **2360.2.4 FAPE for children advancing from grade to grade (34 C.F.R. § 300.101(c))**

Each LEA shall provide a FAPE to any individual child with a disability, who is eligible for special education, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination that a child advancing from grade to grade may be eligible for special education shall be made on an individual basis by the child's Evaluation Planning Team (EPT) or IEP team.

#### **2360.2.5 FAPE for students who are incarcerated in adult correctional facilities:**

- (a) For a person between the ages of 18 through age 21:
  - (1) If a person in his or her last educational placement before incarceration had not been identified as a child with a disability who was eligible for special education and did not have an IEP in place, the Department of Corrections will not be mandated to provide a FAPE.

- (i) The Department of Corrections shall make reasonable efforts to obtain and review whatever information is needed to determine that the incarcerated individual has not been identified as a child eligible for special education and did not have an IEP in his or her last educational placement prior to incarceration in an adult correctional facility.
- (2) A person who is incarcerated shall be entitled to a FAPE if:
  - (i) The person was provided services through an IEP before incarceration;
  - (ii) The person had been provided services through an IEP, had left school, then was incarcerated; or
  - (iii) The person had not been provided services through an IEP, but had been identified as a child with a disability who was eligible for special education.
- (3) The following requirements do not apply to incarcerated students aged 18 through 21 (34 C.F.R. § 300.324):
  - (i) The requirement to participate in state or district-wide assessment of student achievement programs; and
  - (ii) The IEP requirements for transition planning and transition services, if the inmate will reach the upper age limit for a FAPE before release from prison based on consideration of sentence and eligibility for early release.
- (4) Modifications of IEP or placement.
  - (i) The IEP team may modify the student's IEP or placement if the Department of Corrections has demonstrated a bona fide security or other compelling interest that cannot otherwise be accommodated.
  - (ii) The LRE requirements of Rule 2364 do not apply to incarcerated students on IEPs.
- (b) For incarcerated persons under the age of 18, the Department of Corrections shall ensure that at intake, a screening occurs to identify those who have a disability or who are suspected of having a disability and who are in need of special education. Those who are in need of special education shall be provided with an IEP and re-evaluations as prescribed under Rule 2362.

**2360.2.6 Residential Placement (34 C.F.R. § 300.104)**

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child.

### **2360.2.7 Assistive Technology (34 C.F.R. § 300.105)**

- (a) Each LEA shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Rule 2361.1(c), are made available to a student with a disability if required as a part of the student's:
  - (1) Special education services under Rule 2360.2.12;
  - (2) Related services under Rule 2360.2.16; or
  - (3) Supplementary aids and services under Rules 2361.1(ii).
- (b) On a case-by-case basis, the use of school purchased assistive technology devices in a student's home or in other settings is required if the student's IEP team determines that the student needs access to those devices in those settings in order to receive FAPE (34 C.F.R. § 300.105(b)).
- (c) A plan to ensure that all instructional materials to be used are available in a usable alternative format which shall meet the National Instructional Materials Accessibility Standard (NIMAS); in accordance with Appendix C to part 300 of title 34 of the Code of Federal Regulations for each student with a disability in accordance with that student's IEP. Such material shall be delivered in a timely manner. A "timely manner" shall mean that schools will ensure that students with print disabilities have access to special instructional materials at the same time as students without print disabilities.

### **2360.2.8 Extended School Year Services (34 C.F.R. § 300.106)**

Each LEA shall ensure that Extended School Year Services (ESY) are available as necessary to provide FAPE consistent with Rule 2363.7(h) and at no cost to the parents of the child.

### **2360.2.9 Non-academic services (34 C.F.R. § 300.107)**

- (a) Each LEA shall take steps including the provision of supplementary aids and services determined appropriate and necessary by the child’s IEP team to provide non-academic and extra-curricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.
- (b) Non-academic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

**2360.2.10 Physical education (34 C.F.R. § 300.108)**

Each LEA shall:

- (a) Provide physical education services, specially designed if necessary, that shall be made available to every child with a disability receiving FAPE unless the LEA enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.
- (b) Afford the opportunity to each eligible child to participate in the regular physical education program available to nondisabled children unless--
  - (1) The child is enrolled full time in a separate facility; or
  - (2) The child needs specially designed physical education as prescribed in the child's IEP.
- (c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the LEA responsible for the education of that child shall provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d) Education in separate facilities. The LEA responsible for the education of an eligible child who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services in compliance with this section.

**2360.2.11 Program Options (34 C.F.R. § 300.110)**

Each LEA shall ensure that children receiving special education have available to them the variety of educational programs and services available to nondisabled children in the LEA, including art, music, industrial arts, consumer and homemaking education, and vocational education.

**2360.2.12 Special Education Services (34 C.F.R. § 300.39)**

- (a) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education. Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child’s disability, and to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the State that apply to all children.
- (b) Special education includes each of the following, if the services otherwise meets the requirements of subsection (a):
- (1) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
  - (2) Travel training;
  - (3) Vocational education; and
  - (4) Co-teaching.
- (c) Individual special education terms defined. The terms in this definition are defined as follows:
- (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
  - (2) Physical education means—
    - (i) The development of—
      - (A) Physical and motor fitness;
      - (B) Fundamental motor skills and patterns; and
      - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

- (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
  - (i) Develop an awareness of the environment in which they live; and
  - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- (4) Vocational education or technical education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.
- (5) Co-teaching services is the delivery of special education services in the general education classroom provided jointly by the general education classroom teacher and a special education teacher.
  - (i) By selecting the co-teaching services model, the IEP team has determined that there is no compelling reason why the child’s instruction cannot be provided jointly in the general education classroom. The general education classroom teacher shall be an active participant in IEP meetings.
  - (ii) The general education and special education teachers will review and document each child’s progress towards course objectives and IEP goals.
  - (iii) Should a progress review at any grading period indicate that a child is in danger of failing a course or is not making satisfactory progress towards IEP goals, the IEP team shall meet immediately to:
    - (A) Determine continued co-teaching services or change of placement, and
    - (B) Revise the IEP as appropriate.
  - (iv) In order to offer co-teaching services, the LEA must complete a plan for implementation which includes continuous professional development and submit the plan to the Vermont Agency of Education for approval.
- (d) To ensure successful post-secondary transition, transition services may be special education, if provided as specially designed instruction, or related services, if required to assist a student to benefit from special education.

- (1) “Transition services” means a coordinated set of activities for a child with a disability that:
- (i) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability, and to facilitate the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
  - (ii) Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes:
    - (A) Instruction;
    - (B) Related services;
    - (C) Community experiences;
    - (D) The development of employment and other post-school adult living objectives; and
    - (E) If appropriate, acquisition of daily living skills and functional vocational evaluation.

### **2360.2.13 Personnel Qualifications**

- (a) The Vermont Agency of Education has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.
- (b) Related services personnel and paraprofessionals: The qualifications under subsection (a) include qualifications for related services personnel and paraprofessionals that:
  - (1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;
  - (2) Ensure that related services personnel who deliver services in their discipline or profession meet the requirements of subsection(1) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
  - (3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of



this part to be used to assist in the provision of special education and related services to children with disabilities.

- (c) Policy: In implementing this section, the Vermont Agency of Education has a policy that includes a requirement that responsible LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

#### **2360.2.14 Required Forms**

The Secretary shall develop, make available, and publish a list of required and suggested special education forms for use by LEAs in implementing special education and related services. Responsible agencies shall use the special education forms, which the Secretary designates for required use. The forms provided by the Secretary shall not require more paperwork than is required by federal law and regulation.

#### **2360.2.15 Use of Insurance (34 C.F.R. § 154(d)-(g))**

- (a) Nothing in these regulations or the regulations implementing IDEA is intended to relieve an insurer, Medicaid, or other third party, from an otherwise valid obligation to provide or pay for services to a student who is eligible for special education. An LEA shall use funds from the State Medicaid reimbursement administrative special fund in accordance with 16 V.S.A. § 2959a(e).
- (1) Children with disabilities who are covered by public insurance.
- (i) An LEA may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA Part B, as permitted under the public benefits or insurance program, except as provided in paragraph (1)(ii) of this section.
- (ii) With regard to services required to provide FAPE to an eligible child under IDEA Part B, the LEA:
- (A) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under these rules;
- (B) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to IDEA Part B, but pursuant to subsection (4)(ii) below may pay the

cost that the parent otherwise would be required to pay;

- (C) May not use a child's benefits under a public benefits or insurance program if that use would--
  - 1) Decrease available lifetime coverage or any other insured benefit;
  - 2) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
  - 3) Increase premiums or lead to the discontinuation of benefits or insurance; or
  - 4) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and
- (D) Shall obtain informed written parental consent, consistent with Rule 2365.1.3(b) with notification to parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

(2) Children with disabilities who are covered by private insurance.

- (i) With regard to services required to provide FAPE to an eligible child under IDEA Part B, an LEA may access a parent's private insurance proceeds only if the parent provides informed written consent consistent with Rule 2365.1.3(b).
- (ii) Each time the LEA proposes to access the parent's private insurance proceeds, the agency shall--
  - (A) Obtain informed written parental consent consistent with (2)(i); and
  - (B) Inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

(3) Use of Part B funds.

- (i) If an LEA is unable to obtain parental consent to use the parent's private insurance, or public insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the LEA may use its Part B funds to pay for the service.
- (ii) To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the LEA may use its Part B funds to pay the cost that the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

- (4) Proceeds from public or private insurance.
- (i) Proceeds from public or private insurance will not be treated as program income for purposes of 34 C.F.R. § 80.25, Education Agency General Administrative Regulations (EDGAR).
  - (ii) If an LEA spends reimbursements from federal funds (e.g., Medicaid) for services under IDEA Part B, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in 34 C.F.R. § 300.163 Maintenance of State Financial Support and § 300.203 Maintenance of Effort obligation for LEAs.
- (5) Nothing in these rules should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations, or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. § 1396 through § 1396v and 42 U.S.C. § 1397aa through § 1397jj, or any other public benefits or insurance program.

**2360.2.16 Related Services (34 C.F.R. § 300.34)**

- (a) The term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child who requires special education services to benefit from his or her special education.
- (b) Exception. Except as provided in Rule 2360.2.18, related services do not include a medical device that is surgically implanted, the optimization of device functioning, maintenance of the device, or the replacement of that device.
- (c) A child will not be designated as a child who is eligible for special education, if the child needs only a related service, but not special education services.
- (d) Related services shall include, but are not limited to:
  - (1) Audiology that includes:
    - (i) Identification of children with hearing loss;
    - (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
    - (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

- (iv) Creation and administration of programs for prevention of hearing loss;
  - (v) Counseling and guidance of children, parents, and teachers regarding hearing loss;  
and
  - (vi) Determination of children's needs for group and individual amplification, selecting  
and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- (2) Counseling services provided by qualified social workers, psychologists, guidance  
counselors, or other qualified personnel.
  - (3) Early identification and assessment of disabilities in children.
  - (4) Interpreting services, as used with respect to children who are deaf or hard of hearing,  
includes oral transliteration services, cued language transliteration services, sign language  
transliteration services, sign language interpreting services, transcription services, such  
as communication access real-time translation (CART), C-Print, and TypeWell, and  
special interpretive services for children who are deaf-blind.
  - (5) Medical services provided by a licensed physician to determine a child's medically  
related disability that results in the child's need for special education and related services.
  - (6) Occupational therapy is:
    - (i) Services provided by a qualified occupational therapist; and
    - (ii) Includes:
      - (A) Improving, developing, or restoring functions impaired or lost through illness,  
injury, or deprivation;
      - (B) Improving ability to perform tasks for independent functioning if functions are  
impaired or lost; and
      - (C) Preventing, through early intervention, initial or further impairment or loss of  
function.
  - (7) Orientation and mobility services are:
    - (i) Services provided to blind or visually impaired students by qualified personnel to  
enable those students to attain systematic orientation to and safe movement within  
their environments in school, home, and community; and
    - (ii) Travel training instruction, and teaching students the following, as appropriate:
      - (A) Spatial and environmental concepts and use of information received by the  
senses (such as sound, temperature, and vibrations) to establish, maintain, or  
regain orientation and line of travel (e.g., using sound at a traffic light to cross  
the street);

- (B) The use of the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;
  - (C) To understand and use remaining vision and distance low vision aids; and
  - (D) Other concepts, techniques, and tools.
- (8) Parent counseling and training as follows:
- (i) Assisting parents in understanding the special needs of their child;
  - (ii) Providing parents with information about child development; and
  - (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP/One Plan.
- (9) Physical therapy services provided by a qualified physical therapist.
- (10) Psychological services as in:
- (i) Administering psychological and educational tests, and other assessment procedures;
  - (ii) Interpreting assessment results;
  - (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
  - (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
  - (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
  - (vi) Assisting in developing positive behavioral intervention strategies.
- (11) Recreation includes:
- (i) Assessment of leisure function;
  - (ii) Therapeutic recreation services;
  - (iii) Recreation programs in schools and community agencies; and
  - (iv) Leisure education.
- (12) Rehabilitation counseling services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.

- (13) School nurse services provided by a qualified school nurse, designed to enable a child with a disability to receive FAPE as described in the child's IEP.
- (14) Social work services in schools include:
- (i) Preparing a social or developmental history on a child with a disability;
  - (ii) Group and individual counseling with the child and family;
  - (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
  - (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
  - (v) Assisting in developing positive behavioral intervention strategies.
- (15) Transportation includes:
- (i) Travel to and from school and between schools;
  - (ii) Travel in and around school buildings; and
  - (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.
- (16) Speech-language pathology services include:
- (i) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
  - (ii) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
- (17) Transition services may be related services, if required to assist a child to benefit from special education.

**2360.2.17 Individual Education Programs (IEP) (34 C.F.R. § 300.112)**

An IEP shall be developed, reviewed, and revised for each child with a disability consistent with Rule 2363.

**2360.2.18 Routine checking of hearing aids and external components of surgically implanted medical devices (34 C.F.R. § 300.113)**

- (a) Hearing Aids

- (1) Each LEA shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.
- (b) Surgically Implanted Devices
  - (1) Each LEA shall ensure that the external components of surgically implanted medical devices are functioning properly.
  - (2) LEAs are not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.

**2360.3 Child Find (34 C.F.R. § 300.111)**

- (a) All children and students with disabilities, regardless of the severity of their disability, residing within the State, including children and students with disabilities who are homeless or are in State custody or are vulnerable adults, or are attending independent schools or enrolled in home study, and who are in need of special education and related services shall be identified, located and evaluated.
- (b) LEAs are responsible for establishing and implementing a comprehensive Child Find system for children and students from birth through 21 years of age.
  - (1) Except for students who are parentally placed in independent elementary and secondary schools outside of the LEA of residence, the LEAs are responsible for ensuring Child Find for all students who reside within the LEA.
  - (2) For students ages five through 21 who are parentally placed in independent elementary and secondary schools outside their LEA of residence, the LEA where the independent school is located shall have Child Find responsibility.
  - (3) For children birth up to age three, the LEA may fulfill its Child Find responsibility by developing and maintaining a regional agreement with a Children's Integrated Services/Early Intervention (CIS/EI) program or other entities.
- (c) Each LEA shall ensure that public notification is given before conducting any significant activity that is designed to identify, locate, and evaluate children and students ages birth through 21. In addition, the AOE shall provide a public notice in major newspapers to inform parents that the information gathered shall be treated confidentially.
  - (1) All notices shall be available in the native languages of the major population groups within the State; and

- (2) The notices shall indicate that information obtained during “Child Find” shall remain confidential for all children and students as required in Rule 2365.2 “Confidentiality of Information and Student Records”; and
  - (3) The notices shall contain a description of the children or students about whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information; and
  - (4) The notices shall contain a summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
  - (5) The notices shall contain a description of the Family Educational Rights and Privacy Act of 1974 (34 C.F.R., Part 99) and implementing regulations.
- (d) Each LEA shall annually inform the public regarding the availability of early intervention for children from birth up to age three and special education services for children or students ages three through 21, including:
- (1) Children or students who are not enrolled in school;
  - (2) Children or students attending independent schools or who are enrolled in home study programs;
  - (3) Children or students who are suspected of having a disability even though they are advancing from grade to grade;
  - (4) Children or students who are highly mobile such as migrant children; and
  - (5) Children or students who are homeless or in State custody or who are vulnerable adults.
- (e) In addition to posting notices in major newspapers, notification activities may also include the posting of notices on websites, fliers in various locations such as physicians’ offices and health centers, radio or television announcements, and community outreach.
- (f) Each LEA shall act as a primary referral source to identify, locate, and screen children who may be in need of early intervention services and refer identified children to regional CIS/EI programs. Children who are found to be typically developing based on screening results shall not be considered identified children requiring referral.



- (1) For children birth up to age three, the Child Find system shall employ specific elements of public awareness, screening, and referral to regional CIS/EI programs.
  - (2) For children birth up to age three, the LEA shall act at as a primary referral source and notify regional CIS/EI programs of children who may be in need of a comprehensive multidisciplinary initial evaluation to determine eligibility for Part C services.
  - (3) For children birth up to age three, the Coordinator of the State's Part C CIS/EI program shall forward to the AOE an annual child count of children being served under Part C.
- (g) Each LEA shall identify, locate, and evaluate all children and students, who may be eligible for special education and related services, ages three through 21 residing within the jurisdiction of the responsible agency.
- (1) Annually each LEA shall submit to the AOE, in the specified electronic format, data requested regarding children and students ages three through 21 who have been found eligible for special education under the IDEA.

**2360.4 Reserved**

# Part C

## Vermont Rules Governing Services to Children Birth up to Age Three

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# Part C of the Individuals with Disabilities Education Act (IDEA)

## Serving Children from Birth Up to Age Three

### 2360.5 Part C Early Intervention Services

In Vermont, Part C of IDEA is referred to as Children's Integrated Services/Early Intervention (CIS/EI) and is responsible for the provision of early intervention services for eligible children birth up to their third birthday. Part B of IDEA requires LEAs to provide FAPE to eligible children and students from their third birthday through 21 years of age, whereas Part C of IDEA does not require the provision of FAPE. The Agency of Education (AOE) and the Agency of Human Services (AHS) serve as co-lead agencies in Vermont for the implementation of early intervention services under Part C of IDEA.

#### **2360.5.1 Part C and CIS/EI Definitions**

- (a) The following definitions apply to Vermont CIS/EI for use in implementing the State's early intervention program:
- (1) **Child** means an individual under the age of six.
  - (2) **CIS/EI**, the acronym for Children's Integrated Services/Early Intervention (CIS/EI), provides services under Part C of IDEA and is a federally mandated system of early intervention services for children birth up to age three with developmental delays or medical conditions that may lead to developmental delays.
  - (3) **Consent** means:
    - (i) Parent(s) has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language;
    - (ii) Parent(s) understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released;

- (iii) Parent(s) understands that the granting of consent is voluntary on the part of the parent, and may be revoked at any time; and
  - (iv) If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).
- (4) **Day** means calendar day, unless otherwise indicated.
- (5) **Developmental Delay** is defined as an observable and measurable delay as determined by state approved diagnostic instruments, other appropriate measures including observations, medical records or other records deemed necessary and procedures, emphasizing the use of informed clinical opinion. The delay must be defined in one or more of the following areas: cognitive; communication; adaptive; physical, including vision and hearing; and social or emotional development.
- (6) **Essential Early Education (EEE)** is IDEA Part B Early Childhood Special Education services for children ages three up to six. Special education and related services are provided by LEAs to ensure children receive age appropriate services within inclusive early childhood settings, including the child’s home, to the extent possible.
- (7) **Evaluation of the Child and Assessment of the Child and Family:**
- (i) **Evaluations** are procedures used by qualified personnel to determine a child’s initial and continuing eligibility under these Rules, consistent with the definition of child with a disability.
  - (ii) **Initial Evaluation** determines a child’s initial eligibility for Part C services and must be completed within the 45-day timeline from date of referral.
  - (iii) **Assessment** is an ongoing process, by qualified personnel, to identify the child’s unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child’s eligibility.
- (8) **Early Intervention Records** are records pertaining to a child receiving services that are required to be collected and maintained pursuant to IDEA Part C.

- (9) **Early Intervention Services** are developmental services provided to a child with a disability that:
- (i) Are provided under public supervision;
  - (ii) Are selected in collaboration with the parents;
  - (iii) Are provided at no cost, except where the system of payments policy includes fees;
  - (iv) Are designed to meet the developmental needs of a child with a disability and the needs of the family to assist appropriately in the child’s development as identified in the following areas: physical, cognitive, communication, social, emotional, or adaptive development;
  - (v) Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the IDEA;
  - (vi) Are provided by qualified personnel;
  - (vii) Are provided in natural environments to the maximum extent appropriate; and
  - (viii) Are provided in accordance with the IFSP/One Plan as defined in these Rules.
- (10) **Early Intervention Service Provider** is referred to as “provider,” in these rules and means an entity (whether public, private, or nonprofit) or an individual that provides services under Part C of the IDEA, whether or not the entity or individual receives federal funds under Part C of the IDEA.
- (11) **Educational Surrogate Parent** is an individual appointed by the AOE to ensure the rights of the child and student are protected when:
- (i) The parents of the child or student are not known or cannot be located after reasonable efforts;
  - (ii) The child or student is in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§ 9301-9316); or
  - (iii) The child or student is an unaccompanied homeless youth as defined in § 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4))

- (12) **Individualized Family Service Plan (IFSP/One Plan)** is a written plan for providing early intervention services to a child with a disability and the child’s family that:
- (i) Is based on evaluation and assessment results;
  - (ii) Includes content required as described in these rules;
  - (iii) Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained; and
  - (iv) Is developed in accordance with the IFSP procedures set forth in Rule 2360.5.6.

**One Plan** refers to Vermont’s revised IFSP and meets all IDEA Part C requirements.

- (13) **Informed Clinical Opinion** makes use of qualitative and quantitative information to assist in forming a determination regarding difficult-to-measure aspects of current developmental status and the potential need for early intervention. Qualified personnel must use informed clinical opinions when conducting an evaluation and assessment of the child in order to make a recommendation as to initial and continuing eligibility for services under Part C and as a basis for planning services to meet child and family needs.

(14) **Method, Length, Frequency and Intensity, and Duration:**

- (i) Method means how a service is provided (i.e., whether the service is provided through consultation, family education, and/or direct service);
- (ii) Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period);
- (iii) Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis; and
- (iv) Duration means projecting when a given service will no longer be needed (such as when the child is expected to achieve the results or outcomes in his or her IFSP/One Plan).

- (15) **Multidisciplinary** is the involvement of two or more separate disciplines or professions with respect to:

- (i) Evaluation of the child and assessments of the child and family may include one individual who is qualified in more than one discipline or profession; and
- (ii) Multidisciplinary IFSP/One Plan Team must include the involvement of the parent and two or more individuals from separate disciplines or professions, one of whom must be the Service Coordinator.

(16) **Native Language** with respect to an individual who has limited English proficiency, means:

- (i) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child; and
- (ii) For evaluations and assessments conducted, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

(17) **Natural Environments** are settings that are typical for a same aged child without a disability and may include the home or community settings.

(18) **Parent** means:

- (i) A biological or adoptive parent of a child or student; when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child or student;
- (ii) A foster parent, or developmental home provider who has been appointed the educational surrogate parent by the Vermont Educational Surrogate Parent Program; or
- (iii) A guardian generally authorized to act as the child's or student's parent, or authorized to make early intervention, education, health or developmental



decisions for the child or student (but not the State if the child or student is a ward of the State);

- (iv) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child or student lives, or an individual who is legally responsible for the child or student's welfare;
- (v) An educational surrogate parent who has been appointed by the Agency of Education; or
- (vi) If a judicial decree or order identifies a specific individual to act as the "parent" of a child or student or to make educational decisions on behalf of a child or student, then such individual shall be determined to be the "parent" for purposes of this section, except that the LEA that provides education or care for the child or student may not act as the parent.

(19) **Personally Identifiable Information** is information that includes:

- (i) The name of the child, the child's parent, or other family member;
- (ii) The address of the child;
- (iii) A personal identifier, such as the child's or parent's social security number; or
- (iv) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty, such as the child's date of birth or disability.

(20) **Qualified Personnel** are individuals who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services. Vermont State approved early interventionists shall hold at least a bachelor's degree in early childhood or a related field and meet any other current requirements.

(21) **Screening** is a process using State approved screening tools and appropriate methods implemented by qualified personnel and/or primary referral source to identify, at the earliest possible age, a child suspected of having a developmental delay and/or disability and in need of an initial evaluation.

(22) **Service Coordination** is a service provided by a Service Coordinator to assist a child and the child's family to receive early intervention services and parental rights. Each eligible child and the child's family must be provided with a Service Coordinator who is responsible for coordinating all services across agency lines and serving as the single point of contact in helping parents to obtain the services and assistance they need.

Service coordination is an active, ongoing process that involves:

- (i) Assisting parents of eligible children in gaining access to, and coordinating the provision of the early intervention services; and,
- (ii) Coordinating other services identified in the IFSP/One Plan that are needed by, or being provided to, the child with a disability and their family.

**Specific Service Coordination activities** include:

- (A) Conducting the family assessment, including interviewing the family;
- (B) Collecting information on the child's development, including observations of the child;
- (C) Assisting parents of eligible children in obtaining access to needed early intervention services and other services identified in the IFSP/One Plan, including making referrals to providers for needed services and scheduling appointments for eligible children and their families;
- (D) Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;
- (E) Coordinating evaluations and assessments;
- (F) Facilitating and participating in the development, review, and evaluation of IFSP/One Plans;
- (G) Conducting referral and other activities to assist families in identifying available providers;
- (H) Coordinating, facilitating, and monitoring the delivery of services to ensure that the services are provided in a timely manner;
- (I) Conducting follow-up activities to determine that appropriate Part C services are being provided;
- (J) Informing families of their parental rights, and related resources;
- (K) Coordinating the funding sources for services; and

(L) Facilitating the development of a transition plan to EEE or, if appropriate, to other services.

(23) **Specialized Instruction** is defined as:

- (i) The designing of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
- (ii) Curriculum and intervention planning, including the planned interaction of personnel, materials, time, and space that leads to achieving the outcomes in the IFSP/One Plan;
- (iii) Providing families with information, skills, and support related to enhancing the development of the child; and
- (iv) Working with the child to enhance the child's development.

(24) **Ward of the State** is a child who, as determined by the State where the child resides, is:

- (i) A foster child, unless the child has a foster parent who meets the definition of a parent.
- (ii) A ward of the State; or
- (iii) In the custody of a public child welfare agency.

#### **2360.5.2 Public Awareness and Child Find (C.F.R. §§ 303.300-303.303; § 303.311)**

(a) By way of the Vermont Part C Interagency Agreement for the provision of Early Intervention Services, the role and responsibilities of regional CIS/EI programs and LEAs shall be detailed and maintained in a regional agreement. LEAs shall act as a primary referral source and participating partner to ensure the provision of early intervention services under IDEA Part C. Each regional CIS/EI program shall serve as the central point of referral for children ages birth up to three years of age who may require early intervention services.

(1) Vermont's comprehensive Part C Child Find system includes policies and procedures that are coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various health, social service programs, and education to ensure all children who may be eligible for services under Part C are identified, located, and evaluated including:

- (i) Native American children residing on a reservation geographically located in the State;
  - (ii) Children who are homeless, in foster care, or wards of the State; and
  - (iii) Children who are the subject of a substantiated case of child abuse or neglect; or identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug or alcohol exposure.
- (2) Regional CIS/EI programs and LEAs shall engage in public awareness and Child Find activities to identify children and their families who may be in need of early intervention services. Regional CIS/EI programs shall prepare, describe, and disseminate materials and information for parents on the availability of early intervention services to all primary referral sources, especially hospitals and physicians.
- (3) Vermont’s comprehensive referral procedures ensure all children who may be eligible for early intervention services are referred as soon as possible, **but in no case more than seven days** after the child has been identified for referral. Primary referral sources include but are not limited to:
- (i) Hospitals, including prenatal and postnatal care facilities;
  - (ii) Physicians;
  - (iii) Parents;
  - (iv) Childcare programs and early learning programs;
  - (v) Local Education Agencies (LEA) Child Find efforts that are coordinated between regional CIS/EI programs and LEAs so that:
    - (A) Each LEA shall act as a primary referral source to locate and screen children who may be suspected of having a developmental delay and/or disability and in need of an initial evaluation to determine eligibility for Part C services. Based on screening results, children who are found to be typically developing do not require a referral for an initial evaluation;
    - (B) LEAs may employ specific elements of screening;
    - (C) LEAs shall notify local CIS/EI programs of all children who may be in need of an initial comprehensive multidisciplinary evaluation for eligibility under Part C;
  - (vi) Public health facilities and social service agencies;
  - (vii) Other clinic and health care providers;

- (viii) Public agencies and staff in the child welfare system including child protection agencies and foster care services and providers;
  - (ix) Homeless family shelters; and
  - (x) Domestic violence shelters and agencies.
- (4) Specific referral procedures shall be followed for at-risk children who have been identified as the subject of a substantiated case of child abuse or neglect; or is identified as directly affected by illegal substance or alcohol abuse or withdrawal symptoms resulting from prenatal exposure. (C.F.R. § 303.303(b)).

**2360.5.3 Screening (C.F.R. §§ 303.320, 303.421, 303.420(a)(1))**

- (a) As co-lead agencies, AOE and AHS have adopted procedures outlined in the Part C Interagency Agreement and are specified in regional CIS/EI and LEA agreements, to conduct screenings for children under the age of three suspected of having a disability and may be in need of early intervention services. For children with established diagnosed conditions set forth in § 2360.5.5(a)(2) screening is not necessary because records establish that the child has a disability and is eligible for Part C services. For children undergoing the screening process, and based on regional agreements, the following must occur:
- (1) Provide the parent notice of the intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an initial evaluation at any time during the screening process;
  - (2) Parental consent is obtained prior to conducting screening; and
  - (3) Notice must be provided to the parent if the screening or other available information indicates the child is suspected of having a disability.
- (b) The 45day timeline begins upon receipt of referral to the regional CIS/EI program. CIS/EI must appoint a service coordinator and contact the family within two working days of referral.
- (c) CIS/EI will review and/or conduct a screening, and if warranted, an initial evaluation of the child and assessment of the child and family. The IFSP/One Plan meeting must be held within 45 days from the date the regional CIS/EI program receives the referral for the child.

- (d) If the child is not suspected of having a disability, the CIS/EI provider must ensure that written notice of that determination is provided to the parent, and that the written notice describes the parent's right to request an evaluation.
- (e) If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted, even if the CIS/EI provider has determined that the child is not suspected of having a disability.
- (f) Screening procedures are activities that are jointly developed in regional agreements and carried out by the regional CIS/EI provider and/or LEA to identify, at the earliest possible age, a child suspected of having a disability and in need of early intervention services; and include the administration of State approved screening tools and methods by qualified personnel.
- (g) Condition for Evaluation or Early Intervention Services: For every child under the age of three referred to the regional CIS/EI program or screened in accordance with this section, CIS/EI will:
  - (1) Provide an evaluation for any child suspected of having a disability or if the parent requests an evaluation even if the child is not suspected of having a disability, and/or
  - (2) Offer early intervention services to any child who meets the State definition of a child with a disability.

**2360.5.4 Evaluation of the Child and Assessment of the Child and Family (34 C.F.R. § 303.321)**

- (a) CIS/EI must ensure that, subject to obtaining written parental consent, each child under the age of three referred for evaluation or early intervention services and suspected of having a disability, receives:
  - (1) An eligibility determination based on a timely, comprehensive, multidisciplinary evaluation for initial and/or on-going eligibility and that no single procedure is used as the sole criterion for determining a child's eligibility; or
  - (2) An eligibility determination based on the child's medical and other records, if those records indicate that the child's level of functioning in one or more of the developmental areas constitutes an observable and measurable developmental delay, and as a result, the child is determined eligible as a child with a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay.

- (b) Once the child's eligibility has been established through an initial evaluation of the child and/or through the use of medical or other records, the initial assessment of the child must be conducted by qualified personnel so that the child receives:
- (1) A multidisciplinary assessment of the unique strengths and needs of the child and the identification of services appropriate to meet those needs;
  - (2) A voluntary family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child. The assessments of the child and family may occur simultaneously with the evaluation to determine initial and/or continuing eligibility and services appropriate to meet the child's needs.
- (c) Requirements of Evaluations and Assessments:
- (1) Evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility. An initial evaluation refers to the child's evaluation to determine his or her initial eligibility.
  - (2) Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility and includes the assessment of the child, and the assessment of the child's family. Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP/One Plan meeting.
  - (3) All evaluations and assessments of the child and family must be conducted by qualified personnel in a nondiscriminatory manner and be selected and administered so as not to be racially or culturally discriminatory.
  - (4) All evaluations and assessments of a child and family must be conducted in the native language of the child and family members being assessed, unless it is clearly not feasible to do so.
  - (5) Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the regional CIS/EI programs must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

#### **2360.5.4.1 Procedures for Evaluation of the Child**

- (a) An evaluation of the child must be conducted by qualified personnel in a nondiscriminatory manner, selected and administered so as not to be racially or culturally discriminatory in order to determine the child's initial or continuing eligibility. In conducting a multidisciplinary evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part.
- (1) The evaluation of the child must include the following:
- (i) Administering a State approved diagnostic instrument;
  - (ii) Documenting the child's history (including interviewing the parent);
  - (iii) Identifying the child's level of functioning in each of the developmental areas;
  - (iv) Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
  - (v) Reviewing medical, educational, or other records.

#### **2360.5.4.2 Procedures for Initial and Ongoing Assessment of the Child**

An assessment of each child with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:

- (a) A review of the results of the evaluation conducted;
- (b) Personal observations of the child; and
- (c) An identification of the child's functional needs in each of the developmental areas.

#### **2360.5.4.3 Procedures for Assessment of the Family**

A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's child with a disability.

The family-directed assessment must:

- (a) Be voluntary on the part of each family member participating in the assessment;



- (b) Be based on information obtained through an assessment tool and also through a routines-based interview with those family members who elect to participate in the assessment; and
- (c) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

**2360.5.5 Eligibility (34 C.F.R. § 303.21)**

- (a) Child with a disability means a child under three years of age who needs early intervention services because:
  - (1) The child is experiencing an observable and measurable developmental delay, as measured by State approved diagnostic instruments and procedures, in one or more of the following areas:
    - (i) Cognitive development;
    - (ii) Physical development, including vision and hearing;
    - (iii) Communication development;
    - (iv) Social or emotional development;
    - (v) Adaptive development.
  - (2) The child has a diagnosed physical or mental condition that:
    - (i) Has a high probability of resulting in developmental delay; and
    - (ii) Includes conditions such as, but not limited to, chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; and severe complications at birth.
- (b) For the purposes of this part, **'developmental delay'** is defined as a clearly observable and measurable delay in one or more developmental areas (as stated above) and the delayed development shall be at the level that the child's future success in home, school or community cannot be assured without the provision of early intervention services.
- (c) **Eligibility Determination**
  - (1) A CIS/EI multidisciplinary team, including parents, shall determine a child's eligibility to receive early intervention services.
  - (2) The child's file or IFSP/One Plan shall clearly document participants involved and the

evaluation and procedures used to inform the eligibility determination and provision of early intervention services.

(d) **Intrastate and Interstate Transfer Eligibility**

- (1) A child determined eligible for early intervention services in one CIS/EI region who relocates to another CIS/EI region continues to be eligible for services without need for another evaluation or determination of eligibility.
- (2) For a child who relocates to Vermont from another State and who has previously been found eligible to receive early intervention services in that State, the regional CIS/EI team shall review Part C eligibility requirements from the sending State as well as any records forwarded to the regional CIS/EI program in order to determine if the child may be eligible under Vermont's Part C eligibility requirements. If additional evaluations are warranted to determine the child's eligibility in Vermont, written parental consent must be obtained prior to any evaluations being conducted.

(e) **Determination that a Child is Not Eligible**

If, based on the initial evaluation, the regional CIS/EI team determines that a child is not eligible under this part, the regional CIS/EI team must provide the parent with prior written notice regarding this determination, and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under Rule 2365.

**2360.5.6 Individualized Family Service Plan (IFSP)/One Plan**

**(34 C.F.R. §§ 303.340-303.346)**

The regional CIS/EI programs shall ensure the development, review, and implementation of an IFSP/One Plan. The plan shall be developed by a multidisciplinary team, which includes the parent for each eligible child. Changes or revisions to the plan must be a team decision.

**2360.5.6.1 IFSP/One Plan Meetings and Reviews**

- (a) For a child referred to and subsequently found eligible for the Part C program, a meeting to develop the initial IFSP/One Plan must be conducted within 45 days of receipt of the initial referral to Part C.

- (b) On at least an annual basis, a meeting shall be conducted to evaluate and revise as appropriate, the IFSP/One Plan for the child and the child's family. The results of any current evaluation and other information available from the assessments of the child and family shall be used in determining the early intervention services that are needed and will be provided.
- (c) A periodic review of the IFSP/One Plan for a child and the child's family shall occur at least every six months, or more frequently if needed, or requested by the family. The six month review need not take place at a formal meeting but may occur through other means that are acceptable to the parents and other participants. The purpose of the six-month review is to determine:
  - (1) Progress made toward achieving the outcomes identified in the IFSP/One Plan, and
  - (2) Whether modification or revision of the outcomes or services is needed.
- (d) IFSP/One Plan meetings shall be:
  - (1) Held at least annually;
  - (2) Held in settings and at times that are accessible and convenient for families;
  - (3) Held in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so;
  - (4) Arranged with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend;
  - (5) Attended at minimum by:
    - (i) The parent(s) of the child; and
    - (ii) The service coordinator.
  - (6) Also attended by or otherwise include the participation of:
    - (i) Other family members, as requested by the family;
    - (ii) An advocate or person outside the family as requested by the family;
    - (iii) The person(s) directly involved in the evaluation and assessment process; and
    - (iv) As appropriate, the person(s) who will be providing services to the child and/or the family.
  - (7) Participation may include:
    - (i) Sharing information through a telephone call and making pertinent records available; and
    - (ii) Having a knowledgeable authorized representative attend the meeting.

### **2360.5.6.2 Contents of IFSP/One Plan**

The contents of the IFSP/One Plan shall be fully explained to parents and shall include the following:

- (a) A statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based upon the information from that child's evaluation, assessments, and other relevant records.
- (b) With the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family;
- (c) A statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre and early literacy and language skills, as developmentally appropriate for the child) and family; and the criteria, procedures, and timelines used to determine:
  - (1) The degree to which progress toward achieving the outcomes identified in the IFSP/One Plan is being made; and
  - (2) Whether modifications or revisions of the expected outcomes or services identified in the IFSP/One Plan are necessary.
- (d) A statement of the specific early intervention services, based on peer reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes, including the:
  - (1) Method of how a service is provided (i.e., whether the service is provided through consultation, family education, and/or direct service);
  - (2) Length of time the service is provided during each session of that service (such as an hour or other specified time period);
  - (3) Frequency and intensity (i.e., the number of days and/or sessions that a service will be provided and whether the service is provided on an individual or group basis); and
  - (4) Projection of the duration of a given service (such as when the child is expected to achieve desired outcomes as stated on his or her IFSP/One Plan).

- (e) A statement that each early intervention service shall be provided in the natural environment, to the maximum extent appropriate for the child. If early intervention services cannot be provided within the natural environment for the child, the IFSP/One Plan team (which includes the parent and other team members) shall make a determination of the appropriate setting and include a justification for not providing services within the natural environment.
- (f) The location of services (the actual place or places where a service will be provided);
- (g) The payment arrangements, if any;
- (h) Other services needed, but not required by Part C of the IDEA. To the extent appropriate, the IFSP/One Plan must:
  - (1) Identify medical and other services that the child or family needs or is receiving through other sources, but that are not required or funded by Part C of the IDEA; and
  - (2) If those services are not currently being provided, include a description of the steps the Service Coordinator or family may take to assist the child and family in securing those other services;
- (i) The projected dates for initiation of each early intervention service, which shall be as soon as possible after the parent consents to that service, and not more than 30 days from receipt of written consent by CIS/EI;
- (j) The anticipated duration of each early intervention service;
- (k) The name of the Service Coordinator responsible for implementing the early intervention services identified in the child's IFSP/One Plan, including transition services, and coordination with other agencies and persons;
- (l) The steps and services to be taken to support the transition of the child from regional CIS/EI services to Part B EEE services to the extent that those services are appropriate, or to other appropriate services (e.g., early childhood community-based settings and services, etc.). The steps for transition must include:
  - (1) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;
  - (2) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
  - (3) Confirmation that Child Find information about the child has been transmitted to the LEA and the State CIS/EI office for transmission to the AOE;

- (4) With written parental consent, transmission of other information about the child to the LEA, to ensure continuity of services, including a copy of the most recent evaluation and assessments of the child and family and the most recent IFSP/One Plan; and
- (5) Identification of transition services and other activities that the IFSP/One Plan team determines are necessary to support the transition of the child.

#### **2360.5.6.3 Interim IFSP/One Plan Provision of Services Before Evaluation and Assessment Completion (34 C.F.R. § 303.345)**

- (a) Early intervention services for an eligible child and the child’s family may begin before the completion of the initial evaluation and assessment if the following conditions are met:
  - (1) Informed, written parental consent is obtained;
  - (2) An interim IFSP/One Plan is developed that includes:
    - (i) The name of the Service Coordinator who will be responsible for implementing the interim IFSP/One Plan and coordinating with other agencies and persons; and
    - (ii) The early intervention services that have been determined to be needed immediately by the child and the child’s family; and
  - (3) The initial evaluation and assessment and IFSP/One Plan meeting are completed within 45 days of referral.

#### **2360.5.6.4 Responsibility and Accountability (34 C.F.R. § 303.346)**

Each participating agency that has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child’s IFSP/One Plan. However, Part C of the IDEA does not require that any participating agency be held accountable if an eligible child does not achieve the growth projected in the child’s IFSP/One Plan.

#### **2360.5.7 Notifications of Transition at Age Three (C.F.R. § 303.209)**

AOE and AHS have developed policies and procedures that are also included in the Part C Interagency Agreement to ensure a smooth and effective transition for children with disabilities and their families who transition from Part C services to Part B services at age three.

- (a) Regional CIS/EI Notification to LEA of Children Potentially Eligible for EEE at Age Three: Between six months and 90 days before the child’s third birthday, the regional CIS/EI program will provide written notification (child’s name, date of birth, and parent name, address, and telephone number) to the LEA where the child resides that the child on his/her third birthday will reach the age of eligibility for services under IDEA Part B and the IFSP/One Plan team has determined the child is ‘potentially eligible’ for EEE services.
- (1) Potentially Eligible, for the purposes of transition at age three, is determined by the IFSP/One Plan team within six months of a child’s third birthday. Evidence is based on on-going assessment measures and use of a State approved diagnostic instrument. A child shall be considered potentially eligible for EEE services if the child demonstrates at least a 25% delay in one or more of the following developmental domains:
- (i) Speech and language development (receptive and/or expressive communication; including articulation, fluency, and/or voice);
  - (ii) Adaptive development;
  - (iii) Social or emotional development;
  - (iv) Physical development including gross or fine motor skills; and/or
  - (v) Cognitive skills such as perception, memory, processing, and reasoning.
- (b) Regional CIS/EI Notification to Part C State Office: Between six months and 90 days before the child’s third birthday, the regional CIS/EI program will provide written notification (child’s name, date of birth, and parent name, address, and telephone number) to the Part C State office only for children who are receiving Part C services and who may be potentially eligible for services under Part B.
- (c) Part C State Notification: Between six months and not fewer than 90 days before the child’s third birthday, the Part C State office will provide written notification (child’s name, date of birth, and parent name, address, and telephone number) to the AOE for children who are receiving Part C services and who are considered potentially eligible for services under Part B. The Part C State office will report this information monthly to the AOE.

### **2360.5.8 Late Referral Procedures**

- (a) If the regional CIS/EI program determines that a child is eligible for early intervention services *more than 45 days but fewer than 90 days* before that child’s third birthday the regional CIS/EI must provide transition notification to the LEA where the child resides as soon as possible.

- (b) If the regional CIS/EI program determines that a child is eligible for early intervention services *more than 45 days but fewer than 90 days* before that child's third birthday the regional CIS/EI must provide transition notification as soon as possible to the Part C State office after determining eligibility.
- (c) The Part C State office will provide written notification as soon as possible to the AOE for all children determined eligible for early intervention services *more than 45 days but fewer than 90 days* before their third birthday.
- (d) If a child is referred to the regional CIS/EI program *fewer than 45 days* before their third birthday, the regional CIS/EI program is not required to conduct an initial evaluation, assessment, or initial IFSP meeting. If that child may be potentially eligible for Part B services, the regional CIS/EI, with parental consent, must refer the child to the LEA where the child resides.
- (e) If a child is referred to the regional CIS/EI program *fewer than 45 days* before his/her third birthday and may be potentially eligible for Part B services, the regional CIS/EI program must notify, with parental consent, the Part C State office, LEA, and AOE as soon as possible.
- (f) With parental consent, the Part C State office will provide written notification as soon as possible to the AOE for all children referred *fewer than 45 days* before their third birthday and who may be potentially eligible for Part B services.

**2360.5.9 Transition Conference (C.F.R. § 303.209 (c)-(d))**

- (a) The AOE and AHS shall ensure that regional CIS/EI and LEA representatives participate in transition planning conferences for those children who are considered potentially eligible for Part B EEE services at age three.
  - (1) With family approval, the regional CIS/EI shall conduct a transition conference for a child with disabilities who is receiving Part C services and who will be exiting the Part C program not fewer than 90days, and at the discretion of all parties not more than nine months, before the child's third birthday to discuss any services the child may receive under Part B EEE services.
  - (2) Prior to or at the transition conference, families will be provided information about parental rights and procedural safeguards for Part B.



- (3) If a child is not potentially eligible for Part B EEE services, with the family's approval, the regional CIS/EI program shall make reasonable efforts to convene a conference with the family and community-based providers to discuss other appropriate services that the child may receive.
- (4) The transition conference must include the regional CIS/EI IFSP/One Plan providers, the family of the child, and an LEA representative.
- (5) The transition conference or meeting to develop the transition plan must meet the IFSP/One Plan meeting requirements and that the transition conference and the IFSP/One Plan meeting may be combined.

(b) **Procedures for Transition Plan:**

AOE and AHS shall ensure that regional CIS/EI and LEA representatives participate in transition planning conferences for children who may be potentially eligible for Part B EEE services. The family's service coordinator is responsible for initiating and scheduling the transition planning conference.

- (1) The IFSP/One Plan team, inclusive of the family, shall develop the transition plan and include steps and services to be taken to support the smooth transition of the child from Part C to Part B.
- (2) The IFSP/One Plan team shall develop a transition plan, as part of a child's IFSP/One Plan, not fewer than 90days, but at the discretion of all parties up to nine months, prior to the third birthday for all children exiting Part C. The transition plan shall include the following steps and services:
  - (i) A review of program options for the child for the period from the child's third birthday through the remainder of the school year;
  - (ii) Discussion with and training of parents, as appropriate, regarding future options and other matters related to the child's transition;
  - (iii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and
  - (iv) Identification of transition services and other activities that the IFSP/One Plan Team determines are necessary to support the transition of the child.

**2360.5.10 Eligibility for EEE Services at Age Three**

- (a) In order to ensure a seamless and effective transition for children with disabilities who receive Part C services and are potentially eligible for Part B services, the AOE will ensure that the LEA provides each child entering Part B EEE services from Part C services an Individualized Education Plan (IEP) developed and implemented by the child's third birthday. The IEP shall include all required components as listed in Rule 2363.7.
- (b) If a child's birthday occurs during the summer, the child's IEP team shall develop the IEP prior to the end of the current school year in order to have the IEP in effect at the beginning of the new school year. If it is necessary for the child to receive uninterrupted services over the summer months, the IEP team shall determine the date when services begin.
- (c) A child shall be eligible for EEE services at age three, if the child received consistent (e.g., one 60 minute intervention session per week) specialized instruction, developmental therapy services, or speech and language services through an IFSP/One Plan and the child:
  - (1) Demonstrates a 25% developmental delay, as measured by ongoing assessment and use of a State approved diagnostic instrument, administered by qualified professionals, in one or more of the following developmental domains:
    - (i) Speech and language development (receptive and/or expressive communication; including articulation, fluency, and/or voice);
    - (ii) Adaptive development;
    - (iii) Social or emotional development;
    - (iv) Physical development, including gross or fine motor skills; and/or
    - (v) Cognitive skills such as perception, memory, processing, and reasoning;
  - (2) The child has a medical condition which may result in significant delays by the child's sixth birthday, and the school-based Evaluation Planning Team (EPT) has determined that the child is in need of Part B EEE services.
- (d) For the purposes of this section, "medical condition" means a condition diagnosed by a licensed physician such as but not limited to autism, cerebral palsy, Down syndrome, attention deficit disorder with hyperactivity that may result in significant delays by the child's sixth birthday.
- (e) If the child previously received Part C services, a meeting notice of the initial IEP meeting will be sent to the CIS/EI Part C service coordinator, or other CIS/EI service representative at the request of the parent.
- (f) For all children who transition from CIS/EI Part C services to Part B EEE services, the IEP team must consider the IFSP/One Plan content when developing the initial IEP (including

the natural environments statement).

#### **2360.5.10.1 Part C Records Forwarded to LEA:**

**Within 90 days of the child's third birthday** and with parental consent, copies of the following IFSP/One Plan records shall be sent to the LEA where the child resides:

- (a) A signed consent from the parent to release identifying information to the LEA;
- (b) Evaluation and procedures used to determine child's potential eligibility for Part B EEE services;
- (c) IFSP/One Plans;
- (d) Pertinent ongoing assessment reports and contact notes.

#### **2360.5.10.2 Consent for Part B Placement and the Initial Provision of Part B Services**

For children who transition to Part B EEE services, the parent shall be asked to sign consent for:

- (a) Their child's placement under Part B for the period of time between the age of three and the date the initial evaluation under Part B is completed.
  - (1) The initial consent for evaluation and placement under Part B shall occur when the child's initial evaluation under Part C expires after three years or sooner if requested by the parent or LEA.
- (b) Consent for the initial provision of IEP services.

#### **2360.6 Records**

- (a) Children's Integrated Services/Early Intervention (CIS/EI) records shall be the property of the co-lead agencies, the AOE and AHS. The child's record at the CIS/EI Program shall be the central record for children referred for early intervention services. Records at the CIS/EI Program shall contain the following:
  - (1) Record of Access;
  - (2) Consents for Release of Information;
  - (3) Consent for Evaluation;
  - (4) Documentation that parental rights have been given in writing and explained;
  - (5) Evaluation reports or summaries used to determine eligibility;
  - (6) Eligibility form;
  - (7) Written notice of IFSP/One Plan meetings;

- (8) All of the child's IFSPs/One Plans;
  - (9) Information related to IFSP/One Plan reviews; and
  - (10) Information related to transition planning.
- (b) Additional components of the child's record (e.g., summary reports, on-going assessment, evaluation summary, etc.) may be maintained by service providers and copies must be provided to regional CIS/EI Program as part of the child's permanent record.

### **2360.7 Procedural Safeguards.**

If a parent disagrees with the decisions made by the IFSP/One Plan team the parent may pursue any of the dispute resolution options set forth in Rule 2365.

# **PART B**

## **Vermont Rules Governing**

### **Services to Children**

### **Ages Three through 21**

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# **Part B of the Individuals with Disabilities Education Act (IDEA)**

## **Serving Children and Students Ages Three through 21**

### **2361 Part B – Serving Children/Students Ages Three Through 21:**

IDEA Part B in Vermont is categorized into two distinct age groups. Children ages three through age five are served through Essential Early Education/Early Childhood Special Education (EEE/ECSE). The second age group, ages six through 21 are students served through the LEA where the student resides.

#### **2361.1 Part B Definitions**

The following definitions shall apply to terminology used throughout Part B of these rules:

- (a) **Accommodations.** Accommodations mean those evaluation procedures, curricula, materials or programmatic adaptations, behavior management interventions, and supplemental aids and services that are necessary for an eligible student to benefit from his or her general education or to participate in non-academic or extra-curricular activities.
- (b) **Adaptive behavior skills.** Adaptive behavior skills are the skills essential to independent functioning, personal responsibility, and social responsibility.
- (c) **Assistive Technology device.** Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.
- (d) **Assistive technology service.** Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:
  - (1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;

- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for a child with a disability and/or, if appropriate, that child's family; and
- (6) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, and/or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

- (a) **Basic skills.** Basic skills are those skills enumerated in Rule 2362(g).
- (b) **Child.** Child means an individual under the age of six and may include an infant or toddler ages birth to three with a disability
- (g) **Child in state custody.** A “child in state custody” means a child placed in custody pursuant to Chapters 49 and 55 of Title 33. A “child in state custody” shall be afforded all rights and protections as a “ward of the State” as provided in 20 U.S.C. § 1401(36).
- (h) **Child with a disability.** In this document, “child with a disability” is a child who has been found eligible for special education and related services consistent with the process found in Rules 2361 and 2362.
- (i) **Consent.** Consent means that:
  - (1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
  - (2) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
  - (3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.



- (4) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
- (j) **Core curriculum.** Core curriculum means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, geography, and physical education which have instructional approaches that are based on scientifically validated research supporting the curriculum's effectiveness and demonstrate a high probability of success for a majority of students.
- (k) **Day.** Whenever a limit of "days" appears within these regulations, the following definitions shall apply:
- (1) "Day" is defined as a calendar day, unless stated to be "business day" or "school day".
  - (2) "Business day" means weekdays, excluding federal and State holidays, unless the latter are specifically included.
  - (3) "School day" means any day, including partial days, when children attend school for instructional purposes. The term school day has the same meaning for all children in school, including children with and without disabilities.
- (l) **Educational Surrogate Parent** is an individual appointed by the AOE to ensure the rights of the child and student are protected when:
- (1) The parents of the child or student are not known or cannot be located after reasonable efforts;
  - (2) The child or student is in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§ 9301-9316); or
  - (3) The child or student is an unaccompanied homeless youth as defined in §725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4))
- (m) **Eligibility.** See Rule 2360.5.5 for children under three years of age. See Rule 2361 for children ages three through five. See Rule 2362 for children and students ages six through 21.

- (n) **Evaluation**. Evaluation means procedures used in accordance with Rule 2362 with the following exception: The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
- (o) **Evaluation Planning Team (EPT)**. Evaluation Planning Team means a group of individuals including the parent that is responsible for developing an evaluation plan and reviewing the results to determine if a student is or continues to be eligible for special education and related services. The membership requirements are the same as those outlined for the IEP team in Rule 2363.3(a).
- (p) **Extended School Year Services (ESY)**. The term extended school year services means special education and related services that are provided to a child with a disability beyond the normal school year of the LEA in accordance with the child's IEP and State standards and at no cost to the parents of the child.
- (q) **Functional Performance**. Functional performance is the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social, and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other lifelong learning opportunities.
- (r) **Free Appropriate Public Education (FAPE)**. A FAPE means special education and related services that:
- (1) Are provided at public expense, under public supervision and direction, and without charge to the parent or student;
  - (2) Meet the standards of the State, including the requirements of Part B of the IDEA and include preschool, elementary school, or secondary school education; and
  - (3) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Rule 2363.
- (s) **Highly Qualified Special Education Teachers**. Highly Qualified Special Education Teachers shall meet one of the following:
- (1) Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core

academic subjects, the term highly qualified means that the special education teacher shall carry an endorsement appropriate to the assignment and shall meet the content knowledge requirements for the highest grade level of the students who receive primary instruction from the teacher.

(2) Requirements for special education teachers in general.

(i) When used with respect to any public elementary school or secondary school special education teacher, highly qualified requires that:

- (A) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), and holds a license to teach in the State as a special education teacher;
- (B) The teacher does not have provisional special education certification or licensure; and
- (C) The teacher holds at least a bachelor's degree.

(ii) A teacher will be considered to meet the standard in paragraph (2)(i) of this section if that teacher is participating in an alternative route to special education certification program under which:

- (A) The teacher:
  - 1) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
  - 2) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
  - 3) Assumes functions as a teacher only for a specified period of time not to exceed three years; and
  - 4) Demonstrates satisfactory progress toward full certification as prescribed by the State of Vermont.

(t) **Homeless children.** Homeless children means individuals who lack a fixed, regular, and adequate nighttime residence; and includes:

- (1) Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are

- living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
- (2) Children and youth who have a primary night-time residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
  - (3) Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
  - (4) Migratory children who qualify as homeless because the children are living in circumstances described in sections (1) through (3).
- (u) **Individualized Education Program.** Individualized Education Program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Rule 2363.
- (v) **Individualized Education Program Team.** Individualized education program team or IEP team means a group of individuals described in Rule 2363 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.
- (w) **Limited English Proficient.** Limited English Proficient means an individual, aged three through 21, who is enrolled or preparing to enroll in an elementary school or secondary school; and who meets one of the following criteria:
- (1) Who was not born in the United States or whose native language is a language other than English; or
  - (2) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and
    - (i) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
    - (ii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
    - (iii) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
      - (A) The ability to meet the proficient level of achievement on State assessments;

- (B) The ability to successfully achieve in classrooms where the language of instruction is English; or
  - (C) The opportunity to participate fully in society.
- (x) **Local Education Agency.** Local Education Agency (LEA) means the supervisory union unless there is a unanimous vote at a supervisory union meeting that the supervisory union will only coordinate special education services on behalf of member districts in which case the LEA is the local school district (16 V.S.A. § 261a(6)).
- (y) **Local Education Agency Plan (LEAP).** The Vermont Agency of Education has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. Each LEA assures its commitment to that goal by submitting its LEAP consistent with SBE Rule 1311.
- (z) **Meeting.** A meeting is a session held for the development or review of a child's evaluation plan, eligibility determination, or an IEP. A meeting does not include informal or unscheduled conversations involving school personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities in which school personnel might engage to develop a proposal or response to a parent proposal that will be discussed at a later meeting.
- (aa) **Native language.** Native language, when used with respect to an individual who is limited English proficient, means the following:
- (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in subsection (aa)(2) .
  - (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
  - (3) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication normally used by the individual (such as sign language, Braille, or oral communication).
- (bb) **Parent** means:
- (1) A biological or adoptive parent of a child or student; when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed

to be the parent unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child or student;

- (2) A foster parent, or developmental home provider who has been appointed the educational surrogate parent by the Vermont Educational Surrogate Parent Program; or
- (3) A guardian generally authorized to act as the child's or student's parent, or authorized to make early intervention, education, health, or developmental decisions for the child or student (but not the State if the child or student is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child or student lives, or an individual who is legally responsible for the child's or student's welfare;
- (5) An educational surrogate parent who has been appointed by the Agency of Education; or
- (6) If a judicial decree or order identifies a specific individual to act as the "parent" of a child or student or to make educational decisions on behalf of a child or student, then such individual shall be determined to be the "parent" for purposes of this section, except that the LEA that provides education or care for the child or student may not act as the parent.

(cc) **Personally identifiable.** Personally identifiable means information that contains:

- (1) The name of the child, the child's parent, or other family member;
- (2) The address of the child;
- (3) A personal identifier, such as the child's social security number or student number; or
- (4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(dd) **Print disability.** Print disability means a condition related to blindness, visual impairment, specific learning disability, or other physical condition in which the student needs an alternative or specialized format (i.e. Braille, large print, audio, digital text, etc.), in order to access and gain information from conventional printed instructional materials.

(ee) **Related services.** Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services,

including rehabilitation counseling services, orientation, transportation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students as described in Rule 2360.2.16.

- (ff) **Scientifically based research.** Scientifically based research means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and includes research that:
- (1) Employs systematic, empirical methods that draw on observation or experiment;
  - (2) Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
  - (3) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
  - (4) Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
  - (5) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
  - (6) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.
- (gg) **Services plan.** Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child, grades K-12, with a disability enrolled in an independent school or in a registered home school, who has been designated to receive services, including the location of the services and any transportation necessary, and is developed and implemented in accordance with Rule 2367.

- (hh) **Special education services.** As defined in Rule 2360.2.12.
- (ii) **Student.** For the purpose of this document, the term “student” shall refer to individuals ages six through 21 years of age, inclusive.
- (jj) **Supplementary aids and services.** Supplementary aids and services means aids, services, and other supports that are provided in general education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in the least restrictive environment.
- (kk) **Universal design.** The term “universal design”, as provided in the Assistive Technology Act of 2004, means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.
- (ll) **Vulnerable adult in State custody.** For purposes of these rules, “vulnerable adult in State custody” is a student who is 18 through 21 years of age and for whom guardianship authority to make educational decisions on behalf of the student has been granted by a court to the Commissioner of the Department of Disabilities, Aging and Independent Living pursuant to Chapter 215 of Title 18. A vulnerable adult in State custody meets the definition of, and shall be afforded, all rights and protections as a “ward of the State” pursuant to 20 U.S.C. § 1401(36).
- (mm) **Ward of the State.** All rights and protections as a “ward of the State” pursuant to 20 U.S.C. § 1401(36) shall be afforded to a “child in State custody” or a “vulnerable adult in State custody” as those terms are defined in this section.

### **2361.2 Essential Early Education (EEE) Eligibility of Children Age Three Years Through Five**

Essential Early Education (EEE) is IDEA Part B Early Childhood Special Education (ECSE) services for children ages three through five, inclusive. Special education and related services are provided by LEAs to ensure children receive age appropriate services within inclusive early childhood settings, including the child’s home, to the extent possible.



- (a) A child under age three may be eligible for placement in Part B under IDEA on or up 90 days prior to their third birthday if the LEA determines the child meets criteria set forth in Part C Rule 2360.5.10.
- (1) If the child is eligible for Part B, an IEP must be developed by the child’s third birthday.
  - (2) Given parental consent under Rule 2363.8, a child shall receive ECSE services from the period of time between initiation of services up to their three-year evaluation date. The three-year evaluation date is three years from the date of initial eligibility determination under Part C CIS/EI as written in the child’s One Plan.
  - (3) Before the three-year evaluation date is due, the LEA shall conduct and complete an initial comprehensive evaluation under Part B using ECSE eligibility criteria.
- (b) A child age three years through five years shall be eligible for EEE services if the child meets at least one of the following:
- (1) After the Evaluation Planning Team (EPT) reviews the results of the comprehensive evaluation and concludes that the child has a disability caused by a developmental delay and the child is in need of early childhood special education services; or
  - (2) The child has a medical condition which may result in significant delays, and the child is in need of early childhood special education services; or
  - (3) For a child enrolled in kindergarten, the EPT may consider using eligibility criteria for children ages six through 21 (school age) pursuant to Rule 2362, including the determination of a disability, adverse effect on educational performance, and need for special education.
- (c) For the purposes of this section, “medical condition” means a condition diagnosed by a licensed physician such as, but not limited to, autism, cerebral palsy, Down Syndrome, or attention deficit disorder with hyperactivity that may result in significant delays by the child's sixth birthday.
- (d) For the purposes of this section, “developmental delay” is determined through a comprehensive evaluation as measured by at least two appropriate assessment measures, one of which must be a standardized diagnostic instrument. Other measures may include, but are not limited to, observation of a child’s function across daily routines and settings, interview with teachers, family, and/or caregivers, review of ongoing assessment, and, if warranted, a functional behavior assessment. To meet developmental delay criteria a child must demonstrate at least one of the following:
- (1) A 40% delay in one or more developmental domains; or

- (2) A 25% delay in two or more developmental domains; or
  - (3) A 2.0 standard deviation at, or below the mean (2<sup>nd</sup> percentile) in one or more developmental domains; or
  - (4) A 1.5 standard deviation at, or below the mean (7<sup>th</sup> percentile) in two or more developmental domains.
- (e) Developmental Domains are defined as:
- (1) Speech and language development including receptive and/or expressive communication, articulation, fluency, and/or voice;
  - (2) Adaptive development (self-help skills);
  - (3) Social or emotional development;
  - (4) Physical development including gross or fine motor skills; or
  - (5) Cognitive skills such as perception, memory, processing, and reasoning.
- (f) The administration of any assessments shall be in compliance with the evaluation requirements set forth in Rule 2362.2.1.
- (g) The percentage delay in a child's performance on a norm referenced assessment may be measured by dividing the child's age equivalent score in months by the child's actual age in months, and then multiplying the quotient by 100. The result is then subtracted from 100 to determine the child's percentage of delay.
- (h) If the EPT has determined the child eligible to receive special education and related services an IEP shall be written within 30 days of the eligibility determination.
- (i) The content of the child's IEP shall be as set forth in Rule 2363.7. For a preschool age child, the IEP shall address how the child's disability affects his/her access to and participation in age appropriate activities.

**2361.3 Educational Placement in the Least Restrictive Environment (LRE) (34 C.F.R. § 300.115)**

- (a) At all times, a child's LRE placement must be based on their unique abilities and needs, and must provide the opportunity for a meaningful educational benefit. In determining the educational placement of a preschool child with a disability, each LEA shall provide a full continuum of placement options and ensure that:

- (1) Placement decisions (provision of early childhood special education and related services) shall be made by the IEP team in conformity with the provisions regarding placement in the least restrictive environment set forth in Rule 2364, and
- (2) The child's educational placement shall be:
  - (i) Determined at least annually;
  - (ii) Based on the child's IEP;
  - (iii) In as close proximity as possible to the child's home; and
  - (iv) Based on consideration of community-based early care and education settings, such as public or private Universal Prekindergarten Education (UPK) classrooms, private childcare, Head Start or as appropriate for the child, within the home.
    - (A) A child may receive ECSE services in a State-approved public or private prequalified UPK program. The LEA may, but is not required to, provide ECSE services outside of the LEA, even if the child is enrolled in an out-of-district UPK program.
    - (B) All public and private UPK programs shall adhere to applicable federal and state laws including, but not limited to, IDEA Part B; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act (ADA); Title VII of the Civil Rights Act of 1964; Vermont's Act 166 of 2014; SBE Rule Series 2600; and the Vermont Agency of Human Services (AHS), Child Development Division (CDD) licensing regulations.
    - (C) For children who are enrolled in public or private UPK programs and receive ECSE services, the UPK program shall allow access to ECSE service providers and permit announced and unannounced visits by representatives of AOE, AHS, and school district staff.

#### **2361.4 Transition for Children Moving into Kindergarten**

- (a) In order to ensure a smooth transition to kindergarten, the IEP team shall:
  - (1) Meet three to six months prior to the child's entrance into kindergarten to ensure that the child's IEP is ready to be implemented at the beginning of the school year. The child's re-evaluation date is determined three years from the child's evaluation date as stated on the child's current IEP.

- (2) Include in the meeting the parents of the child with a disability, a kindergarten teacher in the school the child will be attending, and a special education teacher or other school representative from the LEA who is:
  - (i) Knowledgeable about the LEA's resources;
  - (ii) Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities; and
  - (iii) Knowledgeable about the general education curriculum.
  - (iv) Other individuals with knowledge or special expertise regarding the child may be included in the meeting.

### **2361.5 IEP Content**

The content of the child's IEP shall be as set forth in Rule 2363.7. For a preschool age child, the IEP shall address how the child's disability affects their access to and active participation in age appropriate activities within the LRE. The IEP present levels of performance, goals, and objectives shall align with the following early childhood outcome areas:

- (a) Positive Social and Emotional Skills and Relationships;
- (b) Acquisition and Use and Knowledge and Skills; and
- (c) Taking Appropriate Action to Meet Needs.

## **2362 Eligibility for Children Ages Six Years through 21**

**(34 C.F.R. § 300.306)**

- (a) A child shall be eligible for special education if:
  - (1) He or she has one or more of the disabilities described in Rule 2362.1;
  - (2) Except for the disability categories of Deaf-Blindness and Specific Learning Disability, the disability results in an adverse effect on the child's educational performance in one or more of the basic skill areas as described in subsection (g), below; and
  - (3) The student needs special education services to access and benefit from his or her educational program and this support cannot be provided through the educational support system, standard instructional conditions or supplementary aids and services provided in the school.
- (b) The three criteria listed in subsection (a) above shall also be applied at the time the student receives a re-evaluation to determine eligibility.
- (c) A formal evaluation process, documented in a report as required by Rule 2362.2.6, shall be used to determine whether the above criteria are met.
- (d) Adverse Effect.
  - (1) In this section, “adverse effect” and to “adversely affect” are used interchangeably and mean to have a negative impact on the basic skills areas. This impact does not need to be substantial, significant, or marked. It is more than a minor or transient hindrance, evidenced by findings and observations based on data sources and objective assessments with replicable results. An adverse effect on educational performance does not include a developmentally appropriate characteristic of age/grade peers in the general population.
  - (2) The EPT must identify areas of adverse effect due to disability in the basic skills areas using a range of diagnostic and performance data appropriate to the student where the disability category requires a finding of adverse effect. The EPT and IEP team will consider academic and nonacademic aspects of the child’s functioning.
  - (3) The documentation of adverse effect on educational performance must also substantiate that the educational deficiencies persist or will persist over time in spite of specific alternative strategies that are provided within the general education setting. The EPT should document evidence that scientific, research-based interventions have been implemented with fidelity. The EPT will consider these efforts and their impact when determining adverse educational performance.

- (e) A child may not be determined to be eligible under these rules if the determinant factor for that eligibility decision is lack of instruction in reading, including the essential components of reading instruction (phonemic awareness, phonics, fluency including oral reading skills, vocabulary development, reading comprehension strategies), or math, or limited English proficiency; and the child does not otherwise meet the eligibility criteria of these rules.
- (f) If a child has a disability that results in an adverse effect on his or her educational performance in one or more of the basic skills, the EPT shall, in the following order:
  - (1) Consider the interventions, services, and accommodations the student may need, and
  - (2) Determine and provide justification that the student requires specially designed instruction that cannot be provided within the school's standard instructional conditions, or provided through the school's educational support system.
- (g) Basic skill areas—
  - (1) Unless otherwise specified in the disability category in these rules, basic skill areas are:
    - (i) Oral expression;
    - (ii) Listening comprehension;
    - (iii) Written expression;
    - (iv) Basic reading skills;
    - (v) Reading comprehension;
    - (vi) Mathematics calculation;
    - (vii) Mathematics reasoning;
    - (viii) Motor skills; and
    - (ix) Functional skills.
  - (2) For an individual with a sensory impairment, one or more comparable basic skills shall be considered to serve as an appropriate substitute for one or more of the above basic skills, for example, Braille skills for basic reading skills.
  - (3) The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
  - (4) “Functional skills” means the acquisition of essential and critical skills needed for a child with disabilities to learn specific daily living, personal, social, and employment skills or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for post-secondary and other life-long opportunities.

### **2362.1 Categories of Disability (34 C.F.R. § 300.8)**

The existence of one or more of the following categories of disability shall be established according to the criteria set forth below.

(a) **Autism Spectrum Disorder**

- (1) Is a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three. Included in the spectrum are: autism, pervasive developmental disorder – not otherwise specified, Rett’s Disorder, Asperger’s Disorder, and childhood disintegrative disorder.
- (2) Other characteristics often associated with autism spectrum disorder are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Characteristics vary from mild to severe as well as in the number of symptoms present. Autism spectrum disorder does not apply if a child’s educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in Rule 2362.1(c).
- (3) A child who manifests the characteristics of autism spectrum disorder after age three could be identified as having autism spectrum disorder if the criteria in subsections (1) and (2) are satisfied.
- (4) The EPT shall obtain an opinion of a licensed psychologist and/or medical physician who has training and experience in understanding autism spectrum disorders and other developmental disorders as to the existence of an autism spectrum disorder and its effect on the student's ability to function and whether there is an adverse effect on the child’s educational performance.

- (b) **Deaf-blindness** means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with

deafness or children with blindness.

(c) **Emotional disturbance** means a condition including schizophrenia, exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance.

(1) Characteristics of an emotional disturbance:

- (i) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (iii) Inappropriate types of behavior or feelings under normal circumstances.
- (iv) A general pervasive mood of unhappiness or depression.
- (v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(2) A student who is socially maladjusted shall not be considered to be emotionally disturbed unless, he or she also meets the definition of emotional disturbance as set forth in subsection (1). A social maladjustment is a persistent pattern of violating societal norms, such as multiple acts of truancy, or substance or sex abuse, and is marked by struggle with authority, low frustration threshold, impulsivity, or manipulative behaviors. A social maladjustment unaccompanied by an emotional disturbance is often indicated by some or all of the following:

- (i) Unhappiness or depression that is not pervasive;
- (ii) Problem behaviors that are goal-directed, self-serving, and manipulative;
- (iii) Actions that are based on perceived self-interest even though others may consider the behavior to be self-defeating;
- (iv) General social conventions and behavioral standards are understood, but are not accepted;
- (v) Negative counter-cultural standards or peers are accepted and followed;
- (vi) Problem behaviors have escalated during pre-adolescence or adolescence;
- (vii) Inappropriate behaviors are displayed in selected settings or situations (e.g., only at home, in school or in selected classes), while other behavior is appropriately controlled; and/or



- (viii) Problem behaviors are frequently the result of encouragement by a peer group, are intentional, and the student understands the consequences of such behaviors.
- (3) The EPT shall obtain an opinion of a licensed psychologist or psychiatrist as to the existence of an emotional disturbance and its effect on the student's ability to function, based on the above criteria.
- (4) Upon determination of the existence of an emotional disturbance disability, the parent shall be informed of the availability of interagency coordination of services, as defined by 33 V.S.A. § 4301 et seq.
- (d) **Hearing Loss** means deafness or hard of hearing as determined by an audiologist, otologist, or otolaryngologist, and demonstrated by a 25 decibel HL threshold (ANSI, 69) or worse for one or more of the frequencies 250-8000HZ, in one or both ears, with or without amplification.
- (e) **Intellectual disability** means a delay in learning of sufficient magnitude to cause a student's performance to fall at or below -1.5 standard deviations from the mean of a test of intellectual ability, existing concurrently with deficits in adaptive behavior.
- (f) **Multiple disabilities** means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.
- (g) **Orthopedic impairment** includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). The EPT shall obtain an opinion from a licensed physician as to the existence of the orthopedic impairment and its effect on the student's ability to function.

- (h) **Other health impairment** means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:
- (1) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, non-verbal learning disability, and Tourette syndrome; and adversely affects a child's educational performance.
  - (2) In order to determine the existence of another health impairment and its effect on the student's ability to function, the EPT shall obtain an opinion from a person:
    - (i) Whose professional licensure authorizes him or her to offer an opinion on the existence of the specific condition suspected to be another health impairment and its effect on the student's ability to function, and
    - (ii) Who has specific training and experience in diagnosing and recommending treatment for the specific condition suspected.
- (i) **Specific Learning Disability**
- (1) The term "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.
  - (2) Disorders include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
  - (3) The term "specific learning disability" does not include a learning problem that is primarily the result of: visual, hearing, or motor disabilities; intellectual disability; emotional disturbance; or environmental, cultural, or economic disadvantage.
- (j) **Speech or language impairment** means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects a student's educational performance and shall be demonstrated by significant deficits in listening comprehension or oral expression. The EPT shall obtain an opinion from a licensed speech-language pathologist as to the existence of a speech or language impairment and its

effect on the student's ability to function. The determination of a speech or language impairment shall be based on the following criteria:

- (1) Listening comprehension. A significant deficit in listening comprehension exists when a student demonstrates at least 2.0 standard deviations below the test mean on at least one composite score and other measures of auditory processing or comprehension of connected speech. Auditory processing or comprehension include:
  - (i) phonology,
  - (ii) morphology,
  - (iii) syntax,
  - (iv) semantics, or
  - (v) pragmatics.
- (2) Oral Expression. For purposes of determination of a speech and language impairment, a significant deficit in oral expression exists when a child demonstrates one or more of the following conditions:
  - (i) Voice. A significant deficit in voice exists when both of the following are present:
    - (A) Documentation by an otolaryngologist that treatment is indicated for a vocal pathology or speech related medical condition, and
    - (B) Abnormal vocal characteristics in pitch, quality, nasality, volume, or breath support, which persist for at least one month.
  - (ii) Fluency. A significant deficit in fluency exists when the student exhibits one or more of the following behaviors:
    - (A) Part word repetitions or sound prolongations occur on at least 5% of the words spoken in two or more speech samples, or
    - (B) Sound or silent prolongations exceed one second in two or more speech samples, or
    - (C) Secondary symptoms or signs of tension or struggle during speech which are so severe as to interfere with the flow of communication.
  - (iii) Articulation. A significant deficit in articulation attributed to an organic or functional disorder exists when a student is unable to articulate two or more of the unrelated phonemes in connected speech, set forth below, and it is not attributed to dialect or second language difficulties.

Age	Phonemes
6.0 – 6.11	m, n, h, w, p, b, t, d, k, g, f, v (y), (ch), (th) as in the word “mother”, (sh), and “j” as in jump
7.0 – 7.11	(th) as in the word “thin”, l
8.0 and above	s, z, r, (zh) as in “measure”, ng and consonant blends with s, l, and r

(iv) Oral Discourse. A significant deficit exists when a student demonstrates a deficit of at least 2.0 standard deviations below the test mean on at least one composite score and other measures of oral discourse. Oral discourse includes:

- (A) phonology,
- (B) morphology,
- (C) syntax,
- (D) semantics, or
- (E) pragmatics

(k) **Traumatic brain injury** means an injury to the brain caused by an external physical force or by an internal occurrence such as a stroke or aneurysm, resulting in total or partial functional disability or psychosocial impairment, or both. The EPT shall obtain an opinion of a licensed physician as to the existence of a traumatic brain injury and its effect on the student's ability to function, as defined by the following criteria:

- (1) The condition includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.
- (2) The condition does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(l) **Visual impairment** including blindness means an impairment in vision as evaluated by an optometrist or ophthalmologist.

- (1) This term includes, but is not limited, to the following:

- (i) partial sight and blindness;
  - (ii) a visual acuity of 20/70 or less in the better eye;
  - (iii) reduced visual field to 20 degrees;
  - (iv) a diagnosis of cortical visual impairment;
  - (v) a diagnosis of a degenerative condition that is likely to result in a significant loss of vision; or
  - (vi) other vision conditions that may adversely affect a child's educational performance, such as convergence insufficiency disorder.
- (2) For the purposes of this disability, mobility and orientation shall also be considered to be special education services.

### **2362.2 Procedures for Evaluation and Determination of Eligibility-Definition and Purpose**

- (a) For purposes of this section, "evaluations" are defined as observations, tests, and other diagnostic measures, individually selected and administered to determine the existence of a disability, the effect the disability has on the child's educational and functional performance, and the need for specialized services and for an appropriate program. An evaluation is a compilation of information that is designed to assist:
- (1) The EPT in determining eligibility for special education;
  - (2) The IEP team in developing the student's IEP including special education services, and as required, related services, transition services, assistive technology, and supplementary aids and services; and
  - (3) The IEP team in determining an appropriate placement in the least restrictive environment.
- (b) The EPT membership for a student/child suspected of having a specific learning disability shall also include the following people:
- (1) The student/child's general education teacher, or
  - (2) If the student/child does not have a general education teacher, a general education teacher qualified to teach a student/child of his or her age; or
  - (3) For a student/child of less than school age, an individual qualified to teach a student/child of his or her age; and
  - (4) At least one person qualified to conduct individual diagnostic examinations of students/children, such as a school psychologist, speech and language pathologist,

special education teacher, or remedial reading teacher.

- (c) Where the EPT cannot achieve consensus, as a member of the EPT, the LEA representative shall make the final decision.
- (d) The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 C.F.R. § 300.302).

### **2362.2.1 Initial Evaluations (34 C.F.R. § 300.301)**

Either a parent of a child, or an LEA, or the AOE, or other State agency, may initiate a request for an initial evaluation to determine if a child or student is eligible for special education and related services. Implementation of Response to Intervention (RTI), Multi-tiered System of Supports (MTSS) or other strategies for academic and behavioral support shall not cause the evaluation of a child or student suspected of having a disability to be delayed or denied.

- (a) Each LEA shall conduct a comprehensive and individual initial evaluation before the initial provision of special education and related services to a student with a disability under these rules.
- (b) Upon receipt of a request for an evaluation, the school district shall, within 15calendar days, either:
  - (1) Request parent consent to initiate the evaluation;
  - (2) Convene an EPT meeting; or
  - (3) Provide written reasons for denial of the request.
- (c) The initial evaluation shall be completed and the report issued within 60days from either:
  - (1) The date parental consent has been received by the LEA; or
  - (2) The date on the LEA's notice, which informs parents that it will be reviewing existing data as the sole basis for the initial evaluation.
- (d) If completion of the initial evaluation will be delayed for a period exceeding 60days as specified in subsections (1) and (2) above, the parent shall be given written notice of the delay and a schedule of evaluation activities. Such notice shall be sent to a parent before the expiration of the 60-day period. A notice of delay shall only be used for exceptional circumstances related to the student and/or family, which shall be documented.

- (e) Consent shall be obtained before individual tests can be administered to students who receive special education services unless the assessment is being administered as an alternate assessment to district-wide or statewide assessments.
- (f) The 60-day time limit for the completion of an initial eligibility evaluation identified in subsection (c) shall not apply to an LEA if the parent of a student repeatedly fails or refuses to make a student available for the evaluation or if:
  - (1) A student moves to a new LEA before the eligibility evaluation in the old LEA has been completed;
  - (2) The new LEA is making sufficient progress to ensure a prompt completion of the evaluation; and
  - (3) The parent and new LEA have agreed to the specific time when the evaluation will be completed.

**2362.2.2 Evaluation Planning Team (EPT) – Membership**

- (a) Evaluations shall be arranged for, or conducted by an EPT with assistance, where appropriate, from other professionals (e.g., medical, psychological, etc.)
- (b) The EPT membership shall include:
  - (1) An LEA representative who:
    - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children and students with disabilities;
    - (ii) Is knowledgeable about the general curriculum;
    - (iii) Is knowledgeable about the availability of resources of the LEA;
    - (iv) An LEA representative may designate any LEA personnel member of the EPT to also serve as the LEA representative, if the criteria in subsections (i)-(iii) are satisfied.
  - (2) At least one special education teacher of the student/child, or if appropriate, at least one special education service provider for the student/child;
  - (3) At least one general education teacher of the student/child, to the extent appropriate, if the student/child is, or may be, participating in the general education environment; The student when his or her post-secondary transition needs or services will be considered and other agencies likely to be responsible for providing or paying for transition services;
  - (4) At the discretion of the parent or the school district, other individuals who, in the

- opinion of the parents or school district have knowledge or special expertise regarding the student/child, including related services personnel, as appropriate;
- (5) An individual who can interpret the instructional implication of evaluation results, who also may be a member of the team as described in sections (1), (2), (3), and (4) above;
  - (6) The parent(s), guardian, or educational surrogate parent of the student/child who shall be given meaningful opportunity to contribute information to the development of an evaluation plan; and
  - (7) If appropriate, the student/child.
- (c) The EPT membership for a student/child suspected of having a specific learning disability shall also include the following people:
- (1) The student/child's general education teacher, or
  - (2) If the student/child does not have a general education teacher, a general education teacher qualified to teach a student/child of his or her age; or
  - (3) For a student/child of less than school age, an individual qualified to teach a student/child of his or her age; and
  - (4) At least one person qualified to conduct individual diagnostic examinations of students/children, such as a school psychologist, speech and language pathologist, special education teacher, or remedial reading teacher.
- (d) Where the EPT cannot achieve consensus, as a member of the EPT, the LEA representative shall make the final decision.

### **2362.2.3 Re-Evaluation Requirements (34 C.F.R. § 300.303)**

- (a) The LEA shall ensure that a reevaluation of each child with a disability is conducted:
- (1) If the LEA determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation;  
or
  - (2) If the child's parent or teacher requests a reevaluation.
- (b) A reevaluation conducted under sub-section (a):
- (1) May occur not more than once a year, unless the parent and the LEA agree otherwise;  
and



- (2) Shall occur at least once every three years, unless the parent and the LEA agree that a reevaluation is unnecessary.

**2362.2.4 Evaluation Procedures (34 C.F.R. § 300.304)**

- (a) The LEA shall provide notice to the parents of a child with a disability in accordance with 2365.1.1 that describes any evaluation procedures the LEA proposes to conduct.
- (b) In conducting the evaluation, the LEA shall:
- (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:
    - (i) Whether the child is eligible for special education services; and
    - (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
  - (2) Not use any single measure or assessment as the sole criterion for determining special education eligibility and for determining an appropriate educational program for the child; and
  - (3) Assess all student characteristics and other factors that may have a significant influence on eligibility, services to be offered or accommodations to be made, including, but not limited to:
    - (i) Physical characteristics:
      - (A) Vision;
      - (B) Hearing;
      - (C) Health;
      - (D) Medical; and
      - (E) Nutrition.
    - (ii) Social, behavioral, or emotional characteristics:
      - (A) Self-esteem;
      - (B) Self-control; and
      - (C) Interaction with peers and adults.
    - (iii) Adaptive behavior across settings:
      - (A) Independence skills;

- (B) Coping skills; and
  - (C) Self-care skills.
  - (iv) Relevant life circumstances:
    - (A) Family;
    - (B) Community; and
    - (C) Environmental factors.
  - (v) Speech characteristics:
    - (A) Articulation;
    - (B) Fluency; and
    - (C) Voice.
  - (vi) Language and communication skills.
  - (vii) Intellectual or cognitive characteristics:
    - (A) Learning abilities;
    - (B) Learning styles; and
    - (C) Reasoning.
  - (viii) Areas of concern in the basic skills areas:
    - (A) Oral expression;
    - (B) Listening comprehension;
    - (C) Written expression;
    - (D) Basic reading skills;
    - (E) Reading comprehension;
    - (F) Mathematics calculation;
    - (G) Mathematics reasoning; and
    - (H) Motor skills.
  - (ix) Vocational needs.
  - (x) Skills in the learning environment.
  - (xi) Assistive technology needs related to devices and services.
  - (xii) The EPT shall assess the student's current level of performance in all curriculum areas with respect to which special education, related services and supplementary aids and services may be required.
- (4) Ensure that assessments and other evaluation materials used to assess a child are:
- (i) Selected and administered so as not to be discriminatory on a racial or cultural basis;

- (ii) Provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer;
  - (iii) Used for the purposes for which the assessments or measures are valid and reliable;
  - (iv) Administered by trained and knowledgeable personnel;
  - (v) Administered in accordance with any instructions provided by the producer of the assessments;
  - (vi) Those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient; and
  - (vii) Selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
- (5) Ensure that assessments of children with disabilities who transfer from one LEA to another LEA in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.
- (6) Ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been found eligible.
- (7) Ensure that assessment tools and strategies provide relevant information to directly assist the IEP team in determining that the educational needs of the child are provided.
- (c) As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the EPT and other qualified professionals, as appropriate, shall:
- (1) Review existing evaluation data on the child, including:
    - (i) Evaluations and information provided by the parents of the child;
    - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
    - (iii) Observations by teachers and related services providers; and

- (2) On the basis of that review, and input from the student’s parents, identify what additional data, if any, are needed to determine:
- (i) Whether the student is or continues to be eligible for special education and related services;
  - (ii) The present levels of academic achievement and related developmental needs of the student; and
  - (iii) Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.
- (d) The EPT may conduct its review without a meeting.
- (i) If a parent requests that the EPT review data through a formal meeting, then a formal meeting with required notices shall be held.
  - (ii) A formal meeting shall be required whenever the initial eligibility of the child will be determined. When a satisfactory agreement on such time or place cannot be reached, the LEA shall use other, mutually agreed upon methods, to ensure parent participation, including individual or conference telephone calls, or video conferencing.
- (e) The LEA shall administer such assessments and other evaluation measures as may be needed to produce the data identified under subsection(c).
- (f) If the EPT determines that no additional data are needed to determine whether the child continues to be eligible for special education and related services, the LEA shall notify the child’s parents of:
- (1) That determination and the reasons for the determination; and
  - (2) The right of the parents to request additional testing to determine eligibility.
    - (i) The LEA is not required to conduct additional testing unless requested to do so by the child’s parents.
- (g) The LEA shall evaluate a child before determining that the child is no longer eligible for special education and related services, unless the termination of a child’s eligibility is due to graduation from secondary school with a regular diploma, or due to reaching the age of 22.
- (1) Under these circumstances, the LEA shall provide the child with a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals.

- (2) The LEA shall send a notice to the student and his/her parent(s) that a change of placement is scheduled to occur and give the reasons why.
- (h) Prior to conducting an initial or re-evaluation for eligibility purposes, the EPT shall complete a written evaluation plan which lists the areas to be assessed, the procedures to be used in carrying out the evaluation, and personnel by title responsible for performing the evaluations. All EPT members shall have the opportunity to provide input in the development of the written evaluation plan.

**2362.2.5 Additional Procedures for Identifying Children With Specific Learning Disabilities  
(34 C.F.R. § 300.307-300.311)**

- (a) In making the determination that a student has a specific learning disability the LEA shall decide whether to use a model based on whether the student responds to scientific, research-based intervention or to use a model based on other alternative research-based procedures for determining whether a child has a specific learning disability.
  - (1) Eligibility determinations for a student who is determined to have a specific learning disability shall not be required to include an assessment of adverse effect as outlined in Rule 2362(d).
  - (2) When using a model based on whether the student responds to scientific, research-based intervention, the EPT shall document use of the following:
    - (i) High-quality instruction and scientific research-based tiered interventions aligned with individual student need;
    - (ii) Frequent monitoring of student progress to make results-based academic decisions; and
    - (iii) Use of student response data to evaluate the effectiveness of interventions.
- (b) The determination of whether a student has a specific learning disability shall be made by the student's parents and a team of qualified professionals, which shall include:
  - (1) The child's general education teacher; or
    - (i) If the child does not have a general education teacher, a classroom teacher qualified to teach a child of his or her age; or
  - (2) For a child of less than school age, an individual licensed by the Vermont Agency of Education to teach a student of his or her age; and

- (3) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, special education teacher, or remedial reading teacher.
- (c) The EPT may determine that a student has a specific learning disability if:
- (1) When provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, the student does not achieve adequately in one or more of the following areas:
    - (i) Oral expression.
    - (ii) Listening comprehension.
    - (iii) Written expression.
    - (iv) Basic reading skill.
    - (v) Reading fluency skills.
    - (vi) Reading comprehension.
    - (vii) Mathematics calculation.
    - (viii) Mathematics problem solving.
  - (2) The student does not make sufficient progress to meet age or State-approved grade level standards in one or more of the areas identified in (c)(1) when using a model based on whether the student responds to scientific, research-based intervention.
  - (3) The EPT determines that its findings under paragraphs (c)(1) and (2) of this subsection are not primarily the result of:
    - (i) A visual, hearing, or motor disability;
    - (ii) Intellectual disability;
    - (iii) Emotional disturbance;
    - (iv) Cultural factors;
    - (v) Environmental or economic disadvantage; or
    - (vi) Limited English proficiency.
- (d) To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the EPT shall consider, as part of the evaluation, the following:
- (1) Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and

- (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.
- (e) The LEA shall promptly request parental consent to evaluate the student to determine if the student needs special education and related services, and shall adhere to the timeframes described in Rule 2362.2.1 unless extended by mutual written agreement of the student's parents and other members of the EPT if:
  - (1) Prior to a referral, a student has not made adequate progress after an appropriate period of time when provided scientifically research-based instruction/intervention; and
  - (2) Whenever a student is referred for an evaluation.
- (f) At least one member of the child's EPT, other than the child's current teacher, who is trained in observation, shall observe the child, and the learning environment, including the general classroom setting, to document academic performance and behavior in the areas of difficulty.
  - (1) Students who are enrolled in a program of home study or who receive instruction delivered in a home, hospital, preschool, childcare setting, or other out of school setting shall be observed in instructional environments appropriate for children of that age, by trained personnel who are not the teacher. This observation shall be reported in writing to the EPT.
  - (2) If, after reasonable efforts have been made, it is not possible to conduct a classroom observation due to chronic truancy or other extenuating circumstances, there shall be documentation of efforts made to observe the student in an instructional environment.

### **2362.2.6 Evaluation and Planning Team Report**

- (a) When all necessary information is collected, the EPT shall prepare a written report that documents whether the child is eligible. When a student is found eligible, the report shall be available for use by the IEP team in program planning. The report shall include the following and shall be provided to the parent by the EPT:
  - (1) A conclusion supported by a rationale as to whether or not the student is eligible for special education based on the following:
    - (i) The presence or absence of a disability;

- (ii) If there is a disability, whether it has an adverse effect on educational performance in one or more of the basic skill areas; and
    - (iii) Whether the student needs special education services to benefit from his or her educational program and that this support cannot be provided through the educational support system, standard instructional conditions, or supplementary aids and services provided in the school.
  - (2) The evaluation procedures used, including:
    - (i) A description of any modifications or changes made from the evaluation procedures specified in the evaluation plan; or
    - (ii) Changes which were necessary in test administration as described in Rule 2362.2.4(b)(4);
  - (3) A summary of all educationally relevant information collected during the evaluation, including educational, medical, and psychological information and a summary of other factors considered;
  - (4) Recommendations as to the need for accommodations in curriculum, assessments, material, or programmatic adaptation, behavior management interventions, and supplemental aids and services;
  - (5) The initials of all team members indicating agreement or disagreement with the eligibility conclusion. A group member who does not agree with the conclusion shall submit a separate statement presenting his or her conclusions and this statement shall become part of the Evaluation Plan and Report; and
  - (6) The written report of an observation of the student, if an observation has been conducted.
- (b) For a student suspected of having a specific learning disability, the evaluation report shall include documentation of:
- (1) Whether the student has a specific learning disability;
  - (2) The basis for making the determination, including an assurance that the determination has been made in accordance with Rules 2362.2.3 and 2362.2.4.
  - (3) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;
  - (4) Any educationally relevant medical findings;
  - (5) Whether:
    - (i) The student does not achieve adequately for the student's age or to meet Vermont grade-level standards in one or more of the basic skill areas, when provided with



learning experiences and instruction appropriate for the student's age or grade level expectations; and

- (ii) The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, Vermont standards and grade level expectations or intellectual development consistent with the characteristics of a specific learning disability.
- (6) The determination of the EPT concerning the effects of visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and
- (7) If the student has participated in a process that assesses the student's response to scientific, research-based intervention:
- (i) The instructional strategies used and the student-centered data collected; and
  - (ii) The documentation that the student's parents were notified about:
    - (A) The amount and nature of student performance data that would be collected and the general education services that would be provided;
    - (B) Strategies for increasing the student's rate of learning; and
    - (C) The parent's right to request an evaluation.

### **2362.2.7 Students Who Are Determined to Have a Disability, But Are Not Eligible for Special Education**

- (a) When an EPT determines that a student has a disability, but is not eligible for special education, it shall recommend accommodations, as needed, in such areas as assessment procedures, curriculum, material or programmatic adaptations, behavior management interventions, and supplemental aids and services. These recommendations shall be included in the written Evaluation Plan and Report. The Evaluation Plan and Report for such a student shall be referred to the student's building administrator who shall arrange for a Section 504 team to consider whether:
- (1) The student's disability and needs will require a Section 504 Plan or
  - (2) The student's needs can be met within the school's standard instructional conditions and through its educational support system.
- (b) If the EPT determines that the student has a disability, but is not eligible for special education, it may proceed to operate as a Section 504 team to determine whether the child is eligible for

reasonable accommodations under Section 504.

### **2362.2.8 Independent Educational Evaluation (34 C.F.R. § 300.502)**

An “independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question.

- (a) Upon completion of a LEA evaluation, a parent may request an independent educational evaluation at public expense if he or she disagrees with the evaluation obtained by the LEA. Except as provided in this rule, the LEA shall either pay the full cost of the requested evaluation, or ensure that the evaluation is otherwise provided at no cost to the parent.
- (b) A parent is entitled to only one independent educational evaluation at public expense for each evaluation performed by the LEA with which the parent disagrees.
- (c) If a parent requests an independent educational evaluation, the LEA shall, without unnecessary delay, either:
  - (1) Initiate a hearing to show that its evaluation is appropriate; or
  - (2) Ensure that an independent educational evaluation is provided at no cost to the parent.
- (d) An LEA shall provide to a parent who requests an independent educational evaluation, information about where such an evaluation may be obtained.
- (e) Any LEA criteria, under which an independent evaluation may be obtained, including the location of the evaluation and the qualification of the examiner, shall be the same as the criteria that the LEA uses when it initiates an evaluation. Criteria established by an LEA under this section shall not interfere with the parent's right to an independent educational evaluation.
- (f) Except as provided in (c) above, timelines or conditions related to obtaining an independent educational evaluation may not be imposed by the LEA.
- (g) An LEA may pursue mediation or a due process hearing to demonstrate that an independent educational evaluation obtained by a parent does not meet LEA criteria.
- (h) If the LEA initiates a hearing and the final decision is that the district’s evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at the LEA's expense.
- (i) If a parent requests an independent educational evaluation, the LEA may ask for the parent's reason why he or she objects to the district's evaluation. However, an explanation by the parent may not be required, and the LEA may not unreasonably delay either providing the

independent educational evaluation at no cost to the parent or initiating a due process hearing to defend the district's evaluation.

- (j) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:
  - (1) Shall be considered by the LEA's EPT, if the evaluation meets the district's criteria, whenever it makes any decision with respect to the provision of FAPE to the child; and
  - (2) May be presented as evidence at a hearing regarding the child.
- (k) If a hearing officer requests an independent educational evaluation as part of a hearing, the LEA is responsible for ensuring that the independent evaluation is completed at no cost to the parent.

## **2363 Individualized Education Programs (IEP) (34 C.F.R. § 300.320)**

The term “Individualized Education Program” or “IEP” means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this rule and includes:

- (a) A description of all special education services, related services, and supplementary aids and services that the child will need to be able to derive benefit from his or her educational program;
- (b) A description of the special education program; and
- (c) Accommodations and/or modifications necessary for the child to progress in the general education curriculum.

### **2363.1 Timelines (34 C.F.R. § 300.323)**

An IEP shall be:

- (a) Developed within 30 days of an initial determination that the child is eligible for special education and related services;
- (b) Revised, as appropriate, to address the results of any re-evaluation for special education and related services;
- (c) In effect before special education and related services are provided to the child;
- (d) In effect at the beginning of each school year unless the child has been determined to be eligible within 30 days prior to the first day of school, in which case subparagraph (a) above applies; and
- (e) Implemented as soon as possible following the IEP meeting.

### **2363.2 Responsibility of LEAs for IEPs**

Except as otherwise provided by these rules, each LEA shall ensure that an IEP is developed and implemented by the responsible LEA for each eligible child residing and attending public school in that district.

**2363.3 IEP Team (34 C.F.R. § 300.321)**

- (a) The LEA shall ensure that the IEP team for each eligible child includes:
- (1) A local education agency representative (LEA Representative) who:
    - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
    - (ii) Is knowledgeable about the general curriculum;
    - (iii) Is knowledgeable about the availability of resources of the LEA;
    - (iv) An LEA representative may designate any LEA personnel member of the IEP team to also serve as the LEA representative, if the criteria in subsections (i)-(iii) are satisfied; and
  - (2) Not fewer than one special education teacher of the child, or if appropriate, not fewer than one special education service provider for the child;
  - (3) Not fewer than one general education teacher of the child, to the extent appropriate, if the child is, or may be, participating in the general education environment. The teacher shall, to the extent appropriate, participate in the development of the IEP of the child including the determination of appropriate positive behavioral interventions and strategies, supplementary aids and services, program modifications, and supports for school personnel that will be provided to allow the child an opportunity for participation and progress in the general curriculum and the attainment of annual IEP goals;
  - (4) At the discretion of the parent or the LEA, other individuals who, in the opinion of the parents or LEA, have knowledge or special expertise regarding the child, including related services personnel, as appropriate;
  - (5) An individual who can interpret the instructional implications of evaluation results, who also may be a member of the team as described in sections (1), (2), (3), and (4) above;
  - (6) The parent(s), guardian, or educational surrogate parent of the child;
  - (7) If appropriate, the child;
  - (8) In the case of a child with a specific learning disability, at least one person qualified to conduct individualized diagnostic examinations of children, such as a school psychologist, speech-language pathologist, special education teacher, or remedial reading teacher; and
  - (9) In the case of a child previously served under the Children’s Integrated Services/Early Intervention (CIS/EI), at the request of the parent, the Part C service coordinator or other representatives of the Part C system may be invited to assist in the smooth transition of

special education services. Parents shall be notified of their right to request such an invitation.

- (b) Additional participants when the transition services of the student will be discussed.
  - (1) Not later than the IEP to be in effect when a student is age 16 (or younger, if determined appropriate by the IEP team), the LEA shall continue inviting the student to attend his/her IEP meetings to discuss transition services.
  - (2) If the student does not attend the IEP meeting when invited, the LEA shall take other steps to ensure that the student's preferences and interests are considered.
  - (3) In implementing the requirements with respect to transition services, the LEA also shall invite a representative of any other agency that is likely to be responsible for providing or paying for such services.
  - (4) If an agency invited to send a representative to a meeting does not do so, the LEA shall take other steps to obtain participation of the other agency in the planning of any transition services.

(c) IEP Team attendance

- (1) A member of the IEP team is not required to attend an IEP meeting, in whole or in part, if the parent of the child and the local educational agency agree, in writing, that the attendance of such member is not necessary because the member's area of curriculum or related services is not being modified or discussed in the meeting.
- (2) A member of the IEP team may be excused from attending an IEP meeting, in whole or in part, when the parent and local education agency agree, in writing, that a team member may be excused from the IEP meeting in which the member's area of curriculum or related services is being discussed. This agreement requires that the excused member submit, in writing to the parent and IEP team, their input into the IEP development prior to the IEP meeting.

(d) Decisions by the IEP team

If the team cannot reach consensus, the LEA Representative shall determine the contents of the IEP pursuant to Rule 2363.7 and shall notify the parents of their rights to revoke consent pursuant to Rule 2363.8(e), seek mediation, file an administrative complaint or request a due process hearing.

#### **2363.4 Parent Participation in IEP Meeting (34 C.F.R. § 300.322)**

- (a) Each LEA shall take steps to ensure that one or both parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including:
  - (1) Notifying the parents of the meeting early enough that they will have an opportunity to attend; and
  - (2) Scheduling the meeting at a mutually agreed upon time and place.
    - (i) The LEA shall schedule meetings with parents at a mutually agreed upon time and place. When a satisfactory agreement on such time or place cannot be reached, the district shall use other, mutually agreed upon methods to ensure parent participation, including individual or conference telephone calls, or video conferencing.
    - (ii) When the district is unable to arrange the parents' participation, the district shall convene the IEP meeting to meet its obligation to provide appropriate services to the child as set forth in rule 2363.2 of this section.
- (b) A meeting may be conducted without a parent in attendance, if the LEA is unable to convince the parent to attend. Under these circumstances, the LEA shall maintain a record of at least three attempts to arrange a mutually agreed upon time and place, such as:
  - (1) Detailed records of telephone calls made or attempted and the results of those calls;
  - (2) Copies of correspondence sent to the parents and any responses received; and
  - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (c) The LEA shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for a parent who is deaf or whose native language is other than English.
- (d) When the student reaches age 17, the LEA shall notify the parent and the student that at age 18, the student, unless he/she is under guardianship, will become an adult under Vermont law. At that time, the LEA shall send a notice to the student of his/her IEP meetings. The parent shall be given a copy of the notice unless, as set forth in rule 2365.1.12, the student is incarcerated. When a student becomes an adult, the parents may attend an IEP meeting at the discretion of the student pursuant to Rule 2363.3(a)(4).
- (e) A teacher or parent may request an IEP meeting at any time when they believe a component of the IEP should be changed. When the LEA receives the request:

- (1) The LEA shall convene a properly notified IEP meeting within 30 days of receipt of the request, not counting days between the student's regular school sessions or days of school vacation in excess of five school days, or
- (2) Refuse to convene an IEP meeting and shall provide written notice to the parent explaining why the LEA has concluded a meeting is not necessary to ensure the provision of FAPE to the student.
- (3) The LEA's notice shall inform the parent of his or her right to initiate a due process hearing if the parent disagrees with the LEA's decision not to convene a meeting under this subsection.

**2363.5 Notice About IEP Meeting (34 C.F.R. § 300.322(b))**

- (a) A notice of an IEP meeting shall:
  - (1) Indicate the purpose, time, and location of the meeting;
  - (2) State who will be in attendance; and
  - (3) Inform the parents of the right of the LEA and the parents to invite other people who, in their opinion, have knowledge or special expertise about the child.
- (b) Beginning not later than the first IEP to be in effect when the student is age 16, or younger if appropriate, for a student with a disability the notice shall advise the parents and student of the requirements of Rule 2363.4(b).

**2363.6 Development, Review, and Revision of IEP (34 C.F.R. § 300.324)**

- (a) In the development, review, and revision of an IEP, the IEP team shall consider:
  - (1) The strengths of the child and the concerns of the parent for enhancing the education of their child;
  - (2) The results of the initial or most recent evaluation of the child;
  - (3) As appropriate, the results of the child's performance on any general State or district-wide assessment programs; and
  - (4) The academic, developmental, and functional needs of the child
- (b) The IEP team shall also consider the following special factors:
  - (1) In the case of a child with limited English proficiency, the language needs of the child as those needs relate to the child's IEP;



- (2) In the case of a child who is blind or visually impaired, provision for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
  - (3) The communication needs of the child, and in the case of a child who is deaf or hard of hearing, the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;
  - (4) Whether the child requires assistive technology devices and services;
  - (5) When the evaluation data indicates that the student's behavior is impeding his or her learning or the learning of others, positive behavioral interventions and supports, and other strategies to address the behavior and to assist the child to develop skills in areas such as:
    - (i) Social skills;
    - (ii) Anger management; and/or
    - (iii) Conflict resolution.
  - (6) Supplementary aids and services, program modifications, or supports for the child or school personnel who will be working with the child to help him/her:
    - (i) Attain IEP annual goals;
    - (ii) Progress in the general curriculum;
    - (iii) Participate in extra-curricular activities; and
    - (iv) Be educated in the least restrictive environment.
  - (7) Whether a child needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the child to receive a FAPE.
- (c) Each LEA shall ensure that the IEP team:
- (1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
  - (2) Revises the IEP as appropriate to address:
    - (i) A lack of expected progress toward the annual goals;
    - (ii) A lack of expected progress in the general curriculum, if appropriate;
    - (iii) The results of any re-evaluation;

- (iv) Information about the child provided to, or by, the parents;
  - (v) The child's anticipated needs; or
  - (vi) Other matters.
- (3) In making changes to the IEP, after the annual review meeting, the parent of the child and the school may agree, in writing, not to convene an IEP meeting for the purpose of making such changes and, instead, may develop a written document to amend or modify the child's current IEP.
- (i) Parents shall be given a copy of the written agreement document.
- (d) To the extent possible, schools shall encourage the consolidation of re-evaluation meetings and other IEP meetings for the child.

### **2363.7 Content of IEP (34 C.F.R. § 300.320)**

An IEP that contains information under one component need not repeat the same information under another component. The IEP for each child with a disability shall include:

- (a) A statement of the child's present levels of academic achievement and functional performance, including:
  - (1) The child's abilities, acquired skills, and strengths;
  - (2) How the child's disability affects the child's involvement and ability to make progress in the general curriculum; or
  - (3) For preschool children, how the disability affects the child's participation in activities appropriate for the child;
  - (4) For children, not later than one year before the child reaches the age 18, a statement that the child has been informed of their rights under these regulations that will transfer to them upon reaching the age of majority (18).
- (b) Measurable annual goals related to the child's present levels of academic and functional performance which shall:
  - (1) Use pertinent data to inform the development of appropriate goals and objectives.
  - (2) Be written as measurable short-term objectives or benchmarks with projected dates for accomplishment, including a description of the evaluation procedures and the specific data that will be used to assess goals progress.
  - (3) Enable the child to be involved in and progress, to the extent appropriate, in the same curriculum as children without disabilities. For preschool children, goals shall include participation in activities appropriate for children without disabilities.

- (4) Enable the child to meet other educational needs that result from his or her disability.
- (5) Be accompanied by a method of reporting the child's progress to the parents at least as often as other parents in the school receive progress reports. A progress report shall inform parents of:
  - (i) Their child's progress toward the annual goals; and
  - (ii) The extent to which the progress is sufficient to enable the child to achieve the goals by the end of the year.
- (c) Special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of individual accommodations, program modifications, or supports that will be provided for school personnel to enable the child:
  - (1) To advance appropriately toward attaining his or her IEP annual goals;
  - (2) To be involved in and progress in the general curriculum, to participate in extra-curricular and other non-academic activities and in physical education services pursuant to the requirements in Rule 2360.2; and
  - (3) To be educated and participate with a variety of children who do and do not have disabilities.
- (d) The projected date for the beginning of the services and modifications, the title of the service provider, anticipated frequency, location, and duration of those services and modifications.
- (e) The IEP team shall determine the child's placement in accordance with Rule 2364.3. The IEP shall also include an explanation of the extent, if any, to which the child will not participate with children without disabilities in a general education class, general curriculum, extracurricular and other non-academic activities.
- (f) Where the student's placement is a residential placement pursuant to Rule 2364.4, the student's IEP shall contain annual goals and short-term objectives or benchmarks designed to reintegrate the student into a local LEA placement, and a description of how they will lead to reintegration.
- (g) A statement of any individual accommodations in the administration of State, district-wide, or local assessments of student achievement that are needed in order for the child to participate in the assessment.
  - (1) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of:
    - (i) Why that assessment is not appropriate for the child; and

- (ii) How the child will be assessed.
- (h) A description of any extended school year services (ESY) which the IEP team finds are necessary to provide a FAPE to the student.
  - (1) ESY services shall be provided only if a child's IEP team determines that the services are necessary for the provision of FAPE to the child because one or more of the following factors is evident:
    - (i) ESY is essential to permit the student an opportunity to reach reasonably set educational goals;
    - (ii) There has been a significant amount of regression over the past winter, spring, and summer vacations and recoupment did not occur within a reasonable amount of time;
    - (iii) The severity of the student's disability presents a danger of substantial regression; or
    - (iv) The student's transition goals require continued programming beyond the school year IEP.
  - (2) An LEA or IEP team may not limit extended school year services to students with particular disabilities.
  - (3) An LEA shall not adopt a policy that limits the type, amount, or duration of ESY services for all children.
- (i) Transition services
  - (1) For students, beginning with the first IEP in effect when the student is 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, there shall be:
    - (i) Age appropriate and measurable postsecondary goals based upon age appropriate assessments related to:
      - (A) Education/training;
      - (B) Employment; and
      - (C) If appropriate, independent living.
    - (ii) Evidence that the student's interests and preferences were taken into consideration during the formulation of the goals.
  - (2) Contingent upon prior consent from the parent or adult student, representatives of any agency that is likely to be responsible for providing or paying for transition services to implement the goals, shall be invited to participate in the IEP meeting.

- (3) If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
  - (4) Nothing in these rules shall relieve any participating agency of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.
  - (5) When a student is going to graduate, a “summary of performance” report shall be written for the student as described at Rule 2362.2.4(g)(i).
- (j) Parent Input. The IEP shall contain a section for parents to provide written comments regarding their child’s IEP. Following an IEP meeting to write or amend an IEP, the LEA shall send the IEP to the parent together with prior written notice of decision. The parent shall be provided 10 days to complete and return the parent input section of the IEP. The purpose of the parent input section is to facilitate feedback from families to ensure they have an opportunity to express any opinions about the IEP or the IEP process. Upon receipt of the parent input, the LEA may, but is not required to, schedule a meeting to discuss parental concerns.

**2363.8 Consent for Initial Provision of Special Education Services (34 C.F.R. § 300.300(b))**

- (a) A consent form shall be signed by the parent and received by the LEA prior to the initial provision of IEP services.
- (b) If the parent of a child fails to respond or refuses to consent to services the LEA may not use due process procedures, or mediation, in order to obtain agreement or a ruling that the services may be provided to the child.
- (c) If the parent of the child refuses to consent to the initial provision of special education or related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the LEA:
  - (1) Will not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the special education and related services for which the LEA requests consent.
  - (2) Is not required to convene an IEP meeting or develop an IEP for the child for the special education and related services for which the LEA requests such consent.

- (d) If the parent provides written consent for the initial provision of IEP services before they have begun and then revokes the consent, the services shall not commence. The student shall remain eligible for services and the LEA may attempt to resolve the matter with the parent by:
  - (1) Discussing the matter through appropriate informal means;
  - (2) Requesting mediation; or
  - (3) Requesting that the student be reevaluated to determine if he or she continues to be eligible for special education services. A reevaluation could consist of a review of existing data.
- (e) A parent may revoke consent at any time subsequent to the initial provision of special education and related services. The revocation of consent shall be in writing, on a form provided by the LEA or in any other written form, and should indicate the date of revocation. Upon receipt of such a revocation of consent, the LEA:
  - (1) Shall provide prior written notice to the parent that it is ceasing the provision of special education and related services and then may not continue to provide special education and related services;
  - (2) May not use due process procedures, or mediation, in order to obtain agreement or a ruling that the services may be provided to the child;
  - (3) Will not be considered to be in violation of the requirement to make available a free, appropriate public education to the child for the failure to provide the child with the special education and related services for which the LEA requests consent; and
  - (4) Is not required to convene an IEP team meeting or develop an IEP for the child after the date of the revocation of consent.
- (f) Revocation of consent is not retroactive and the LEA is not required to amend the child's education records to remove any references to the child's prior receipt of special education services.

**2363.9 Distribution and Explanation of the IEP Document (34 C.F.R. § 300.323(d))**

- (a) The student's IEP shall be made accessible to each general education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.
- (b) Each teacher and provider described above shall be informed of:
  - (1) His or her specific responsibilities related to implementing the child's IEP; and

- (2) The specific accommodations, modifications, and supports that shall be provided for the child in accordance with the IEP.
- (c) The LEA shall give the parent a copy of the student's IEP, or amended portions of the IEP, at no cost to the parent.

**2363.10 IEP Requirements for Placements by LEAs in Independent Schools or Tutorial Programs (34 C.F.R. § 300.325)**

- (a) Before an LEA places a student eligible for special education services in, or refers a student to, an independent school, or a tutorial program, the LEA shall initiate and conduct a meeting to develop an IEP for the student that reflects the change in placement.
- (b) The LEA's placement shall be at no cost to the parents and the independent school or tutorial program shall provide an education that meets the standards that apply to education provided by the local LEA.
  - (1) Placements by LEAs in independent schools shall be in schools that have been approved according to Rule 2228.
  - (2) Placements by LEAs in tutorial programs shall be in programs that have been approved according to Rule 2230.
- (c) The LEA shall ensure that a representative of the independent school or tutorial program either attends the meeting or is able to participate by other methods including individual or conference telephone calls.
- (d) After a child with a disability enters an independent school or a tutorial program, any meetings to review and revise the student's IEP may be initiated and conducted by the school or tutorial program in accordance with the written agreement as entered into in conformance with Rule 2228.4.2. If the independent school or tutorial program initiates and conducts these meetings, the LEA shall ensure, to the extent required by Rule 2363.4, that an LEA Representative is involved in any decision about the student's IEP and agrees to any proposed changes in the IEP before those changes are implemented. Parent participation shall be required and documented as set forth in Rule 2363.4.
- (e) When an independent school or a tutorial program implements a student's IEP, responsibility for compliance with the special education regulations with respect to that student remains with the LEA.

- (f) A child placed in an independent school or a tutorial program by an LEA shall retain all of the rights of a child on an IEP who is attending a public school.

**2363.11 IEP For A Student Moving Into The LEA When The Student Has Been Eligible Or Was Being Evaluated For Special Education In Another State Or In Another Vermont LEA (34 C.F.R. § 300.323(e) and (f))**

- (a) Child Moving From Another Vermont LEA: If a child eligible for special education services moves from one Vermont LEA to another, the receiving LEA shall either adopt the IEP the former LEA developed for the child or develop a new IEP for the child. The receiving LEA shall implement the current IEP to the extent possible until a new IEP is developed. In the absence of exceptional circumstances, IEP services shall commence within one week of the time the child enrolls in the receiving LEA.
- (b) Child Moving From an Out-Of-State LEA: If a child eligible for special education services in another state moves into a Vermont LEA within the same school year, the receiving LEA, in consultation with the parent, shall provide a FAPE to that child, including services comparable to those described in the child's IEP from the previous school, until the Vermont LEA:
- (1) Conducts an evaluation to determine initial eligibility in Vermont; and
  - (2) If eligible, develops, adopts, and implements a new IEP.
- (c) Child Moving During an Evaluation Process: If a child transfers to another LEA within the state or moves into a Vermont school from out of state, the completion of the evaluation shall be coordinated and completed by the new school, including documentation with the parents of the child of the expected completion date of the evaluation should it differ from the original expected date of completion. This evaluation should be completed as expeditiously as possible.
- (d) To facilitate the transition of a child described in (a) and (b) of this rule the previous LEA and the child's new LEA shall take reasonable steps to promptly send and receive, in accordance with the provisions of Family Education Rights and Privacy Act (FERPA), the child's records, including the IEP, supporting documents and any other records relating to the child's special education and related services. This rule may not be interpreted to limit either the previous LEA or the new LEA's responsibilities pursuant to Rule 2365.2.12 and 2365.2.13.



### **2363.12 IEP Accountability**

- (a) Each LEA shall:
  - (1) Provide special education and related services to an eligible student in accordance with the student's IEP; and
  - (2) Make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.
- (b) These rules do not require that an LEA, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives. However, these rules do not prohibit an LEA from establishing its own accountability systems.
- (c) Nothing in this section limits a parent's right to ask for revisions of the student's IEP or to invoke due process procedures if the parent feels that the efforts required in paragraph (a) of this section are not being made.

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## **2364 Least Restrictive Environment (LRE)**

### **2364.1 General LRE Requirements (34 C.F.R. § 300.114)**

- (a) Each LEA shall ensure that:
- (1) A student eligible for special education services shall be educated with his or her non-disabled chronological age peers, to the maximum extent appropriate in the school he or she would attend if he or she did not have a disability; and
  - (2) Special classes, separate schooling or other removal of children with disabilities from the general educational environment shall occur only if the nature or severity of the child's disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- (b) Pursuant to 16 V.S.A § 2959(b), the IEP team may consider the cost of the provision of special education or related services to the child if:
- (1) The IEP has been developed with the parents in accordance with Rule 2363;
  - (2) The IEP team has determined that the child's placement contained in the IEP is appropriate for the child,
  - (3) Each of the options under consideration by the IEP team for fulfilling the requirements of the child's IEP would constitute a free appropriate public education in the least restrictive environment for the child, and
  - (4) The funding mechanism for the special education service was not used to deny a free appropriate public education to the student.

### **2364.2 Continuum of Alternative Placements (34 C.F.R. § 300.115)**

- (a) Each LEA shall ensure that a continuum of alternative placements is available to meet the needs of children who are receiving IEP services.
- (b) The continuum shall include:
- (1) Instruction in general education classes, special classes, special schools, independent schools, home instruction, and instruction in hospitals and residential facilities; and
  - (2) Provisions for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with general education class placements.

### **2364.3 Placements (34 C.F.R. § 300.116)**

- (a) The IEP team shall determine the educational placement for the child given the following:
  - (1) Educational placement refers to the provision of special education and related services rather than a specific site; and
  - (2) The LEA determines the specific site of the educational placement, such as the specific classroom or specific school.
- (b) Placement decisions shall be made on the basis of the student's individual circumstances and not on the basis of the student's disability category.
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.
- (d) Barriers to the participation of students with disabilities in the general education environment shall be addressed whenever possible by the provision of accommodations, modifications, and supplementary aids and services rather than by placement in separate programs.
- (e) A child with a disability shall not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum.
- (f) In selecting the LRE, consideration shall be given to any potential harmful effect on the student or on the quality of services that he or she needs.
- (g) The placement decided upon shall be:
  - (1) Determined at least annually;
  - (2) Consistent with the other provisions of the child's IEP; and
  - (3) As close as possible to the child's home, unless the parent agrees otherwise.

### **2364.4 Residential Placements by LEAs**

#### **2364.4.1 Individual Residential Placements**

Funding of individual residential placements shall be in accordance with 16 V.S.A. Chapter 101, subchapter 2 and 16 V.S.A. § 2958(c)(2). Applications for funding of individual residential placements shall undergo the residential review process set forth in 16 V.S.A. § 2958 and Rule 2364.4.1.1.

### **2364.4.1.1 Residential Placement Review Team**

As needed, the Secretary may appoint Agency of Education employees and others to a residential placement review team. Members of the team shall be subject to the confidentiality provisions of State and federal law. The team shall have those responsibilities set forth in 16 V.S.A. § 2958(b). The team shall be composed of at least two members: (1) one who has knowledge about the child's area of disability and (2) the other who has knowledge of available resources and services in the LEA's region of the State, and, where relevant to the provision of a continuum addressing the student's disability, elsewhere in the State and in their region of the United States.

### **2364.4.1.2 Early Notification to the Secretary**

- (a) Each LEA shall provide timely notification to the Secretary, in writing, with a copy sent to the student's parents, that residential placement is being considered as a possible option for inclusion in the student's IEP when there has been:
  - (1) A recommendation by the Evaluation and Planning Team for residential placement;
  - (2) A unilateral residential placement by the parents or by another State agency, pursuant to 16 V.S.A. § 2942(7);
  - (3) An annual review for a student already in residential placement; or
  - (4) When any circumstance warrants consideration by the LEA that residential placement is a possible option for inclusion in a student's IEP.
- (b) Nothing herein shall be construed to mean that a student who falls within one of the above four categories necessarily requires residential placement. Additionally, nothing herein shall be construed to mean that notice to the Secretary represents a decision of the IEP participants.
- (c) Reimbursement for residential placements shall be for placements from the date the Agency receives the notification in accord with this section. This requirement shall not apply to emergency placements made due to life-threatening events to a child or to other exceptional circumstances approved by the Secretary or designee after request by an LEA and recommendation of the residential review team.

### **2364.4.1.3 Timelines**

Unless extraordinary circumstances are presented, each LEA shall notify the Secretary at least 30 days prior to a change of placement to a residential placement, or other program, or 30 days prior

to the IEP meeting where continuation at a residential placement or program is being considered. Such notice shall be given as soon as possible so that the involvement of the review team, if deemed necessary by the Secretary, does not interfere with the timelines for the placement decision.

#### **2364.4.1.4 Receipt of IEP**

Prior to an IEP team's determination that a student requires residential placement, the LEA shall forward the following documents to the Secretary:

- (a) The student's most recent Evaluation Plan and Report;
- (b) Current IEP;
- (c) Residential placement application form; and
- (d) Any other relevant information.

#### **2364.4.1.5 Residential Review Team Procedures**

- (a) Upon receiving notice under Rule 2364.4.1.2 or the IEP under Rule 2364.4.1.4, or upon request by a parent to establish a residential placement review team to review his or her child's case, whichever comes earlier, the Secretary may establish a review team. Within ten working days of receipt of the notice, the IEP, or the parental request, the Secretary or the Secretary's designee shall notify the LEA and the parents whether or not a review team has been constituted or reconvened.
- (b) The review team or any designated member thereof shall promptly investigate the need for residential placement of a student and provide technical assistance to the LEA concerning the need for residential placement, alternatives to residential placement, and alternative cost-effective residential facilities.
- (c) Within 30 days, or fewer, of its establishment, the team, after investigation, may take any of the following actions, depending on the circumstances associated with the request for residential placement:
  - (1) Advise the LEA and parents on alternatives to residential placement;
  - (2) Review the individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;

- (3) Assist the LEA in locating cost effective and appropriate residential facilities where necessary;
  - (4) Request, but not require, a new IEP when it believes that appropriate alternatives to residential placement are available; or
  - (5) Offer mediation as a means of resolving disputes relating to the need for residential placement, the particular residential facility recommended for a student with a disability, or the associated costs.
  - (6) The residential review team shall provide notice in writing to the LEA's IEP team if and when it determines, as a result of its review, that residential placement, or that a particular residential placement, is not appropriate. The notice shall set forth the reasons(s) for the team's conclusions.
- (d) The Secretary may waive any provision of Rule 2364.4.1.5, not otherwise inconsistent with law for emergency placements or administrative efficiency.
  - (e) Where the team or its designee finds that the placement practices or policies of an LEA are substantially inconsistent with least restrictive environment provisions of State or federal law, it may require the agency to submit a plan of correction.
  - (f) Where the residential review team has identified, with the timelines noted above, residential facilities or alternative educational programs that are available, appropriate, and less costly, and has presented such facilities or programs to the IEP team for consideration during the IEP team's consideration of placement alternatives, and the IEP team has chosen to place the child in a more costly residential facility or program, the amount of reimbursement by the State to the LEA shall be based upon the less costly placement. In such an instance, the LEA may appeal the decision of the Secretary to the State Board of Education in accordance with Rule 1230.
  - (g) Where the recommendation of the residential review team to IEP team is for a residential program or facility operated or developed by, or funded directly or indirectly through, another State agency, it shall be the responsibility of the residential review team, the LEA, and the IEP team to work with the State agency in a timely manner and in accordance with the Part B Interagency Agreement, as amended.
  - (h) If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child. (34 C.F.R. § 300.104)

- (i) The Secretary, or the Secretary’s designee, shall establish a system whereby the Agency of Education identifies and maintains current information on residential facilities, or other programs in Vermont and elsewhere, that provide educational programs to students with a variety of disabilities. Information about such facilities or programs may include, but not be limited to, the categories of disabilities served by the facility or program; the state’s approval status; the costs associated with tuition and services for which the facility or program charges a fee; and any other pertinent information. Any information system created by the Agency shall include a description of procedures for gathering updated information.

**2364.4.1.6 Due Process Hearing**

When the residential review team recommends that a student does not require residential placement, the Secretary may initiate a special education due process hearing under Rule 2365.1.6 to determine the appropriate placement for the child.

**2364.5 LRE for Non-Academic and Extra-curricular Activities (34 C.F.R. § 300.117)**

- (a) In providing or arranging for the provision of non-academic (e.g., meals and recess periods) and extra-curricular services and activities, the LEA shall ensure that an eligible student participates with non-disabled students in those services and activities to the maximum extent appropriate to the needs of that student.
- (b) The LEA shall ensure that each child with a disability has the supplementary aids and services determined by the child’s IEP team to be appropriate and necessary for the child to participate in non-academic and extra-curricular activities.

**2364.6 Technical Assistance, Training and Monitoring Activities for LRE**  
**(34 C.F.R. § 300.119-120)**

- (a) The Vermont Agency of Education shall:
  - (1) Provide training and technical assistance to teachers and administrators in public and independent schools approved for the provision of special education services to assist them in implementing the LRE requirements in Rule 2364.



- (2) Monitor an LEA's compliance with LRE requirements in Rule 2364. If there is evidence that an LEA makes placements that are inconsistent with LRE requirements, the Agency shall:
- (i) Review the LEA's justification for its actions;
  - (ii) Assist in planning and implementing any necessary corrective action; and
  - (ii) Apply as necessary the enforcement policy and procedures contained in the Vermont State Board of Education policy on "Denial of Federal Special Education Funds to an LEA."

**2364.7 Instruction for Homebound or Hospitalized Special Education Students**

- (a) Children who are eligible for essential early education services who are homebound or hospitalized due to a medical condition and are unable to access the services outlined in their current IEP shall receive direct instruction as determined by the child's IEP team unless inconsistent with medical recommendations.
- (b) Homebound or hospitalized elementary special education students and elementary special education students whose IEPs call for tutorial services outside school shall receive instruction sufficient to provide a FAPE pursuant to their IEPs, for no less than six hours per week unless inconsistent with medical recommendations.
- (c) Homebound or hospitalized secondary special education students and secondary special education students whose IEPs call for tutorial services outside school, shall receive instruction sufficient to provide a FAPE pursuant to their IEPs for no less than an average of two hours per subject per week unless inconsistent with medical recommendations.

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## **2365 Parental Rights and Confidentiality of Information**

### **2365.1 Parental Rights**

#### **2365.1.1 Notice: Content of Notice (34 C.F.R. § 300.503)**

An LEA shall provide written notice to the parent or guardian of a student within a reasonable time before it proposes to initiate or change, or refuses to initiate or change, a student's identification, evaluation, educational placement, or the provision of a free appropriate public education. This written notice shall contain:

- (a) A description of the action proposed or refused by the LEA;
- (b) An explanation of why the LEA proposes or refuses to take the action;
- (c) A description of other options the IEP team considered and reasons these options were rejected;
- (d) A description of evaluation procedures, tests, records, or reports upon which the action is based;
- (e) A description of other factors that are relevant to the proposed or refused action;
- (f) A statement that the parents of special education students have procedural protections as set forth in the Parental Rights in Special Education Notice developed by the AOE and, if this notice is not pertaining to an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (g) Sources for parents to contact to obtain assistance in understanding the provisions of their parental rights in special education; and
- (h) The prior written notice shall be:
  - (1) Written in language understandable to the general public.
  - (2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
  - (3) If the native language or other mode of communication of the parent is not a written language, the LEA shall take steps to ensure--
    - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
    - (ii) That the parent understands the content of the notice; and
    - (iii) That there is written evidence that the requirements in subsections (i) and (ii) have been met.

- (4) Available to the parent by electronic mail, if the LEA makes that option available and the parent elects to receive notices through this mode of communication.

**2365.1.2 Procedural Safeguards Notice (34 C.F.R. § 300.504)**

- (a) A copy of the Parental Rights in Special Education Notice shall be given to the parents only one time a year, except that a copy also shall be given to the parents upon:
  - (1) Initial referral or parent request for an evaluation;
  - (2) Receipt of the first administrative complaint under Rule 2365.1.5 or a due process complaint under Rule 2365.1.6 in that school year;
  - (3) Request by a parent; and
  - (4) In accordance with the discipline procedures in Rule 4313.1(h).
- (b) The Parental Rights notice includes a full explanation of all of the procedural safeguards available to the parent as they relate to:
  - (1) Independent educational evaluation;
  - (2) Prior written notice;
  - (3) Parental consent;
  - (4) Access to educational records;
  - (5) The opportunity to present and resolve complaints through the due process complaint and administrative complaint procedures, including:
    - (i) The time period in which to file a complaint;
    - (ii) The opportunity for the agency to resolve the complaint; and
    - (iii) The difference between the due process complaint and the State administrative complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
  - (6) The child's placement during pendency of due process complaint proceedings;
  - (7) Procedures for students who are subject to placement in an Interim Alternative Educational Setting (IAES);
  - (8) Requirements for unilateral placement by parents of children in private independent schools at public expense;
  - (9) The availability of mediation;
  - (10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;

- (11) Civil actions including the time period in which to file those actions; and
- (12) Attorneys' fees.
- (c) The Parental Rights notice shall be:
  - (1) Written in language understandable to the general public;
  - (2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the LEA shall take steps to ensure:
    - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
    - (ii) That the parent understands the content of the notice; and
    - (iii) That there is written evidence that (i) and (ii) above have been met.

**2365.1.3 Parental Consent (34 C.F.R. § 300.300)**

- (a) Informed parental consent shall be required:
  - (1) Before conducting an initial evaluation or reevaluation which consists of more than a review of existing data pursuant to Rule 2362.2.1 and 2362.2.3;
  - (2) Before the initial provision of special education and related services pursuant to Rule 2363.9. Consent for initial evaluation may not be construed as consent for initial provision of special education services.
- (b) Consent, where given:
  - (1) Shall be after the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; and
  - (2) Shall be in writing and shall indicate that it is given voluntarily with the knowledge that it may be revoked at any time, with the understanding that the revocation is not retroactive.
- (c) Parental consent is not required:
  - (1) Before reviewing existing data as part of an evaluation or a reevaluation;
  - (2) Before administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or

- (3) Before a reevaluation, if the LEA can demonstrate that it has taken reasonable measures to obtain consent and the parent failed to respond.
- (d) If the parents of a child refuse consent for an initial evaluation or a re-evaluation which includes the gathering of new information:
  - (1) The LEA may continue to pursue these evaluations by seeking mediation, using due process, or reviewing existing data.
  - (2) The LEA may decide not to pursue the evaluation and shall document its justification for doing so in the child's record.
  - (3) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under subsection (a)(1), or the parent fails to respond to a request to provide consent, the LEA may pursue the initial evaluation of the child by utilizing mediation or due process. The public school shall not have violated its obligation to locate, identify, and evaluate children suspected of being children with disabilities if it declines to pursue an evaluation to which a parent has failed to consent.
- (e) Except as otherwise provided in these regulations, an LEA may not use a parent's refusal to consent to an initial evaluation to deny the parent or child any LEA service, benefit, or activity outside of special education.

**2365.1.4                      Mediation (34 C.F.R. § 300.506)**

- (a) A mediation process administered by the Secretary shall be available to parents of students with disabilities, LEAs, and other public agencies with a special education dispute, including matters arising prior to the filing of a due process complaint.
- (b) The mediation process shall be voluntary on the part of the parties and shall not be used to deny or delay a parent's right to file a due process complaint or right to a due process hearing or any other rights. Mediation may be terminated at any time by any of the parties or by the mediator.
- (c) The Secretary shall provide the services of mediators at no cost to the parties.
- (d) Written requests for mediation shall be submitted to the Vermont Agency of Education, Special Education Mediation Service (AOE-SEMS). Upon receipt of such request, the Agency shall send each parent who requests mediation the Parents' Rights in Special Education Notice and shall send its mediation procedures to all parties to the mediation. The agreement to mediate shall be in writing on a form approved by the Secretary and signed by

all parties. If the request cannot be in writing due to special circumstances, such as an inability to communicate in writing, the request may be made through other means of communication.

- (e) The Agency of Education shall maintain a list of qualified and impartial mediators who are trained in effective mediation techniques.
- (f) Mediators shall:
  - (1) Be knowledgeable in law and regulations relating to the provision of special education and related services.
  - (2) Not be employees of the Agency, an LEA, or any other public agency that is involved in the education or care of the child and shall not have any personal or professional conflicts of interest.
  - (3) Be assigned to a case by the Secretary on a random, rotational, or other impartial basis from the list.
  - (4) Be assigned to a case by the Agency no later than five days from receipt of a joint written request for mediation or upon receipt of one party's written request and telephone or other confirmation by the other party or parties.
- (g) Each party to mediation shall ensure that a person in attendance has decision-making authority for the party.
- (h) Parents may be accompanied to the mediation by legal counsel, an advocate, a support person, and/or family members. If the parents plan to be accompanied to the mediation by legal counsel, they shall notify the LEA prior to the mediation. LEAs may be accompanied by legal counsel in the mediation only when the parents are accompanied by legal counsel in the mediation.
- (i) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties. If the mediation was initiated subsequent to the initiation of a due process of the same matter, but not after the resolution period in Rule 2365.1.6.8(b) has lapsed, the due process timeline of Rule 2365.1.6 shall commence following the end of the resolution period.
- (j) The parties to mediation shall be required to sign a confidentiality pledge prior to the commencement of the mediation to ensure that all discussions that occur during mediation remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding, except pursuant to subsection (k)(1) of this rule.

- (k) If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth that resolution and that:
- (1) States that all discussions that occurred during the mediation process will remain confidential; the mediator shall not be called as a witness in any future due process proceeding to testify regarding any information gained during the course of mediation. Any statements made at the mediation shall not be used as evidence in any subsequent due process hearing or civil proceeding arising from that dispute; however, signed mediation agreements may be released for the purpose of enforcement thereof in a due process proceeding or court of competent jurisdiction; and
  - (2) Is signed by the parent, a representative of each other party who has the authority to bind such party, and the mediator. The mediation agreement shall be confidential unless otherwise agreed upon; however, a copy shall be provided to the Vermont Agency of Education.
  - (3) Is enforceable in a due process proceeding, any state court of competent jurisdiction, or in a district court of the United States.
- (l) The mediation agreement shall become a part of the child's educational record or the parties shall, at a minimum, reference relevant provisions of the mediation agreement in the child's IEP.

**2365.1.5 Administrative Complaints (34 C.F.R. § 300.151)**

- (a) Any person or organization alleging that an LEA or public agency has violated a requirement of Part B of the IDEA or implementing federal or State special education regulations, may file a signed written complaint with the Secretary of Education.
- (b) The complaint may be filed utilizing the available state form, or other form, and shall include-
- (1) A statement that a public agency has violated a requirement of Part B of the IDEA;
  - (2) The facts on which the statement is based;
  - (3) The signature and contact information for the complainant; and
  - (4) If alleging violations against a specific child:
    - (i) The name, age, and address of the residence of the child;
    - (ii) The name of the school the child is attending;



- (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)), available contact information for the child, and the name of the school the child is attending;
  - (iv) A description of the nature of the problem of the child, including facts relating to the problem; and
  - (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- (c) Except for due process complaints covered under Rule 2365.1.6, the complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received.
- (d) The party filing the complaint shall forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the Secretary of Education.
- (e) The Secretary will not accept a complaint that fails to comply with (b) through (d).
- (f) Upon receipt of a complaint, the Secretary shall inform the complainant and the LEA of the option to use mediation. The Secretary shall appoint a complaint investigator to conduct an investigation.
- (1) The complaint investigator shall examine evidence presented on behalf of the complainant and on behalf of the LEA.
  - (2) At the discretion of the complaint investigator, the complaint may be investigated by way of a document review, meeting, hearing, on-site investigation, or any combination thereof. The complaint investigator will give the LEA the opportunity to respond to the complaint and at the LEA's discretion, the opportunity to respond with a proposal to resolve the complaint. Once the Secretary notifies the complainant that s/he has received the complaint, the investigator will give the complainant 15 days to submit additional information either orally or in writing about the allegations in the complaint.
  - (3) If a hearing is scheduled, the complaint investigator shall have the powers and duties set forth below:
    - (i) Conduct pre-hearing conferences;
    - (ii) Conduct any hearings that may be required;
    - (iii) Prepare proposed findings of facts and conclusions of law for a decision by the Secretary; and
    - (iv) Any other powers and duties set forth in State Board of Education Rule 1236.1.

- (4) No later than 60 days after receipt of the complaint, the Secretary shall issue a written decision. This time limit may be extended only if exceptional circumstances exist with respect to a particular complaint or if the complainant and the LEA agree to extend the time to engage in mediation.
- (g) If the Secretary determines that the LEA has violated a requirement of Part B of the IDEA or implementing federal or State special education regulations, the investigation report shall address how to remediate the violation as well as any resulting denial of those services, including, as appropriate, requiring the evaluation planning team or IEP team to reconvene to reconsider an evaluation determination or offer of special education and related services, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child, as well as appropriate future provision of services for all children with disabilities.
- (h) Administrative Complaints filed under this rule and due process hearings filed under Rule 2365.1.6 are subject to the following:
- (1) If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, the Secretary shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action shall be resolved using the time limit and procedures described above.
- (2) If the subject of an administrative complaint filed under this rule has previously been decided in a due process hearing involving the same parties:
- (i) The due process hearing decision is binding; and
- (ii) The Secretary shall inform the complainant to that effect.
- (3) If a parent, who prevailed at a due process hearing, files an administrative complaint alleging that an LEA failed to implement the hearing officer's decision, the Secretary shall resolve the complaint.
- (i) The Secretary's written decision in subsection (f)(4) is not subject to appeal. Nothing herein shall be interpreted to preclude a parent or an LEA from filing a due process complaint on any matters regarding the identification, evaluation, or placement of the child or the provision of a FAPE pursuant to Rule 2365.1.6.2. If a parent or LEA files a due process complaint pursuant to Rule 2365.1.6.2 and the matter was previously the subject of an administrative complaint, the hearing officer will hear the case *de novo* (anew).
- (j) A complaint may also be filed regarding provision of Part C of the IDEA. Investigation of a Part C complaint shall be completed in coordination with the Agency of Human Services,

Department of Health, Child Development Division. A written complaint should be sent to the Director of the Children's Integrated Services/Early Intervention (CIS/EI) and the Secretary of Education.

## **2365.1.6 Due Process Complaint Procedures**

### **2365.1.6.1 Timeliness of Due Process Complaint Request**

- (a) A written due process complaint notice shall be filed with the Secretary:
- (1) Within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint.
  - (2) Notwithstanding (1) above, within 90 days of a unilateral special education placement by the child's parent, where the request is for reimbursement of the costs of such placement.
  - (3) Exceptions to the timeline. The timelines described in (a)(1) and (2) above do not apply to a parent if the parent was prevented from filing a due process complaint due to:
    - (i) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or
    - (ii) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.
  - (4) Where the parent has not been given proper notice of special education rights under state and federal law, including notice of the limitations in this section, such limitations shall run from the time notice of those rights is properly given.
  - (5) With same day notification to the LEA pursuant to rule 2365.1.6.3.

### **2365.1.6.2 Initiation of Due Process Hearing by a Parent, an LEA, or the Secretary (34 C.F.R. §§300.508 and 509)**

- (a) The Secretary shall make available a model form for a parent or LEA to use to initiate a due process complaint. However, the Secretary may not require the use of this model form. If the parent or LEA use a document other than the model form, that document shall meet the content requirements for filing a due process complaint in subsection (c).
- (b) A parent or an LEA may file a due process complaint on any matters regarding the identification, evaluation, or placement of the child or the provision of a free appropriate public education by sending a written Due Process Complaint Notice to the Secretary with a copy sent to the other party. If the notice cannot be in writing due to special circumstances,

such as an inability to communicate in writing, the notice may be made through other means of communication.

- (c) The party requesting a hearing shall submit the written due process complaint to the Secretary and to all other parties, which shall contain the following information:
  - (1) The name and date of birth of the child;
  - (2) The address of the residence of the child; in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)), available contact information for the child;
  - (3) The name of the school the child is attending;
  - (4) A description of the nature of the problem relating to the proposed, or refused initiation or change of the child's identification, evaluation, and/or educational placement, and the facts relating to the problem; and
  - (5) A proposed resolution of the problem to the extent known and available to the complainant at the time.
- (d) A party may not have a hearing on a due process complaint or engage in a resolution session until the party, or the attorney representing the party, files a due process complaint that meets the requirements of subsection(c) above.
- (e) The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the complaint filed, unless the other parties agree otherwise.
- (f) The Secretary may request a due process hearing in accordance with 16 V.S.A. § 2958(c)(1) to challenge the need for residential placement where the residential placement review team recommends that a less restrictive educational placement is both available and appropriate for a child who is eligible for special education services.
- (g) If a parent requests the information or if a due process complaint notice is received, the Secretary shall inform the parent of any free or low-cost legal and other relevant services available in the area.

### **2365.1.6.3 Notification by Secretary to LEA of Receipt of Request for Hearing**

If the due process complaint is initiated by a parent, the Secretary shall within 24 hours notify the LEA by facsimile transmission, telephone, or electronic mail, confirmed in writing by first class mail. Notification to the LEA by the Agency shall be made specifically to the special education administrator, if the LEA has a special education administrator on staff. If the LEA does not have a

special education administrator on staff, notification to the LEA shall be made to the superintendent.

#### **2365.1.6.4 Commencement of the Due Process Complaint; Elements of Complaint Process**

- (a) The hearing process shall commence on the date the Secretary receives a request for a hearing. If received outside of regular business hours, the process shall commence on the next business day.
- (b) A due process hearing shall include the following:
  - (1) An initial telephone conference call pursuant to Rule 2365.1.6.7(a)(2) and (b).
  - (2) A prehearing conference as in Rule 2365.1.6.11 for the due process hearing, that results in a hearing officer's prehearing order.
  - (3) A hearing that, except for good cause shown, shall be limited to two business days. The hearing officer will grant additional time only if necessary for a full, fair disclosure of the facts necessary to arrive at a conclusion.
  - (4) A hearing officer's decision pursuant to Rule 2365.1.6.16 that shall be the final decision of the Agency of Education.

#### **2365.1.6.5 Sufficiency of Complaint**

- (a) The due process complaint shall be deemed sufficient unless an opposing party receiving the due process complaint notifies the hearing officer and the complaining party in writing, within 15 days of receipt of the due process complaint, that the opposing party believes that the due process complaint does not meet the requirements in Rule 2365.1.6.2(c). Filing of such a notification by an opposing party shall not be grounds to delay the resolution session required under Rule 2365.1.6.8.
- (b) Within five days of receipt of notification under subsection (a), the hearing officer shall make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of Rule 2365.1.6.2(b), and shall immediately notify the parties in writing of that determination and the status of the due process complaint. If the hearing officer determines that the due process is insufficient, he or she shall identify how the complaint is insufficient.
- (c) A party may amend its due process complaint only if:

- (1) The other party's consent in writing to the amendment and are given the opportunity to resolve the amended due process complaint through a resolution meeting held pursuant to Rule 2365.1.6.8; or
  - (2) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.
- (d) If a party files an amended due process complaint, the timelines for the resolution session and the resolution period begin again with the filing of the amended due process complaint.

#### **2365.1.6.6 Response to Issues Raised in Complaint (34 C.F.R. § 300.508)**

(a) LEA Response:

- (1) If the LEA has not sent a prior written notice under Rule 2365.1.1 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA shall, within ten days of receiving the due process complaint, send to the parent a response that includes:
    - (i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint;
    - (ii) A description of other options that the IEP team considered and the reasons why those options were rejected;
    - (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
    - (iv) A description of other factors that are relevant to the agency's proposed or refused action.
  - (2) A response by the LEA under subsection (a)(1) shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient.
- (b) Party Other Than an LEA Response. Except as provided in subsection (a), the party receiving a due process complaint shall, within ten days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

#### **2365.1.6.7 Scheduling of Resolution Session, Mediation, Prehearing Conference, and Due**

## Process Hearing

- (a) Within three business days of receipt of the complaint, the Secretary shall schedule and notify the parties in writing of the following:
- (1) The appointed hearing officer to preside at the due process hearing;
  - (2) The time and date of an initial telephone conference call with the hearing officer to be held with the parties or their attorneys no later than five business days from receipt of the complaint;
  - (3) The legal authority under which the hearing is held;
  - (4) A copy of the request for due process hearing;
  - (5) The right to have an attorney present to represent each party at the party's expense with the exception of Rule 2365.1.6.8(a)(1)(iii); and
  - (6) Information for the parent regarding any free or low-cost legal and other relevant services available in the area.
- (b) In the initial telephone conference call, the hearing officer will establish and issue a due process scheduling order detailing the following:
- (1) Whether the parties have agreed to waive in writing the resolution session and if they intend to attempt mediation.
  - (2) If the resolution session is not waived, a date and time for the resolution session.
  - (3) If the resolution session is waived and mediation accepted, the hearing officer will notify the Agency of a date by which mediation shall occur, and the Agency will assign a mediator.
  - (4) If the resolution session is waived and mediation rejected, the hearing process will commence consistent with the timelines in Rule 2365.1.6.8.
  - (5) The dates for the prehearing conference, five-day rule disclosure, due process hearing, and final decision using the timelines in Rules 2365.1.6.7, 2365.1.6.9, and 2365.1.6.16.
  - (6) If both parties agree, the hearing officer may also address any concerns about the sufficiency of the complaint.
  - (7) The hearing officer may also address any modifications to Rule 2365.1.6 necessary to address special circumstances, such as a party's inability to communicate in writing or disability.
  - (8) The scheduling shall allow for the following:
    - (i) A date for a resolution session or a date by which mediation shall occur, if the parties so decide;

- (ii) A half business day for a prehearing conference; and
- (iii) Two business days for a hearing, except for good cause shown pursuant to Rule 2365.1.6.4(b)(3) and Rules 2365.1.6.15(e).

**2365.1.6.8 Resolution Session (34 C.F.R. § 300.510)**

(a) Convening a Resolution Session

- (1) The LEA shall convene a resolution session on the date scheduled by the hearing officer at the initial conference, if the parties have not been able to agree on a mutually convenient time and date. The resolution session shall be held no later than 15 days after receiving notice of the due process complaint. The session will include the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint, and:
  - (i) Shall include a representative of the LEA who has decision-making authority on behalf of the LEA;
  - (ii) The LEA and the parents determine the relevant members of the IEP team to attend the session; and
  - (iii) May not include an attorney of the LEA unless the parent is accompanied by an attorney.
- (2) The purpose of the session is for the party filing the complaint to discuss their due process complaint, and the facts that form the basis of the due process complaint, so that the other party has the opportunity to resolve the dispute that is the basis for the due process complaint.
- (3) The parties may agree in writing that discussions that occur during the resolution session are confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings arising from that dispute.
- (4) The session described in subsections (a)(1) and (2) need not be held if:
  - (i) The parents and the LEA agree in writing to waive the session and so notify the hearing officer; or
  - (ii) The parents and the LEA agree to use the mediation process described in Rule 2365.1.4 and so notify the hearing officer.

(b) Resolution Period



- (1) If the LEA has not resolved the due process complaint to the satisfaction of the parents within 30 days of the receipt of the due process complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing shall commence.
  - (2) The timeline for issuing a final decision under Rule 2365.1.16 begins at the expiration of this 30-day period.
  - (3) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented by making a record of its attempts to arrange a mutually agreed upon time and place), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.
  - (4) If the LEA fails to hold the resolution session within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of the hearing officer to begin the due process hearing timeline.
  - (5) Adjustments to the 30-day resolution period. The 45-day timeline for the due process hearing in Rule 2365.1.6.16 starts the day after one of the following events:
    - (i) Both parties agree in writing to waive the resolution meeting and reject mediation;
    - (ii) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;
    - (iii) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or LEA withdraws from the mediation process.
  - (6) The timelines for resolution session may be shortened pursuant to an expedited hearing request under Rule 2365.1.6.17.
- (c) Written settlement agreement. If a resolution to the dispute is reached at the session described in paragraph (a) of this section, the parties shall execute a legally binding agreement that is:
- (1) Signed by both the parent and a representative of the LEA who has the authority to bind the LEA; and
  - (2) Enforceable by filing in any state court of competent jurisdiction or in a district court of the United States.
- (d) Agreement review period. If the parties execute an agreement pursuant to subsection (c), a party may void the agreement within three business days of the agreement's execution. Nothing in this rule shall preclude either party from consulting with an attorney at any time.

### **2365.1.6.9 Time of Hearing; Withdrawal or Other Action for Dismissal of Hearing**

- (a) The hearing shall be scheduled to begin as soon as possible but no later than 35 days after expiration of the resolution period pursuant to Rule 2365.1.6.8(b), provided that when an expedited hearing under Rule 2365.1.6.17 is requested, the hearing shall be scheduled to begin no later than 20 days after the receipt of the request by the Secretary.
- (b) A parent may withdraw a request for a due process hearing without prejudice until such time as the parent retains legal counsel. “Withdrawal without prejudice” does not stop or in any other way alter the statutory period(s) of limitations described in Rule 2365.1.6.1.
- (c) Upon motion by a party or by independent action of the hearing officer, the hearing officer may order dismissal of a complaint for failure of any party to prosecute.

### **2365.1.6.10 Voluntary Production of Information; Motion for Production of Information**

- (a) Each party shall attempt in good faith to make a complete response to requests, as soon as practicable, for the voluntary production of information.
- (b) When a dispute between parties arises concerning a request for the voluntary production of information, releases or documents, any party may file a motion requesting that the hearing officer order the parties to comply with information requests.
  - (1) The motion shall be filed at least seven business days before the prehearing conference, and a response shall be filed and provided to the moving party at least one business day prior to the prehearing conference, or as soon as possible after receiving a notice of intent to object to all or part of a request for production.
  - (2) The moving party’s motion shall:
    - (i) List with specificity the information it is seeking to discover; and
    - (ii) Set forth in detail those factors which it believes justify its request for information.
  - (3) When a party has demonstrated that such request for information is relevant to the issues described in the hearing notice or identified by the hearing officer as a result of the prehearing conference and is necessary for a full and fair presentation of the evidence at the hearing, the hearing officer shall grant the motion.

### **2365.1.6.11 Prehearing Conference Procedures**

- (a) The prehearing conference required by Rule 2365.1.6.4(b)(2) shall be conducted by a hearing officer at a neutral site located in or near the LEA in which the due process matter is pending. The prehearing conference shall be as follows:
- (1) **Detailed Written Statement:** At least three days before the prehearing conference, the complaining party shall provide the hearing officer and the opposing party a detailed written statement of what he/she believes are the issues to be addressed in the due process hearing, including any procedural violations. At least one day before the prehearing conference, the opposing part(ies) shall provide to the hearing officer and the complaining party a detailed written statement of any defenses. Any procedural violations known to a party or defenses not raised at or before the prehearing conference may be excluded at the due process hearing at the discretion of the hearing officer.
  - (2) **Witness List:** At the prehearing conference, the parties shall provide to the hearing officer and the opposing parties a preliminary list of the witnesses they plan to call and a general summary of the testimony they expect from each witness. This list may be supplemented at the time of the final five-day rule submissions.
  - (3) **Statement of Facts:** No later than the prehearing conference, each party shall provide to the hearing officer and the opposing party, a statement of facts. The intent of the statement of facts is to outline those facts which are not expected to be contested, so that only those issues which remain in dispute need be addressed at the hearing.
  - (4) **Core Exhibits:** No later than the prehearing conference, the LEA shall submit to the hearing officer and the parents a binder of proposed core exhibits consisting of the relevant portions of the student's file that the LEA expects will be introduced. Either party may supplement but not duplicate those proposed exhibits with the other material as long as the supplement is received by the hearing officer and the opposing party at least five days before the hearing.
  - (5) **Order of Presentation at Hearing:** The party that has initiated the hearing shall present its case first unless the hearing officer determines that the change in order of presentation would not materially prejudice any party's right to a full and fair hearing, and:
    - (i) The hearing would proceed in a more timely manner if the party not initiating the hearing presents their case first; or
    - (ii) The hearing would proceed in a more efficient manner if the party not initiating the hearing presents their case first.

- (6) Hearing Officer's Prehearing Order: Following the prehearing conference, the hearing officer shall issue a prehearing order containing rulings on any motions heard at the conference, any decisions made about evidence or order of presentation, scheduling, or other related matters, and a clear and specific identification of the issues to be heard.
- (7) Record of the Prehearing Conference: The hearing officer shall ensure that an electronic verbatim record shall be made of the prehearing conference. The recording shall become a part of the record of the case. Copies shall be made available to the parties on request.

#### **2365.1.6.12 Use of Affidavits**

- (a) At hearing, parties may submit otherwise admissible testimony, in whole or in part, in the form of affidavits, so long as the witnesses are present at hearing for cross-examination by the opposing party.
- (b) Testimony may also be submitted at hearing by affidavit, without an opportunity to cross examine the witness, by prior agreement of the opposing party.
- (c) Affidavits to be introduced as evidence at hearing shall be disclosed to the opposing party no fewer than three business days prior to the hearing.

#### **2365.1.6.13 Final Disclosure of Evidence Occurring Five Days before Hearing.**

- (a) At least five business days prior to a hearing, each party shall disclose to all other parties all evidence, including a final witness list with a brief description of each witness's testimony and copies of documentary evidence including all evaluations completed by that date and recommendations based on such evaluations, that the party intends to use at the hearing. If neither party objects, the parties shall submit copies of their exhibits to the hearing officer two business days prior to a hearing.
- (b) Any evidence supplementing the core exhibits shall be legibly labeled in the upper right-hand corner with consecutive Arabic numerals as either "LEA Exhibit (number)" or "Parent Exhibit (number)", as appropriate. An index, by title, of all exhibits submitted shall also be exchanged.
- (c) Unless the other party consents to the inclusion, a hearing officer may exclude evidence, including an evaluation or recommendation, not disclosed in accordance with this section.

#### **2365.1.6.14 Notification Concerning Agreement**

- (a) If the parent and the LEA reach a settlement agreement prior to the hearing, the LEA shall notify the hearing officer in writing and include a written statement signed by both parties requesting the cancellation of the hearing and the dismissal of the case with prejudice.
- (b) A settlement agreement, whether reached through a resolution session, mediation, or other means of negotiation between the parties, shall not constitute a final decision or order of the hearing officer.
- (c) A legally binding settlement agreement, whether reached through a resolution session subject to a review period pursuant to Rule 2365.1.6.8(d), mediation, or other means of negotiation between the parties, shall be enforceable in a due process hearing, any State court of competent jurisdiction, or in a district court of the United States.

#### **2365.1.6.15 Hearing Procedures (34 C.F.R. § 300.512)**

- (a) All hearings shall be electronically recorded by the hearing officer or his/her designee. The hearing officer shall also arrange for a stenographic recording of the hearing.
- (b) The order of the presentation shall be determined pursuant to Rule 2365.1.6.11(a)(5).
- (c) Any party to a due process hearing has the right to:
  - (1) Be accompanied and advised by legal counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
  - (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses and the production of relevant documents.
  - (3) Request that the hearing officer prohibit the introduction of affidavits pursuant to Rule 2365.1.6.12 that have not been disclosed to that party at least three business days before the hearing or any other evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
  - (4) Obtain a written, or at the option of the parents, electronic, verbatim record of the completed hearing; and
  - (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.
  - (6) The record of the hearing and the findings of fact and decisions shall be provided at no cost to the parents.
- (d) Parents involved in a hearing may:
  - (1) Have the child who is the subject of the hearing present; and

- (2) Open the hearing to the public. If a due process hearing is open to the public, the hearing officer shall seat the members of the public in such a way that does not interfere with the proceedings.
- (e) Each party shall have one day to present its case, unless the hearing officer determines that additional time is necessary for a full, fair disclosure of the facts necessary to arrive at a conclusion. The party filing the due process complaint has the burden of proof. The time allowed for each party's presentation shall include both direct examination of its witnesses and cross examination of its witnesses by the opposing party.
- (f) The hearing officer may limit the number and examination of witnesses to eliminate redundant, cumulative, or irrelevant testimony.

**2365.1.6.16 Decision; Extension of 45-Day Period (34 C.F.R. § 300.515)**

- (a) The Secretary shall ensure that not later than 45 days after expiration of the resolution period under Rule 2365.1.6.8(b):
  - (1) A final decision is reached in the hearing;
  - (2) A copy of the decision is sent by first class mail to each of the parties; and
  - (3) The final decision includes a statement regarding the appeal rights pursuant to Rule 2365.1.8.
- (b) A hearing officer may grant extensions of time beyond the period set out in (a) above, except as to expedited hearings, for specific periods of time at the request of either party if:
  - (1) The child's educational progress or well-being would not be jeopardized by the delay;
  - (2) The party would not have adequate time to prepare and present the party's position at the hearing in accordance with the requirements of due process; and
  - (3) The need for the delay is greater than any financial or other detrimental consequences likely to be suffered by a party in the event of the delay.
- (c) Decision of hearing officer
  - (1) Subject to subsection (2) below, a hearing officer shall make a decision on substantive grounds based on a determination of whether the child received a FAPE.
  - (2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:
    - (i) Impeded the child's right to a FAPE;
    - (ii) Significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the parents' child; or

- (iii) Caused a deprivation of educational benefit.
- (3) Nothing in this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under Rule 2365.1 through 2365.1.13.
- (4) The Vermont Agency of Education, after deleting any personally identifiable information, shall:
  - (i) Transmit the hearing officer's findings and decisions to the State Special Education Advisory Panel; and
  - (ii) Make those findings and decisions available to the public.

#### **2365.1.6.17 Expedited Due Process Hearings**

- (a) An expedited due process hearing procedure shall be available for disciplinary issues in accordance with Rule 4313.3.
- (b) The expedited procedure shall provide a full due process hearing consistent with the requirements of Rules 2365.1.6.2(c) and (g), 2365.1.6.3, 2365.1.6.4, 2365.1.6.7, 2365.1.6.8, 2365.1.6.10 through 2365.1.6.16, but under a restricted time schedule as set out in subsections (c)–(j) of this section.
- (c) Expedited hearings shall:
  - (1) Not exceed two days; and
  - (2) Be scheduled to be heard within 20 school days where the issue before the hearing officer will be whether there is a substantial likelihood of injury to self or others if the child is returned to the placement from which the child was removed.
- (d) Upon being appointed, the hearing officer shall immediately arrange with the parties two days of hearing to occur within 20 school days of the filing of a complaint under Rule 2365.1.6.17. At the same time, the hearing officer shall schedule an expedited resolution session to be held no later than seven days of the receipt of the written complaint. Unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the complaint, the due process hearing may proceed. The hearing officer shall schedule a prehearing conference prior to the hearing.
- (e) At least five business days prior to the hearing, each party shall disclose to all other parties all evaluations completed by that date and evidence to be offered at the hearing, and recommendations based on the offering party's evaluations that the party intends to use at the

hearing. Any party to the hearing has the right to request that the hearing officer prohibit the introduction of evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

- (f) Except for the timelines in subsections (c)(2), (d), (e), and (h), the hearing officer may waive any of the procedures in this section in a case, but only to the extent necessary to preserve the full and fair nature of the due process hearing. At the agreement of both parties, the hearing officer may reduce the timelines in subsections (c)(2), (d), (e), and (h).
- (g) The hearing officer shall render a decision, including findings of fact and conclusions of law.
- (h) The hearing officer shall mail a written decision to the parties by first class mail within ten school days following the hearing.
- (i) Any party aggrieved by a decision of the hearing officer may appeal the decision as provided in Rule 2365.1.8.

**2365.1.7 Impartial Hearing Officer (34 C.F.R. § 300.514)**

- (a) A hearing may not be conducted by a person who is an employee of the Agency of Education or the LEA, or by any person having a personal or professional interest that would conflict with his or her objectivity in the hearing. A person who otherwise qualifies to conduct a hearing is not an employee of the Agency solely because he or she is paid by the Agency to serve as a hearing officer.
- (b) The hearing officer shall be a licensed attorney who:
  - (i) Has the knowledge of, and the ability to understand, the provisions of the IDEA, federal and state regulations pertaining to the Act, and legal interpretations of the Act by federal and state courts;
  - (ii) Has the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
  - (iii) Has the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.
- (c) The Agency shall keep a list of individuals to serve as hearing officers and that list shall contain a statement of the qualifications of each of those persons.



**2365.1.8 Finality of A Due Process Hearing Decision; Appeal (34 C.F.R. § 300.514)**

- (a) The decision of a hearing officer is final unless appealed to a state or federal court of competent jurisdiction.
- (b) Parties have right to appeal the hearing decision by filing a civil action in a federal district court or a state court of competent jurisdiction in accordance with Rule 2365.1.9.

**2365.1.9 Civil Action (34 C.F.R. § 300.516)**

- (a) Any party aggrieved by the findings and decision arising out of a due process hearing pursuant to Rule 2365.1.6 has the right to bring a civil action with respect to the matter. The action shall be commenced within 90 days of the hearing officer's decision in a state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.
- (b) An award of attorneys' fees may be made pursuant to Rule 2365.1.10.
- (c) In any action brought under paragraph (a) of this rule, the court:
  - (1) Receives the records of the administrative proceedings;
  - (2) Hears additional evidence at the request of a party; and
  - (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.
- (d) Nothing in this rule restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under Rule 2365.1.6 shall be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

**2365.1.10 Attorneys' Fees (34 C.F.R. § 300.517)**

- (a) In any action or proceeding brought under Section 1415 of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to--
  - (1) The prevailing party who is the parent of a child with a disability;
  - (2) To a prevailing party who is the Vermont Agency of Education or an LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to

litigate after the litigation clearly became frivolous, unreasonable, or without foundation;  
or

- (3) To a prevailing party who is the Vermont Agency of Education or an LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(b) Prohibition on use of funds.

- (1) Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under Section 1415 of the IDEA and subpart E of the federal regulations relating to procedural safeguards.
- (2) Subsection (b)(1) above does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under Section 1415 of the IDEA.

(c) A court, in its discretion, may award reasonable attorneys' fees under Section 1415 of the IDEA consistent with the following:

- (1) Fees awarded under Section 1415 of the IDEA shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.
- (2) (i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Section 1415 of the IDEA for services performed subsequent to the time of a written offer of settlement to a parent if:
  - (A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;
  - (B) The offer is not accepted within ten days; and
  - (C) The court or hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.
- (ii) Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action.
- (iii) A resolution session conducted pursuant to Rule 2365.1.6.8 shall not be considered:
  - (A) A meeting convened as a result of an administrative hearing or judicial action; or
  - (B) An administrative hearing or judicial action for purposes of this rule.

- (3) Notwithstanding subsection (c)(2) above, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.
- (4) Except as provided in subsection (c)(5), the court reduces, accordingly, the amount of the attorneys' fees awarded under Section 1415 of the IDEA, if the court finds that:
  - (i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
  - (ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skills, reputation, and experience;
  - (iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
  - (iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with Rule 2365.1.6.2.
- (5) The provisions of subsection (c)(4) do not apply in any action or proceeding if the court finds that the State or LEA unreasonably protracted the final resolution of the action or proceeding or there was a violation of Section 1415 of the IDEA.

**2365.1.11 Child's Status During Proceedings (34 C.F.R. § 300.518)**

- (a) Unless placed in an interim alternative educational setting pursuant to Rules 4313.1, 4313.2, and 4313.4, the student shall remain in his or her current placement while waiting for the decision in a due process hearing or appeal, unless the State or the LEA and the parents of the student agree to another placement. The current placement shall be the placement that was in the last implemented IEP.
- (b) If the due process hearing involves an application for initial enrollment in public school, the student, with the consent of the parents, shall be placed in the public school until the completion of all the proceedings.
- (c) If the complaint involves an application for initial services under Part B from a child who is transitioning from Part C of the IDEA to Part B and is no longer eligible for Part C services because the child has turned three, the LEA is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and

related services under Rule 2365.1.3, then the LEA shall provide those special education and related services that are not in dispute between the parent and the LEA.

- (d) If the decision of a hearing officer in a due process hearing agrees with the child’s parents that a change of placement is appropriate, that placement shall be treated as an agreement between the State and the parents for purposes of subsection (a), above.

**2365.1.12 Transfer of Parental Rights at Age of Majority (34 C.F.R. § 300.520)**

- (a) When a student who is eligible for special education services reaches the age of 18:
  - (1) The LEA shall provide any notice required by these rules to both the student and his or her parents; and
  - (2) All other rights accorded to parents under these rules transfer to the student.
- (b) When a student who is eligible for special education services reaches the age of 18 and is incarcerated in a correctional institution, all other rights accorded to the parent transfer to the student and any notice required by these rules shall be provided to both the student and the parents.
- (c) When a student has been determined to be incompetent under State law, the guardian or educational surrogate parent shall receive any notice required by these rules.
- (d) Whenever rights are transferred under this rule, the LEA shall notify the student and the parents of the transfer of rights.
- (e) Beginning one year before a student reaches the age of 18, the student’s IEP shall include a statement that the student has been informed of his or her rights under the IDEA, if any, that will transfer to the student on reaching the age of 18.
- (f) Rights afforded to parents under these rules transfer to the student when the student turns 18 years of age. All references to “parent” shall be read also to refer to a student who has turned 18.

**2365.2 Confidentiality of Information and Student Records (34 C.F.R. § 300.610)**

**Definitions. For the purposes of Rule 2365.2 through 2365.2.15:**

- (a) “Destruction” means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- (b) “Education records” means education records as defined in 34 C.F.R. Part 99, Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (FERPA).

- (c) “Participating agency” means any agency, school, or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.
- (d) “Personally identifiable information” means:
  - (1) The name of a child, the child’s parent, or other family member;
  - (2) The address of the child or the child’s parents;
  - (3) A personal identifier such as the child’s social security number or student number; or
  - (4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty or make the child’s identity easily traceable.

**2365.2.1 Notice to Parents (34 C.F.R. § 300.612)**

- (a) The Vermont Agency of Education shall give notice, to the extent required by federal law, that is adequate to fully inform parents about confidentiality requirements of § 2365, including:
  - (1) A description of the extent that the notice is given in the native languages of the various population groups in the State;
  - (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
  - (3) A summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
  - (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 C.F.R. Part 99.
- (b) Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

**2365.2.2 Access Rights to Records (34 C.F.R. § 300.612)**

- (a) Each participating agency shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the LEA under the IDEA. The participating agency shall comply with a request to inspect and review without

unnecessary delay and before any meeting regarding an IEP or any administrative complaint, mediation, resolution session, due process hearing, or expedited hearing, and in no case more than 45 days after the request has been made.

- (b) The right to inspect and review education records includes:
  - (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
  - (2) The right to request that the participating agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
  - (3) The right to have a representative of the parent inspect and review the records.
- (c) A participating agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable Vermont law governing such matters as guardianship, separation, and divorce.

#### **2365.2.3 Record of Access (34 C.F.R. § 300.614)**

Each participating agency shall keep a record of parties obtaining access to a child's education records which are collected, maintained, or used under the IDEA, except access by parents and authorized employees of the participating agency. The record shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

#### **2365.2.4 Records on More than One Child (34 C.F.R. § 300.615)**

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

#### **2365.2.5 List of Types and Locations of Information (34 C.F.R. § 300.616)**

Each participating agency shall provide parents on request a written list of the types and locations of education records collected, maintained, or used by the agency.

#### **2365.2.6 Fees (34 C.F.R. § 300.617)**

- (a) A participating agency may charge a fee for copies of records made for parents under these provisions, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
- (b) A participating agency may not charge a fee to search for or to retrieve information under these provisions.

#### **2365.2.7 Amendment of Records at Parent's Request (34 C.F.R. § 300.618)**

- (a) A parent or eligible student who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the LEA that maintains the information to amend the information.
- (b) The participating agency shall decide whether to amend the information as requested within a reasonable period of time of receipt of the request.
- (c) If the participating agency refuses to amend the information as requested, it shall inform the parent or eligible student of the right to a hearing under Rule 2365.2.9.

#### **2365.2.8 Opportunity for a Hearing (34 C.F.R. § 300.619)**

The participating agency shall, on request, provide an opportunity for a hearing within the agency where the parent or eligible student may challenge information in education records on the grounds that it is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

#### **2365.2.9 Result of Agency's Hearing (34 C.F.R. § 300.620)**

- (a) If, as a result of the participating agency's hearing, the agency finds that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information as requested and so inform the parent in writing.
- (b) If, as a result of the participating agency's hearing, the agency finds that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent or eligible student of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the LEA.

- (c) Any explanation placed in the records of the child under this section shall:
  - (1) Be maintained by the participating agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and
  - (2) Disclose the parent's or eligible student's explanation, if the records of the child or the contested portion are disclosed by the LEA to any party.

**2365.2.10 Hearing Procedures (34 C.F.R. § 300.621)**

A participating agency shall, at a minimum, meet the following requirements when it conducts a hearing under this section. The agency's hearing shall:

- (a) Be held within a reasonable time after the agency received the request for the hearing from the parent or eligible student;
- (b) Give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing;
- (c) Have the hearing conducted by an official of the agency or other person appointed by the agency, who does not have a direct interest in the outcome of the hearing;
- (d) Give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised about information in the record. The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney;
- (e) Issue a written decision within a reasonable period of time after the hearing; and
- (f) Issue a decision based solely on the evidence presented at the hearing, and shall include a summary of the evidence and the reasons for the decision.

**2365.2.11 Consent (34 C.F.R. § 300.622)**

- (a) With the exception of disclosures permitted to law enforcement and judicial authorities for which parental consent is not required by FERPA, parental consent shall be obtained before personally identifiable information is:
  - (1) Disclosed to anyone other than officials of participating agencies collecting or using the information, subject to subsections (b) and (c) below; or
  - (2) Used for any purpose other than meeting a requirement of these rules.



- (b) A participating agency subject to these regulations may not release information from education records to other participating agencies without parental consent, unless specifically authorized to do so by FERPA.
- (c) Disclosure of special education and disciplinary records may be made without the prior written consent of the parent or a student aged 18 or older, if:
  - (1) It is made in compliance with a lawfully issued subpoena or court order, and the school has made reasonable attempts to notify the parent or the student aged 18 or older of the order or subpoena before complying with the request, so he or she may seek protective action from the court, such as limiting the scope of the subpoena or quashing it; and
  - (2) The subpoena or court order mandating disclosure specifies that the existence or the contents of, or the information furnished in response to, such subpoena or court order should not be disclosed by the receiving party; or
  - (3) It is to law enforcement or other appropriate parties, and, if the required information from the educational records is needed in connection with an emergency and knowledge of the information is necessary to protect the health or safety of the student or other individuals.
  - (4) If a parent refuses to give written consent when required for disclosure of personally identifiable information, the responsible LEA may seek an order from a due process hearing officer allowing disclosure.

**2365.2.12 Safeguards (34 C.F.R. § 300.623)**

- (a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (b) One official in each participating agency shall be identified as responsible for ensuring the confidentiality of any personally identifiable information.
- (c) A participating agency shall have policies or procedures to ensure that all persons collecting or using personally identifiable information receive training or instruction regarding Vermont's policies and procedures under this rule and 34 C.F.R. Part 99.
- (d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

### **2365.2.13 Destruction of Information (34 C.F.R. § 300.624)**

- (a) For purposes of an audit, when a participating agency has counted a child to justify receipt of IDEA funds, the LEA shall retain copies of the child's IEPs and special education eligibility evaluations, for a minimum of five years from the end of the school year in which the document was in effect.
- (b) The participating agency shall inform parents when personally identifiable information collected, maintained, or used under the IDEA is no longer needed to provide educational services to the child. The information shall be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

### **2365.2.14 Children's Rights (34 C.F.R. § 300.625)**

The Vermont Agency of Education's policy shall be to protect the privacy rights of students with disabilities:

- (a) When a student's educational records are transmitted, stored, accessed, or destroyed, a responsible participating agency shall conform to the standards issued by the Vermont Agency of Education.
- (b) Under the regulations for FERPA at 34 C.F.R. § 99.5(a), the rights of parents regarding education records transfer to the students at age 18.
- (c) If the rights accorded to parents under these rules are transferred to a student who reaches the age of majority, consistent with Rule 2365.1.12, the rights regarding educational records in Rule 2365 shall also be transferred to the student. However, the participating agency shall provide any notice required under the procedural safeguards provisions of the IDEA to the student and the parents.

### **2365.2.15 Disciplinary Information in Student Records**

- (a) A participating agency shall include in the records of a child receiving special education services a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of children not receiving special education services.

- (b) The statement shall include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.
- (c) If the child transfers from one school to another, the transmission of any of the child's records shall include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child as consistent with subsection (a) of this rule.

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**2366 (Reserved)**

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**2367 Children with Disabilities Enrolled in Independent Schools and in-Home Study (34 C.F.R. § 300.129)**

**2367.1 Children with Disabilities Enrolled by their Parents in Independent Schools and in-Home Study (34 C.F.R. § 300.130)**

Independent school children means children who are enrolled by their parents in kindergarten through grade twelve in recognized or approved independent schools, as defined in 16 V.S.A § 166, including religious elementary and secondary schools. Home study children means children enrolled with the Vermont Agency of Education in a home study program pursuant to 16 V.S.A § 166b. For the purposes of Rule 2367, home study children shall be deemed the same as children enrolled by their parents in an independent school.

This section does not apply to children who are either:

- (a) Placed in independent schools by the LEA based on an IEP team’s determination that the independent school, rather than the LEA’s school, is the appropriate placement and least restrictive environment for the child, or
- (b) Attend an independent school because the LEA does not maintain a public school.

**2367.1.1 Child Find (34 C.F.R. § 300.131)**

- (a) Each LEA shall locate, identify, and evaluate all independent school and home study children with disabilities who are enrolled by their parents in independent, including religious, elementary, and secondary schools and home study programs located in the LEA.
- (b) Child Find design. The LEA’s Child Find process shall be designed to ensure:
  - (1) The equitable participation of independent school and home study children; and
  - (2) An accurate count of those children.
- (c) Activities. In carrying out the requirements of this section, the LEA shall undertake activities similar to the activities undertaken for the LEA’s public school children.
- (d) Cost. The cost of carrying out the Child Find requirements in this section, including individual evaluations, may not be considered in determining if the LEA has met its proportionate share expenditures obligation.
- (e) Completion period. The Child Find process shall be completed in a time period comparable to that for other students attending public schools in the supervisory including completion of the initial evaluations within a 60-day time period, consistent with the evaluation process

described in Rules 2362.2.1 through 2362.2.5.

**2367.1.2 Child-Count (34 C.F.R. § 300.133(c))**

- (a) Each LEA shall:
  - (1) Conduct the consultation required by Rule 2367.1.5.1; and
  - (2) Ensure that the count is conducted on December 1 of each year.
- (b) The child count shall be used to determine the amount that the LEA shall spend on providing special education and related services to independent school and home study children with disabilities in the subsequent fiscal year.
- (c) Supplement, not supplant. Local funds may supplement and in no case supplant the proportionate amount of IDEA-B flow through funds required to be expended for independent school and home study children who are eligible for special education.

**2367.1.3 Proportionate Share of IDEA-B Funds (34 C.F.R. § 300.133(b))**

The child count shall be used to determine the amount of IDEA-B flow-through funds that the LEA shall spend on providing special education and related services to independent school and home study children with disabilities in the next fiscal year.

- (a) Formula. Each LEA shall spend the following on providing special education and related services (including direct services) to independent school and home study children with disabilities:
  - (1) For children aged three through 21, an amount that is the same proportion of the LEA's allocation for the next fiscal year of federal IDEA-B Basic flow-through funds as the number of independent school and home study children eligible for special education aged three through 21 who are enrolled by their parents in independent schools or home study programs located in the LEA is to the total number of children eligible for special education in its jurisdiction aged three through 21.
  - (2) For children aged three through five, an amount that is the same proportion of the LEA's allocation for the next fiscal year of federal IDEA-B Preschool flow-through funds as the number of independent school and home study children eligible for special education aged three through five who are enrolled by their parents in independent schools and home study programs located in the LEA is to the total number of children eligible for special education in its jurisdiction aged three through five.



- (b) Calculating proportionate amount. In calculating the proportionate amount of federal flow-through IDEA-B funds to be provided for independent school and home study children with disabilities, the LEA, after timely and meaningful consultation with representatives of independent schools and home study programs, shall conduct a thorough and complete Child Find process to determine the number of independent and home study children with disabilities located in the LEA.

**2367.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or in-Home Study (34 C.F.R. § 300.137(a))**

No parentally-placed child has an entitlement to a FAPE in an independent school or home study program.

- (a) Where services are provided, they shall be provided at the discretion of the LEA in which the independent school or home study program is located.
- (b) The LEA of the parent’s residence shall offer to make a FAPE available in the event the child’s parent seeks enrollment in public school. Additionally, the LEA of residence shall be prepared to develop an IEP for such eligible child if he or she enrolls in public school.

**2367.1.5 Services Determined**

**2367.1.5.1 Consultation (34 C.F.R. § 300.134)**

To ensure timely and meaningful consultation, an LEA representative shall consult with independent school representatives and representatives of parents of independent school and home study children with disabilities during the design and development of special education and related services for the children regarding the following:

- (a) Child Find. The Child Find process, including:
  - (1) How parentally-placed independent school children suspected of having a disability can participate equitably; and
  - (2) How parents, teachers, and independent school officials will be informed of the process.
- (b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve independent school and home study children with disabilities under Rule 2367.1.3(b), including the determination of how the proportionate share of those funds was calculated.

- (c) Consultation process. The consultation process among the LEA representative, independent school officials, and representatives of parents of independent school and home study children with disabilities, including how the process will operate throughout the school year to ensure that independent and home study children identified through the Child Find process as children eligible for special education, can meaningfully participate in special education and related services.
- (d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for independent school and home study children with disabilities, including a discussion of:
  - (1) The types of services, including direct services and alternate service delivery mechanisms;
  - (2) How special education and related services will be apportioned if funds are insufficient to serve all independent school and home study children; and
  - (3) How and when those decisions will be made.
- (e) Written explanation by the LEA regarding services. How, if the LEA disagrees with the views of the independent school officials or parents of a home study child on the provision of services or the types of services (whether provided directly or through a contract) the LEA will provide to the independent school officials or home study parents a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

**2367.1.5.2 Written Affirmation (34 C.F.R. § 300.135)**

- (a) When timely and meaningful consultation, as required by Rule 2367.1.5.1, has occurred, the LEA representative shall obtain a written affirmation signed by the representatives of participating independent schools and home study programs.
- (b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA representative shall forward documentation of the consultation process to the Agency.

**2367.1.5.3 Compliance (34 C.F.R. § 300.136)**

- (a) General. An independent school official or home study parent has the right to submit an administrative complaint to the Agency that the LEA:
  - (1) Did not engage in consultation that was meaningful and timely; or
  - (2) Did not give due consideration to the views of the independent school official or home

study parent.

(b) Procedure.

- (1) If the independent school official or home study parent wishes to submit a complaint, the official shall provide to the AOE the basis of the noncompliance by the LEA with the applicable independent school provisions in these rules; and
- (2) The LEA shall forward the appropriate documentation to the AOE.
- (3) If the independent school official is dissatisfied with the decision of the AOE, the official may submit a complaint to the Secretary of the U.S. Office of Education by providing the information on noncompliance described in paragraph (b)(1) of this section; and
- (4) The AOE shall forward the appropriate documentation to the Secretary.

**2367.1.6 Services Plan and Record Keeping (34 C.F.R. § 300.132)**

- (a) Consistent with Rule 2367.1.3 and 2367.1.4, a services plan shall be developed and implemented for each child with a disability who has been designated by the LEA in which the independent school or home study program is located to receive special education and related services.
- (b) Record keeping. Each LEA shall maintain in its records, and provide to the Agency, the following information related to independent school and home study children:
  - (1) The number of children evaluated;
  - (2) The number of children determined to be children with disabilities; and
  - (3) The number of children served.

**2367.1.7 Equitable Services Determined (34 C.F.R. § 300.137)**

- (a) No independent school or home study child who is eligible for special education and related services has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
- (b) Decisions.
  - (1) Decisions about the services that will be provided to independent school and home study children who are eligible for special education and related services shall be made in accordance with subsection (c) below and Rule 2367.1.5.1(c).
  - (2) The LEA where the independent school or home study program is located shall make the final decisions with respect to the services to be provided to eligible parentally-placed

independent school or home study children.

- (c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school or home study program by the child's parents and will receive special education or related services from an LEA, the LEA shall--
  - (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 2367.1.7.1 (b); and
  - (2) Ensure that a representative of the independent school or home study program attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the independent school or home study program, including individual or conference telephone calls.

#### **2367.1.7.1 Equitable Services Provided (34 C.F.R. § 300.138)**

- (a) General.
  - (1) The services provided to independent school and home study children who will be receiving services through a services plan shall be provided by personnel meeting the same standards as personnel providing services in the public schools.
  - (2) Independent school and home study children who are eligible for special education and related services and will be receiving services through a services plan may receive a different amount of services than children with disabilities in public schools.
- (b) Services provided in accordance with a services plan.
  - (1) Each independent school or home study child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Rules 2367.1.5.1 and 2367.1.6, it will make available to independent school and home study children who are found eligible for services.
  - (2) The services plan shall, to the extent appropriate:
    - (i) Meet the requirements of an IEP with respect to the services provided; and
    - (ii) Be developed, reviewed, and revised consistent with the requirements for either plan.

#### **2367.1.8 Location of Services; Transportation (34 C.F.R. § 300.139)**

- (a) Services on independent school or home study premises. Services to independent school and

home study children on a services plan may be provided on the premises of independent, including religious, schools or home study program, to the extent consistent with law.

(b) Transportation.

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, an independent school or home study child with a disability shall be provided transportation--

(A) From the child's school or the child's home to a site other than the independent school; and

(B) From the service site to the independent school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the independent school.

(2) Cost of transportation. The cost of the transportation described in subsection (b)(1)(i) may be included in calculating whether the LEA has met the minimum proportionate share requirement.

**2367.1.9 Funds May Not Benefit an Independent School or Home Study Program (34 C.F.R. § 300.141)**

(a) An LEA may not use funds provided under Part B of the IDEA to finance the existing level of instruction in an independent school or home study program or to otherwise benefit the independent school or home study program.

(b) The LEA shall use funds provided under Part B of the IDEA to meet the special education and related services needs of independent school and home study children with disabilities, but not for--

(1) The needs of an independent school or home study program; or

(2) The general needs of the students enrolled in the independent school or home study program.

**2367.1.10 Use of Public and Independent School Personnel to Provide Services (34 C.F.R. § 300.142)**

(a) Provision of equitable services. The provision of services shall be provided:

- (1) By employees of an LEA; or
  - (2) Through contract by the LEA with an individual, association, agency, organization, or other entity.
- (b) Special education and related services provided to independent school and home study children with disabilities, including materials and equipment, shall be secular, neutral, and non-ideological.
- (c) Use of public school personnel. An LEA may use IDEA-B flow-through grant funds to make public school personnel available in other than public facilities:
- (1) To the extent necessary to provide services under a services plan for independent school and home study children with disabilities; and
  - (2) If those services are not normally provided by the independent school.
- (d) Use of independent school personnel. AN LEA may use IDEA-B flow-through grant funds to pay for the services of an employee of an independent school to provide services under a services plan if:
- (1) The employee performs the services outside of his or her regular hours of duty; and
  - (2) The employee performs the services under public supervision and control.

**2367.1.11 Property, Equipment, and Supplies (34 C.F.R. § 300.144)**

- (a) An LEA shall control and administer the funds used to provide special education and related services under Rules 2367.1.7 and 2367.1.8, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.
- (b) The LEA may place equipment and supplies in an independent school or home study program for the period of time needed for the Part B program.
- (c) The LEA shall ensure that the equipment and supplies placed in an independent school or home study program--
- (1) Are used only for Part B purposes; and
  - (2) Can be removed from the independent school or home study program without remodeling the independent school or home study facility.
- (d) The LEA shall remove equipment and supplies from an independent school or home study program if:
- (1) The equipment and supplies are no longer needed for Part B purposes; or
  - (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other

than Part B purposes.

- (e) No IDEA-B funds may be used for repairs, minor remodeling, or construction of independent school or home study facilities.

### **2367.1.12 Complaints (34 C.F.R. § 300.140)**

Independent school and home study children with disabilities have the right to file a complaint for due process under Rule 2365.1.6 only for the purpose of pursuing complaints that an LEA has failed to meet its responsibilities with regard to Child Find, including following procedures for evaluation and determination of eligibility. All other complaints may be pursued by way of the Agency of Education's administrative complaint procedure.

### **2367.2 School Districts without a Public School**

A school district that does not maintain a public school or has not designated, in accordance with applicable law, an approved independent school at the grade level needed by a resident student eligible for special education, shall provide the student a free appropriate public education. All special education evaluations, planning and due process procedures, as required by these rules and by federal law, shall be made available to students who are referred for a special education evaluation or who are eligible for special education and to their parents. The location for IEP services shall be determined in the following manner:

- (a) The choice of a specific school(s) appropriate to fulfill the IEP, including the requirements to educate the student in the least restrictive environment, shall be determined by a student's IEP team after the IEP is developed. If the IEP team does not reach consensus about the location of services, the LEA representative shall determine the location of services. This shall be communicated to the parents within five working days of this determination.
- (b) If the parents choose to have their child served, pursuant to his or her IEP, at a school other than that selected by the IEP team or by the LEA representative, and the IEP team agrees that the IEP can be adequately implemented at the school chosen by the parents, the following shall be applicable:
  - (1) Public School: If the parents select a public school, the LEA shall pay any special education tuition or excess costs allowed by law.
  - (2) Independent School:

- (i) If the parents select an independent school approved for special education purposes that is generally attended by general education students that a non-special education student from the LEA could choose to attend, the LEA shall fund the actual costs associated with the parents' placement minus any costs that would accrue to the parents of a non-special education student placed at the same school.
- (ii) If the parents select an independent school not generally attended by general education students, the LEA shall pay the actual educational costs associated with the parents' placement to the amount that would have been spent on the school chosen by the IEP team provided the school selected by the parents is approved for special education in the area of the child's disability.

**2367.3 Placement of Children by Parents if FAPE is at Issue (34 C.F.R. § 300.148)**

- (a) LEAs are not required to pay for the cost of education, including special education and related services, of a child eligible for special education at an independent school or facility, if the LEA has offered to make a FAPE available to the child and the parents elected to place the child in an independent school or facility. However, the LEA shall include that child in the population whose needs are addressed consistent with Rules 2367.1.1 through 2367.1.11.
- (b) Reimbursement for independent school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of an LEA, enroll the child in an independent elementary school, or secondary school without the consent of, or referral by the LEA, a court or a hearing officer may require the LEA to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the LEA had not made FAPE available to the child in a timely manner prior to that enrollment and that the independent placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the Agency and LEAs.
- (c) Limitation on reimbursement. The cost of reimbursement described in subsection(b) may be reduced or denied:
  - (1) If:
    - (i) At the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the LEA to provide FAPE to their child, including stating their concerns and their intent to enroll their child in an independent



- school at public expense; or
- (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the LEA of the information described in subsection (c)(1)(i);
- (2) If, prior to the parents' removal of the child from the public school, the LEA informed the parents, through the notice requirements described in Rule 2365.1.1 of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or
- (3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.
- (d) Exception. Notwithstanding the notice requirement in subsection(c)(1), the cost of reimbursement:
- (1) Shall not be reduced or denied for failure to provide the notice if:
    - (i) The school prevented the parent from providing the notice;
    - (ii) The parents had not been informed about the requirements placed on them in paragraph (c)(1) of this rule before they took action to place their child; or
    - (iii) Compliance with subsection(c)(1) would likely result in physical harm to the child;and
  - (2) May, at the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:
    - (i) The parent is not literate or cannot write in English; or
    - (ii) Compliance with subsection(c)(1) would likely result in serious emotional harm to the child.

## **2368 Educational Surrogate Parents**

- (a) To ensure that the educational rights of a child or student are protected, an educational surrogate parent shall be assigned whenever the individual is eligible for special education or is being evaluated for special education eligibility, and one of the following applies:
  - (1) The parents of the student are not known or cannot be located after reasonable efforts;
  - (2) The student is a child in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§9301-9316); or
  - (3) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4)).
- (b) The Secretary of Education or a designee shall assign an individual to act as an educational surrogate parent. The educational surrogate parent may represent the child in all matters relating to:
  - (1) The identification, evaluation, and educational placements of the child; and
  - (2) The provision of FAPE to the child.
- (c) The Educational Surrogate Parent Program shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after an LEA or other responsible agency determines that the child needs a surrogate.
- (d) Before making the appointment, the Secretary or designee shall assure that the person appointed as an educational surrogate parent:
  - (1) Has no personal or professional interest that conflicts with the interests of the student to whom the surrogate is assigned;
  - (2) Has knowledge and skills that ensure adequate representation of the child; and
  - (3) Is not an employee of the Agency of Education, the child's LEA, or any other agency that is involved in the education or care of the child.
- (e) In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates without regard to paragraph (d)(3).
- (f) A foster parent or developmental home provider shall not automatically have the rights of a parent, but may be appointed by the Secretary of Education or designee to serve as an educational surrogate parent for the child, pursuant to subsections (a), (b), and (d) above.

- (g) Nothing in this section shall be interpreted to diminish, or otherwise alter, any authority or responsibility of a state agency regarding general education decisions for a child in state custody pursuant to Chapters 49 and 55 of Title 33 or a vulnerable adult in state custody pursuant to Chapter 215 of Title 18.

### **2369 Monitoring and Corrective Action**

- (a) The Secretary shall periodically monitor all LEAs for compliance with Vermont statutes and rules, and federal requirements under the IDEA. The monitoring process shall include, but not be limited to, review of the State Performance Plan indicators and provision of FAPE for all eligible students.
- (b) The monitoring procedures may include, but are not limited to:
- (1) A self-assessment conducted by the LEA being monitored;
  - (2) Review of data, reports, and student records;
  - (3) On-site visits;
  - (4) Comparison of a sample of individualized education programs with the programs and services provided; and
  - (5) Development of an improvement plan by the LEA being monitored to address areas of noncompliance identified during the self-assessment.
- (c) After the monitoring process is completed, a report shall be written and sent to the LEA. If the report indicates noncompliance, the LEA shall develop an improvement plan that includes areas of need identified through self-assessment as well as noncompliance cited by the Secretary, and submit it to the Secretary for approval. The Secretary shall review the improvement plan and notify the LEA if it is acceptable.
- (d) An improvement plan shall include, but not be limited to, the following:
- (1) Objectives and strategies for correcting each noncompliance item cited, including resources needed; and
  - (2) The dates by which noncompliance will be corrected.
- (e) Corrective actions identified in the improvement plan shall be completed as soon as possible, but in no case later than one year after the Secretary's identification of noncompliance.

- (f) When an improvement plan is not submitted, found unacceptable, or not implemented, the Secretary shall notify the LEA of additional intended actions. These actions may include, but are not limited to:
- (1) Further monitoring;
  - (2) Mandatory technical assistance or professional development;
  - (3) Withholding or directing of funding.
- (g) An LEA shall provide documentation necessary for the Secretary to fulfill the Agency's reporting obligations pursuant to federal regulations. Documentation shall be provided in accordance with the timeline and format specified by the Secretary.
- (h) If documentation is not submitted consistent with subsection (g) of this Rule, the Secretary shall notify the LEA of additional intended actions.

**Effective Date:**

**These rules will take effect on July 1, 2022.**