

To: Vermont Legislators

From: The Vermont Special Education Legislative Advisory Committee

Date: 1/26/2026

Re: Draft Bill Proposal to Improve Special Education

Thank you for taking the time to review our work below. This is an attempt to develop important points for legislation needed in the area of special education in Vermont. This document is the result of many hours of collaborative work with a diverse group of voices from individuals with disabilities, families, and schools. We have developed this list of asks to support the legislative process as Act 73 and other topics.

Among the most important in the immediate future are two specific topics:

- A. Special Education Funding (Funding Bill below)
- B. Cooperative Education Service Agency Guardrails (Sec. 5 of the Additional Bill Language Document below)

Our additional topics embedded below are of great importance, and we understand that these two topics are at the top of the list of issues in special education in current education discussions.

We stand ready as a group to support anyone interested in discussing these concepts. Our experience and expertise are deep, and we believe we can be helpful to your work. Thank you for reviewing our biographies to understand who we are and for considering the information below.

DRAFT Funding Bill

An act relating to safeguarding special education funding and compliance with federal law under Act 73

Sec. 1. Legislative findings and purpose

The General Assembly finds:

- All students in Vermont are entitled under State law to access a free public education.
- Students with disabilities are entitled under the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., to a Free Appropriate Public Education (FAPE), including individualized educational services and procedural safeguards.
- IDEA requires states and local educational agencies to maintain effort (maintenance of effort, or MOE), ensuring that financial support for special education and related services is not reduced from year to year, except as permitted by federal law, in order to access federal special education dollars.
- The State of Vermont is subject to and implements the requirements of IDEA, including MOE provisions applicable to both State and local funding.
- Funding models that create competition general education and special education expenditures may undermine compliance with IDEA and compromise comprehensive access to education for students with disabilities.
- A funding structure that provides formula-based funding for general education, supplemented by a distinct and protected funding mechanism for special education, supports fiscal transparency, predictability, and compliance with federal law.

- The State of Vermont is committed to diversity, equity, and inclusion in all educational settings and to ensuring that students with disabilities receive the services and supports necessary to access educational opportunities on an equitable basis.

The purpose of this act is to clarify legislative intent under Act 73 and to ensure that implementation of education funding reforms maintains compliance with IDEA and protects the educational rights of students with disabilities.

Sec. 2. Special education funding safeguards; Act 73

(a) Maintenance of effort.

Nothing in Act 73, or in the implementation of Act 73, shall be construed to permit a reduction in State or local funding for special education and related services in a manner that would violate the maintenance of effort requirements of the Individuals with Disabilities Education Act.

(b) Separate and supplemental funding structure.

The State shall maintain a funding structure in which:

1. general education is funded through a formula-based mechanism established by law; and
2. special education is funded through a supplemental reimbursement or grant model that reflects eligible special education costs and preserves compliance with federal maintenance of effort requirements.

(c) Protection of educational rights.

Implementation of education funding reforms under Act 73 shall not limit the right of students with disabilities to a Free Appropriate Public Education, including access to individualized services in the least restrictive environment as required by federal and State law.

(d) Proportional effects.

A school district shall not implement programmatic reductions, staffing changes, or budgetary actions that disproportionately affect students with disabilities or impair the district's ability to meet its obligations to provide FAPE.

(f) Impact analysis.

The Agency of Education shall adopt rules requiring districts to assess and document the impact of significant programming changes on students with disabilities.

(g) Rulemaking and guidance.

The Agency of Education shall issue guidance, and may adopt rules as necessary, to ensure that school districts and supervisory unions implement Act 73 in a manner consistent with this section and with federal special education requirements.

Sec. 3. Effective date

This act shall take effect on XX/XX/XX

DRAFT Additional Bill Language (separated by topic):

Sec 1. Legislative findings and intent

The General Assembly finds:

1. The State of Vermont is undertaking significant education governance and funding reforms under Act 73.
2. In periods of systemic change, it is necessary to reaffirm the civil rights protections guaranteed to students with disabilities under the Individuals with Disabilities Education Act (IDEA), including the right to a Free Appropriate Public Education.
3. Compliance with IDEA, Vermont law, and Vermont Special Education Rules require not only adequate funding, but also sufficient leadership capacity, instructional quality, accountability, and service delivery infrastructure.
4. Vermont faces ongoing challenges related to workforce shortages, leadership turnover, and limited in-State capacity to serve students with intensive and therapeutic needs.
5. Students with disabilities in rural and geographically sparse districts face unique barriers to equitable access to services.

The purpose of this act is to strengthen civil rights protections, ensure accountability for student outcomes, and invest in the leadership, workforce, and service continuum necessary to implement Act 73 in compliance with federal and State law.

Sec. 2. Reaffirmation of civil rights and IDEA compliance

(a) The State of Vermont reaffirms its commitment to the civil rights of students with disabilities and to full compliance with the Individuals with Disabilities Education Act.

(b) Implementation of Act 73 shall not diminish procedural safeguards, individualized services, or access to education in the least restrictive environment.

(c) All education reforms adopted pursuant to Act 73 shall be evaluated for consistency with IDEA requirements and federal guidance.

(d) All education reforms adopted pursuant to Act 73 will have an impact analysis that is available to the public for review.

Sec. 3. Statewide leadership capacity and accountability

(a) The State shall invest in statewide special education leadership capacity, including:

1. analysis of leadership turnover and workforce attrition;
2. identification of systemic barriers contributing to leadership instability; and
3. development of accountability structures to support sustainable leadership.
4. Nurture pathways for people with disabilities to become involved in special education roles

(b) In addition to state level leadership, this Act I establishes minimum leadership capacity expectations for local educational agencies to ensure appropriate access to special education directors to oversee special education implementation in Vermont.

1. All school districts shall employ a certified special education administrator for every 200 students eligible for special education.
2. For Supervisory Unions/School districts with fewer than 200 students eligible for special education, the entity shall employ a proportional FTE of special educator administrator based on a 1:200 ratio.

Sec. 4. Therapeutic schools and continuum of placements

(a) The State shall commit to developing and sustaining a continuum of therapeutic and specialized school placements within Vermont.

(b) Investments under this section shall ensure:

1. sufficient capacity to meet student needs;
2. oversight and accountability for educational quality and student outcomes; and
3. alignment with IDEA requirements regarding placement decisions and least restrictive environment.

(c) Any statutory or administrative moratorium on the approval of new therapeutic approved independent schools is repealed.

(d) Public funding for tuition at a therapeutic approved independent school shall be available only for students placed in such schools due to FAPE requirements, consistent with federal law.

(e) 16 V.S.A. § 166(b) is amended to read:

- As used in this section, “therapeutic approved independent school” means an approved independent school that the Agency of Education has determined provides sufficient services and supports for students on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.
- Publicly funded tuition may be provided only for students placed in the school due to FAPE requirements.
- The term includes placements pursuant to a written agreement between a local education agency and the school, an approved home placement, or a placement ordered by a court of competent jurisdiction.

(f) “Home placement/services” is established as an acceptable placement or set of services on the continuum of special education services and can provide an interim option when there is a lack of access to the placement determined by the IEP team. Nothing in this section shall decrease the obligations to provide FAPE by the LEA.

1. A home placement or home services shall differ from a homebound placement and shall require:
 - a. submission of an in-home home placement plan jointly developed by the local education agency and the family;
 - b. Supplemented by at least six hours per week of in-home or in-school private tutoring provided by the local education agency, unless waived by the family.
2. Districts may provide services or pay families as providers for an approved home placement programming. When parents are paid, they shall be:
 - a. Paid as established by the Agency of Education annually;
 - b. Paid no less than the prior year’s statewide average cost of education for students on an individualized education program if the full program is provided by the family; and
 - c. Supplemented by at least six hours per week of in-home or in-school private tutoring provided by the local education agency, unless waived by the family.
3. Home placement and service options may be used when appropriate placements at therapeutic approved independent schools are unavailable within a reasonable distance of the student’s residence.

(g) The Agency of Education shall publish an annual public report detailing average waiting lists for therapeutic approved independent school programs across the State, including regional variation and trends over time.

(h) Priority for State support.

The Agency of Education shall prioritize technical assistance, start-up funding, and other available resources to support local educational agencies that:

1. develop in-district or regional programs and services serving students with high-intensity needs;
2. demonstrate collaboration across districts to ensure sustainability and equitable access; and
3. maintain instructional, therapeutic, and staffing standards aligned with evidence-based practice
4. demonstrate meaningful consultation with students with disabilities, disabled adults, and families in program design, implementation, and ongoing evaluation.

Sec. 5. Guardrails for collaborative education service agencies

(a) Legislative Intent: Service Infrastructure, Not Placement Authority It is the intent of the General Assembly that Cooperative Education Service Agencies (CSAs) function as regional supportive infrastructure designed to bring expertise to local districts, rather than removing students from their communities.

- A CSA shall act as a **partner** to Local Education Agencies (LEAs), respecting community identity and existing relationships.
- A CSA shall **not** serve as a mechanism for sorting, clustering, or removing students with disabilities from their home schools.
- A CSA shall **not** be used as a "backdoor consolidation" of districts or a transfer of legal FAPE accountability.
- A CSA shall not be used to assign, default, or steer students into separate programs or settings based on cost, staffing availability, or disability severity.

(b) Preservation of the "Contact Hypothesis" (Inclusion Mandate) To prevent the re-segregation of students with disabilities and to honor research regarding the "Contact Hypothesis", CSA services must be designed to maintain and expand meaningful interaction between disabled and non-disabled peers.

- **Service Mobility:** Regional supports, including specialized staffing for low-incidence disabilities, shall be brought to the student in their local school environment ("push-in" models) rather than requiring the student to travel to a regional center.
- **Prohibition on Default Segregation:** A CSA shall not operate segregated regional programs as a default placement option. Regional hubs for specialized instruction may only exist as voluntary, supplemental options and never as a mandatory placement.

(c) Scope of Authority and LEA Retention The establishment of a CSA does not alter the statutory authority of the LEA.

- **No Placement Power:** CSAs are strictly prohibited from acting as placement agencies or overriding the decisions of a local IEP team.
- **Parent Rights:** CSAs shall not interfere with parent rights or due process proceedings, which remain the jurisdiction of the LEA.
- **Contracting Safeguard:** CSAs shall serve as a mechanism to build stable, in-house regional teams to reduce reliance on private contractors and designated agencies, but they shall not replace LEA administration.

(d) Governance and Neuro-Affirming Representation To ensure administrative decisions reflect the needs of the population served:

- The governance structure of any CSA must explicitly include representation from **neurodivergent adults, students with disabilities, and caregivers.**

- CSAs must demonstrate that their design and service delivery models center on neurodivergent students as primary stakeholders.

(e) Transparency and Accountability Metrics Each CSA must submit an annual public report to the Agency of Education to demonstrate that it is expanding, not restricting, inclusive access. Required metrics shall include:

1. **Inclusion Rates:** Data demonstrating that CSA involvement has stabilized or increased the percentage of time students spend in general education settings.
2. **Contracting Reduction:** Evidence of reduced district reliance on temporary private contractors and travel nurses.
3. **Staff Stability:** Retention rates of regional specialized staff.
4. **Least Restrictive Environment (LRE):** Data confirming that CSA services are not resulting in increased rates of separate school placements.

(f) Low-Incidence Populations For students with low-incidence needs (e.g., Deaf/Hard of Hearing, Blind/Visually Impaired), CSAs are authorized to create "**micro-networks**" of specialized staff to serve students across districts.

- These networks shall focus on providing access to peers and specialized instruction (e.g., bilingual-bicultural education for Deaf students) without requiring permanent removal from the home community.

Sec. 6. Transportation

Transportation time considerations in consolidation decisions

- (a) In any proposal for school district consolidation, governance restructuring, or school closure submitted to the State Board of Education, the Agency of Education shall consider maximum acceptable transportation time for students traveling to their assigned local public school.
- (b) The State Board shall adopt rules establishing age-appropriate maximum daily transportation times, with specific consideration given to students with disabilities and students requiring specialized transportation.
- (c) Transportation time shall be a required factor in determining whether a proposed consolidation promotes educational equity and student well-being.

Regional special education transportation pilot

- (a) The Agency of Education, in consultation with regional public transit providers, including Green Mountain Transit, may establish regional pilot programs to provide coordinated, state-operated transportation services for students placed outside their district of residence pursuant to an individualized education program.
- (b) The purpose of the pilot shall be to:
1. Reduce inefficiencies created by duplicative district-level transportation services;
 2. Improve reliability and predictability of transportation for students; and
 3. Provide an additional revenue source for regional transit systems.
- (c) Participation by school districts and transit providers shall be voluntary.
- (d) The Agency shall report annually to the General Assembly on costs, efficiencies, student outcomes, and recommendations for statewide expansion.

Sec. 7. Support for rural and geographically sparse districts

The State shall prioritize investment in addressing special education staffing shortages in rural and geographically sparse districts.

Strategies may include

1. recruitment incentives,
2. shared service models,
3. development of cooperative education service agencies
4. professional development, and
5. technical assistance.

Sec. 8. Accountability for instructional quality under Act 173

- (a) Implementation of instructional expectations established under Act 173 shall be required statewide.
- (b) Measures of success under Act 173 shall include clear accountability for the academic and functional progress of students with disabilities.
- (c) The Agency of Education shall ensure that instructional quality and student outcomes are explicitly considered in monitoring and support activities.

Sec. 9. Special Education Parent Advisory Councils (SEPACs)

- (a) The State shall invest in the support and sustainability of Special Education Parent Advisory Councils.
1. Districts who have SEPACs will be used as a resource to support the future of SEPACs in Vermont.
 2. The SEAP will develop a set of recommendations or the Agency of Education related to an implementation plan for SEPACs in Vermont.
 3. An annual state wide SEPAC development event will be held by the Agency of Education to support the increased development of SEPACs in Vermont.
 4. Technical assistance will include the expected role of school districts supporting the work of SEPACs in Vermont School Districts.
- (b) The Agency of Education will develop training, technical assistance, and access to information necessary for meaningful participation in SEPAC development at the local level..
- (c) The Legislature will consider the requirement of SEPACs statewide through review of the SEAP and AOE recommendations.
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Sec. 11. SEAP Subcommittee Development for Independent School Approval/Special Education Access Community Advisory Group

- (a) The Agency of Education shall establish a SEAP Subcommittee: **Special Education Access Community Advisory Group**.
- (b) The Group shall consist of:
1. Four special education professionals;
 2. Five parents or guardians of children with disabilities; and
 3. Three community members who identify as adults with disabilities.
- (c) The Agency shall make reasonable efforts to ensure geographic representation from all regions of the State.

(d) The duties of the Group shall include:

1. Reviewing applications and renewals for therapeutic approved independent schools and issuing nonbinding recommendations to the Agency;
2. Reviewing complaints regarding therapeutic approved independent school programs and providing guidance to the Agency; and
3. Advising the Agency on access gaps within the continuum of special education services.

Sec 12. Dispute Resolution Accountability

- (a) The Agency of Education shall ensure that hearing officers assigned to special education due process cases have demonstrated experience with Vermont special education statutes, rules, and procedures.
- (b) The Agency of Education shall seek feedback from parties following mediation, administrative complaint processes and due process hearings to assess the effectiveness of the dispute resolution process.
- (c) The Agency of Education shall form a working group related to an analysis of the special education dispute resolution process in Vermont to consider possible improvements.

Sec. 13. Multiage Classrooms

- (a) 16 V.S.A. § ____, and any provision of Act 73 of the 2023 Adj. Sess. restricting the use of multiage classrooms, is repealed.

Sec. 14. Effective date

This act shall take effect on XX/XX/XX