

# **Burlington School District**

**SY 2019-2020**

## **Special Education Program Monitoring Report**

**General Supervision and Monitoring System and**

**IDEA B Compliance Requirements**

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# Table of Contents

<b>Monitoring Authority</b> .....	<b>3</b>
<b>Guiding Principles for General Supervision and Monitoring</b> .....	<b>3</b>
<b>Executive Summary</b> .....	<b>4</b>
<b>Overview of Monitoring Activities for SY 2019-2020</b> .....	<b>5</b>
<b>Adverse Effect Training</b> .....	6
<b>Program File Reviews and Desk Audits</b> .....	6
<b>Individualized Education Program (IEP) Annual Date Reviews</b> .....	8
<b>Triennial Evaluation Date Reviews</b> .....	8
<b>On-Site Visit Purpose and Process</b> .....	9
<b>On-Site Monitoring Team Members</b> .....	11
<b>Overview of On-site Monitoring Activities</b> .....	12
<b>Analysis of On-site Monitoring Activities</b> .....	12
<b>Review of Policies and Procedures</b> .....	12
<b>Surveys and Staff Interviews</b> .....	13
<b>Review of Independent School Contracts</b> .....	13
<b>Classroom Observation Results</b> .....	13
<b>Common Themes and Trends</b> .....	<b>14</b>
<b>Central Office and Districtwide Trends</b> .....	14
<b>Leadership and Organizational Structures</b> .....	14
<b>Shortage of Resources</b> .....	14
<b>Communication Concerns</b> .....	15
<b>Inconsistent Processes and Implementation of Procedures</b> .....	15
<b>Early Childhood Special Education</b> .....	16
<b>Kindergarten - 12th Grade</b> .....	17
<b>Findings of Non-Compliance and Required Corrective Actions</b> .....	<b>17</b>
<b>General Supervision Requirements</b> .....	<b>20</b>
<b>Selective Monitoring for SY 2020-20201</b> .....	21
<b>Intensive Technical Assistance</b> .....	21
<b>Root Cause Analysis</b> .....	21
<b>Special Education Policies and Procedures</b> .....	22
<b>Referral to Fiscal Division</b> .....	22
<b>Conclusion</b> .....	<b>23</b>

## **Monitoring Authority**

The Agency of Education, as the State Education Authority (SEA), is responsible for the overall provision of a Free Appropriate Public Education (FAPE) to students with disabilities in the State of Vermont and does this through the implementation of the Individuals with Disabilities Education Act (IDEA). At the center of this law is the state’s obligation to ensure the delivery of FAPE to all students residing within the state, ages 3 through 21, as prescribed by 34 CFR §300.101. In ensuring FAPE, the Agency of Education (AOE), is responsible for general supervision and monitoring to ensure that the requirements of IDEA are carried out so that each educational program for children with disabilities meets the educational standards of the SEA, in accordance with 34 CFR §300.149(a), §§300.600 through 300.602, §§300.606 through 300.608, and 20 USCS §1416. In Vermont, supervisory unions and supervisory districts are the local education agencies (LEAs) and are required to provide appropriate special education and related services, while the SEA is required to establish, monitor, and enforce regulations governing special education programs in the Vermont public schools and all institutions wholly or partly supported by the state. [16 VSA §§2941 and 2943]. All parties responsible for special education and related services must abide by state and local policies or procedures, as well as federal regulations for IDEA.

## **Guiding Principles for General Supervision and Monitoring**

Vermont is a state with a demonstrated commitment to quality and equity in education and a legacy of public engagement; and as such is committed to improving learning outcomes for all students. The Agency envisions that each and every learner completes his or her public education with the knowledge and skills necessary for success in college, continuing education, careers, and citizenship. To accomplish its goals, the mission of the Agency, and the State Board of Education, is to provide leadership, support, and oversight to ensure that the Vermont public education system enables each and every student to be successful. To that end, Vermont’s special education policies and procedures support federal, state and local implementation of the Individuals with Disabilities Education Act ([IDEA](#)). Based on the monitoring authority granted above, the AOE is required to ensure that students with disabilities receive FAPE in the least restrictive environment (LRE).

## **Overview of General Supervision and Monitoring**

Vermont believes that only through coordinated efforts across the education system will there be a positive effect on the school and life trajectory of students with disabilities. To that end, the goal of Vermont’s differentiated monitoring process is to determine areas of an LEA’s special education program which require strengthening, adjustment and/or correction in fiscal and

program management and implementation. Vermont's integrated general supervision and monitoring system (GSMS) for students age 3 through 21 focuses on:

1. A **coherent system** for LEAs which seamlessly integrates LEA Special Education Determinations with monitoring and support activities used to make those determinations.
2. A strong **focus on results** (in addition to compliance) as a **source of support and technical assistance** for LEAs.
3. **Coordination with existing agency structures, processes and protocols** to avoid adding new or additional structures, and where possible to reduce burden and duplication at the state and local level.

LEAs can expect a variety of monitoring activities, technical assistance and support. Monitoring activities vary based on levels of intensity required in reviewing the available data. These activities may include file reviews, desk audits, on-site visits, and special monitoring. LEAs will be notified at the beginning of each school year of their level of expected monitoring engagement, status of any improvement or corrective action plan activities from the previous school year, and notification of on-site visit(s) if applicable. On-site visits will typically be scheduled either in the late fall or late spring and will be coordinated as often as appropriate with visits scheduled by other SEA teams to minimize disruption in the school environment. A report will be issued that includes a brief summary of monitoring activities, a summary of common themes and trends found in the data, findings of noncompliance if appropriate, and general supervision requirements.

## **Executive Summary**

Burlington School District is one of the largest districts in Vermont with an average student enrollment of 3,606 students in pre-kindergarten (PK) through grade 12 (data from [Burlington SD Final Integrated Field Report](#) dated April 2019). According to the most recently certified Child Count data (Dec 1, 2018), the total number of students with disabilities enrolled in BSD is 723, which is 20% of the total student enrollment PK to age 21. Based on information contained in the [Burlington School District Annual Snapshot](#), annual enrollment appears to be declining while there appears to be an increase in the number of students with disabilities (SY 2017-2018 enrollment data showed 3,905 students of which 635, or just over 16%, were students with disabilities as of the December 2, 2017 Child Count data). BSD is currently in its second consecutive year for special education program monitoring and based upon results from the 2018-2019 school year, the determination status was elevated to Needs Intervention for the 2019-2020 school year. Below is a summary of details related to the monitoring activities, corrective actions or requirements, and sanctions identified in this report.

For the purposes of this report, the term central office refers to the Burlington School District Office and personnel.

Burlington School District is currently meeting targets for compliance or results related to the following monitoring activities:

- Part C to B transitions (100%), and
- training related to Vermont's adverse effect criteria.

Burlington School District is **not** currently meeting targets for compliance or results related to the following monitoring activities:

- Child Find activities and initial evaluation timelines (69%),
- post-secondary transition plans (38%),
- annual date reviews for – IEPs (92%) and triennial evaluations (89%), and
- there are several findings related to incomplete or inaccurate paperwork and provision of FAPE for students with disabilities.

In addition, patterns related to special education programming and service delivery were identified in the following areas:

- concerns related to communication, district leadership and organizational structure;
- shortage of resources; and
- inconsistent processes and implementation of procedures.

As a result, Burlington School District will be subject to the following during the 2020-2021 school year:

- participate in selective monitoring activities,
- participate in intensive technical assistance coordinated by the AOE,
- submit a root-cause analysis to identify education strategies and priorities intended to ensure that all students have access to FAPE,
- required to use a portion of IDEA funds to create a monitoring liaison position that will report directly to the Agency of Education for the 2020-2021 school year, and
- a comprehensive fiscal audit related to the use of IDEA funds for both the 2018-2019 and 2019-2020 school years.

## **Overview of Monitoring Activities for SY 2019-2020**

The special education program monitoring team reviews submissions from approximately (15) LEAs annually, over a three-year rotation cycle. Major monitoring activities included in each cycle and a brief explanation of the activity are listed below. Burlington School District (BSD) participated in the following program monitoring activities:

## Adverse Effect Training

This activity requires LEAs to submit an assurance and a list of new special education staff that have been trained in the adverse effect criteria required for all comprehensive evaluations used to determine special education eligibility in Vermont. *The state target for compliance is timely submission.*

Submissions were due on December 15, 2019. BSD documentation was received on October 30, 2019. BSD compliance for this activity was 100%. This result is consistent with performance for the previous three years.

## Program File Reviews and Desk Audits

This activity consists of timely and accurate completion of data collection tools and self-assessments for Child Find, Part C to B transition and post-secondary transition. All documentation is submitted by LEAs through the state's grants management system. LEAs are also required to submit copies of their discipline policies and procedures which are reviewed for alignment with state and federal regulations prohibiting disproportionate representation and discrimination against students with disabilities. The data from file reviews is aggregated for all LEAs in each monitoring cycle and included in the state's performance report required by the federal government to be submitted annually to the Office of Special Education Programs (OSEP). *The state target for compliance indicators 11, 12 and 13 is 100%.*

Submissions were due on January 15, 2020. BSD documentation was received between January 10 and January 13, 2020. Except for indicator 12 that met the state target, the results are considerably lower when compared to the previous year as indicated in Table 1 below.

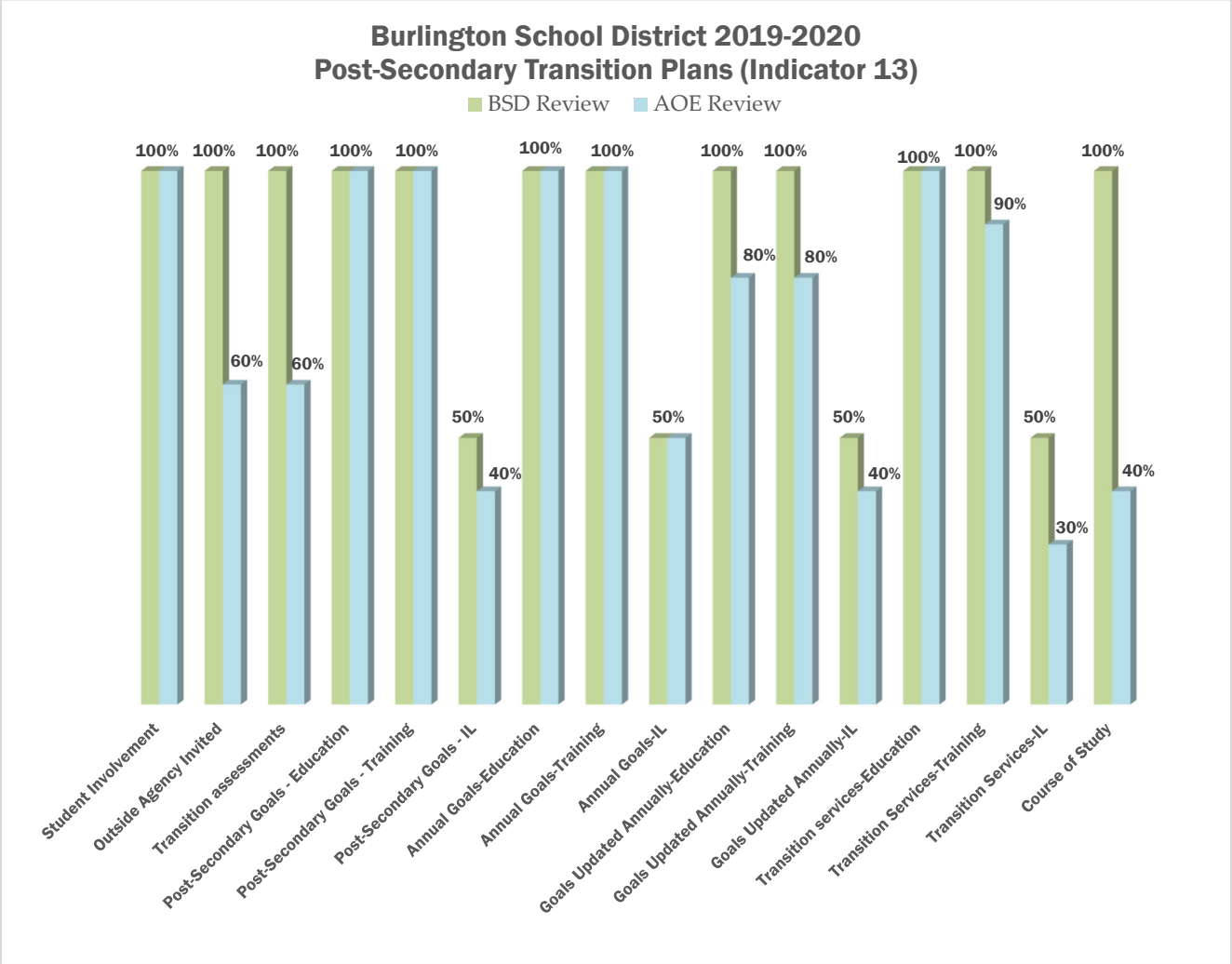
**Table 1: File Review for State Performance Plan/Annual Performance Report (SPP/APR) Indicators**

Description	SPP/APR Indicator	2019-2020 % Compliance	2018-2019 % Compliance	Comments
Child Find (Initial Evaluations completed under 60 days)	11	69%	92%	Family, lack of interpreter or availability of school psychologist, and student refusals to test are the most common reasons for delay; when appropriate, form 4 (eval delay) is often not completed and thus rated as non-compliant
Part C (age 0-3) to Part B (3-21) Transitions	12	100%	97%	Summer and mid-year transitions held ~30 days prior to 3 <sup>rd</sup> birthdate, beginning of school year transitions held ~15 days prior to 3 <sup>rd</sup> birthday
Post-Secondary Transition Plans (age 16+)	13	38%	80%	10 sample plans are reviewed for compliance in 16 single areas within 8 elements. Blanks are interpreted as not addressed by the team and considered non-

Description	SPP/APR Indicator	2019-2020 % Compliance	2018-2019 % Compliance	Comments
				compliant by AOE. If the IEP team noted N/A or included a statement that “the team determined that independent living goals were not appropriate at this time” (or similar), this would be scored as compliant.

Regarding post-secondary transition plans, the AOE and BSD reviews both utilized the same review tool and identified areas of non-compliance including outside agency involvement, transition assessments, courses of study, and independent living sections. BSD’s self-review indicated 100% compliance in 12 out of 16 areas (75% total compliance) and the AOE’s results indicated 100% compliance in only 6 out of 16 areas (38% total compliance). **NOTE: Regardless of improvements or slippage when compared to previous years, if any single area is not compliant, the entire transition plan is considered non-compliant.**

The chart below provided details reviewed for specific areas in a post-secondary transition plan as well as the compliance percentage identified in both BSD’s self-review and the AOE’s official review.



## Individualized Education Program (IEP) Annual Date Reviews

Per state and federal statutes, as well as the assurances made by the Agency of Education on the annual IDEA Grant Application to OSEP, the AOE monitors LEAs to ensure that IEP teams are meeting and reviewing a student's IEP at least once per year. This data is monitored by the AOE through a desk audit based on information collected from the LEA's Child Count submission. There is minimally a one-year lag in data for this activity and this year's review was based upon 2018 Child Count data. The AOE compares annual IEP dates to ensure that the annual review date does not exceed one year (365 days) from the previously reported date. The LEA is provided with the student's unique identification number and date of birth, current year IEP date, previous year IEP date and a pre-calculated number of days between. The LEA is asked to verify if the IEP date information is correct as reported and if not, to provide clarification for any discrepancies. The AOE reviews the submission and determines a percentage for compliance. *The target for annual review compliance is 95%.*

Submissions were due on March 15, 2020. BSD documentation was received on March 5, 2020. BSD original compliance for this activity was 79%; after corrections of potential non-compliance, final compliance is 92%. This result is higher compared to previous years as indicated below.

**Table 2 - Annual IEP Date Review**

Child Count Year	2018	2017	2016
Percent Compliance	92%	85%	90%

## Triennial Evaluation Date Reviews

Per state and federal statutes, as well as the assurances made by the Agency of Education on the annual IDEA Grant Application to OSEP, the AOE monitors LEAs to ensure that evaluation planning teams are meeting and reviewing a student's eligibility determination at least once every three years. These data are monitored by the AOE through a desk audit based on information collected from the LEA's Child Count submission. There is minimally a one-year lag in data for this activity and this year's review was based upon 2018 Child Count data. The AOE compares the date between re-evaluations to ensure that the date reported in Child Count does not exceed three years (1095 days) from the previously reported date. The LEA is provided with the student's unique identification number and date of birth, current evaluation date, previous evaluation date, and a pre-calculated number of days between these dates. The LEA is asked to verify if the re-evaluation date information is correct as reported and if not, to provide clarification for any discrepancies. The AOE reviews the submission and determines a percentage for compliance. *The target for annual review compliance is 95%.*



Submissions were due on March 15, 2020. BSD documentation was received on March 5, 2020. BSD original compliance for this activity was 85%; after corrections of potential non-compliance, final compliance is 89%. This result is lower when compared to the previous year, as indicated below.

**Table 3 – Triennial Evaluations Date Review**

Child Count Year	2018	2017	2016
Percent Compliance	89%	95%	89%

### **On-Site Visit Purpose and Process**

*Purpose* – As a result of cyclic monitoring activities conducted during the previous school year, the special education monitoring team may determine that an on-site visit is necessary. On-site visits are conducted to obtain additional data not acquired through cyclic monitoring activities. Data collected through observations, interviews, surveys, and file reviews adhere to the AOE’s [data privacy](#) policies for protecting personally identifiable information (PII). Interviews and observations are not intended to be evaluative, but to gather data regarding implementation of education activities necessary for students with disabilities to receive FAPE. Data gathered through monitoring activities are considered confidential and respondents will not be individually identified in any public reporting.

*Process for On-site Visit* – On-site visits are facilitated by monitoring teams comprised of employees from multiple divisions within the Agency of Education, as well as special education administrators from other LEAs. On-site visits typically include 1-2 full days of staff interviews, followed by 1-2 days of classroom observations.

Interview teams conduct 30-45-minute interviews with administrators, general education teachers, special educators, paraprofessionals, guidance counselors and discipline staff. Interview teams are comprised of two members – one to record responses and one to ask questions. There are approximately 20 interview questions; some are role specific and others are common for all interviewees. Input from all staff is requested through an email link to an online survey.

Observations take approximately 30 minutes and are completed for general education classrooms at all grade levels in each school building to evaluate inclusive practices for students with disabilities. Observation items include a review of educational climate and setting, instructional practices and practices to promote individualized instruction.

Parent and family stakeholder input is attained through an email link to an online survey, which also provides an option to request an interview with the monitoring team. When appropriate, focus groups or personal interviews may also occur.

Data from multiple sources are analyzed by the special education program monitoring team to produce a final report which is sent to the special education administrator and the superintendent. Final reports are included in an LEA's local special education determination and may be publicly posted on the Agency's website.

Burlington School District was selected for an on-site review based upon the SY 2018-2019 findings identified in the File Review and Compliance Requirements Report issued to both the Superintendent and Special Education Administrator on September 6, 2019. The on-site visit was originally scheduled for November 14, 2019, for interviews and November 18 - 19, 2019, for classroom observations in all buildings. The interviews were conducted on November 14, 2019; however, the classroom observations were delayed due to a snowstorm and a revised schedule of classroom observations was conducted on December 5, 2019.

In addition to staff interviews, classroom observations, and survey responses from parents and staff, the AOE also reviewed the following artifacts and documents provided by Burlington School District: student IEPs and evaluations, school schedules, teacher/staff data, independent school contracts, student handbooks and discipline policies. When appropriate, the monitoring team also reviewed information obtained from Child Count data, fiscal accountability audits, dispute resolutions, integrated field reviews, and annual snapshot data.

The monitoring team wishes to thank all school and community members who participated by responding to interview and survey questions. In addition, the AOE would like to thank all participating field staff for their time, effort, and contributions of information included in this report.

## **On-Site Monitoring Team Members**

The following educators participated in the on-site visits or provided information that has been included in this report.

### **Agency of Education (AOE) Staff**

- *Jacqui Kelleher*  
State Director Special Education
- *Tonya Rutkowski*  
Special Education Monitoring Program Manager
- *Simona Kragh*  
Special Education Monitoring Specialist
- *Chris Kane*  
Special Education Program Manager
- *John Spinney*  
Post-Secondary Transition Coordinator
- *Tracy Harris*  
Coordinator for Behavioral Supports
- *Ana Kolbach*  
Accessibility and Inclusion Coordinator
- *Betty Roy*  
Inclusive Systems Coordinator
- *Katie McCarthy*  
Early Childhood Special Education IDEA Part B 619 Coordinator
- *Amy Murphy*  
Early Childhood Inclusion Coordinator
- *Deborah Ormsbee*  
Program Coordinator, Independent Schools
- *Caitlin Chisholm*  
Education Coordinator, MTSS Team
- *Tom Faris*  
Education Coordinator, MTSS Team
- *Chris Case*  
Director, Student Support Services Division

### **Non-AOE Members**

- *Pamela Reed*  
Associate Principal, Rutland City School District
- *Marsha Bruce*  
Director of Special Services, Rutland Northeast Supervisory Union

## Overview of On-site Monitoring Activities

The AOE sent a survey link to email addresses provided by BSD for approximately 500 staff and 100 parents. Responses were received from 212 BSD staff (42% response rate) and 11 from parents/families (11% response rate). In addition, the AOE reviewed the following artifacts and documents provided by Burlington School District:

- [41] student IEPs and evaluations (PK – grade 12),
- [9] school building schedules,
- [8] independent school contracts,
- [9] student handbooks and discipline policies,
- [20] license reviews for those identified by BSD as having a provisional or level 1 special education license, or working in special education with another endorsement
- [23] special education policies and procedures and forms,
- [64] interviews conducted with administrators, teachers, special educators, guidance counselors, discipline and support staff, and
- [60] classroom observations at Burlington High School, Champlain Elementary School, Edmunds Elementary and Middle School, Hunt Middle School, Horizons, Integrated Arts Academy, JJ Flynn, Sustainability Academy, and On Top alternative high school program.

## Analysis of On-site Monitoring Activities

### Review of Policies and Procedures

Of the schools in the district, Champlain Elementary offered the most comprehensive plan for responding to student behavior, management and response to student behavior, conflict resolution, peer mediation, and anger management. Other schools' discipline policies were mostly limited to the description of misconduct but did not contain comprehensive plans to address and remediate misconduct or behavior issues. No school specified procedures that apply to students eligible for special education services.

AOE requested to review policies and procedures related to special education. The BSD Special Education Administrator noted that most of these were developed by a former administrator and were not in a central location. Many of the documents reviewed were dated as far back as 2010 with the most recent updates in 2018 not readily accessible to relevant staff. AOE was informed that some updated documents exist in a Google drive but was not able to obtain copies for review and many staff stated they were not aware of the existence of these updated documents.

The AOE also checked for resources available to parents on the [BSD support services webpage](#) prior to the November 2019 visit, again in January and April 2020. Each time

the public message states, “We are currently assembling content for this section of our website. Please check back soon.”

### **Surveys and Staff Interviews**

According to the survey responses of 212 staff members and 11 parents, the Burlington School District is affected by several issues. A considerable number of staff reported that the provision of special education services for students is lacking. Only 47% of the staff responding indicated that special education services were “always” or “frequently” provided to students on an IEP. Of the families who responded to the survey 64% reported that their student is making “adequate” or “marginal” progress. The problems highlighted by families and staff suggest a relationship to:

- issues with the special education leadership within the district office,
- a high number of students who need specialized assistance, either because they have behavior issues, and/or they have an IEP, and
- independent schools and contracted services with outside vendors.

### **Review of Independent School Contracts**

Independent school contracts were reviewed for alignment with AOE’s standard contract language for approval of independent schools pursuant to 16 V.S.A § 166, and the State Board of Education (SBE) 2200 series. In addition, placement data was reviewed for all students placed at independent schools to ensure that the independent schools had been approved by the AOE for the disability categories listed in the students’ IEPs. The following were identified as problems of practice related to some of the independent school contracts issued by BSD:

- No clear delineation of roles and responsibilities between BSD and independent school related to provision of FAPE or participation in statewide assessments.
- Contracts do not specifically identify deliverables regarding educational programming aligned with IEP goals and services.
- Missing signatures and/or dates for either BSD or independent school administrator (includes summary page as well as tuition agreement page)
- Transitional services are vague and generalized – not student specific.
- BSD contact information missing for billing information and out-of-district case manager.

### **Classroom Observation Results**

Classroom observations conducted on December 5, 2019 revealed that the Burlington School District strives to provide inclusive environments for the delivery of special education, based on a sound pedagogical philosophy. In most cases, at Burlington High

School, Champlain Elementary School, Edmunds Elementary and Middle School, Hunt Middle School, Horizons, IAA, JJ Flynn, and Sustainability, students were found to be attentive and engaged, instructors were knowledgeable and enthusiastic, they made sure to be seen and heard, interacted appropriately with their pupils, addressing them by name, being responsive to signs of boredom, encouraging questions, providing positive feedback, not letting any student dominate the discussion, and effectively addressing behavioral challenges.

## **Common Themes and Trends**

In addition to the previously described monitoring activities, the team also reviewed, as appropriate, publicly available information obtained from Child Count data, fiscal accountability audits, dispute resolutions, integrated field reviews, and annual snapshot data. The following patterns related to special education programming and service delivery were identified by the monitoring team's review of data:

### **Central Office and Districtwide Trends**

#### **Leadership and Organizational Structures**

Staff surveys and interviews raised concerns about administrator engagement, the role of leadership in providing clear guidance and communication, and the articulation of special education as a district priority. Frequent comments included:

- system design does not include building-based supervision for special education staff,
- minimal central office supervision and support for special education staff,
- reprimands and fear of retribution impact communication,
- lack of agreement on processes and procedures between building level administrators and central office, and
- [Burlington SD Final Integrated Field Report](#) (IFR) dated April 2019, also stated "Many staff report disconnects between district level leadership decision-making and the actual needs of the staff in schools".

#### **Shortage of Resources**

Staff surveys and interviews indicate a shortage of resources or equitable allocation of resources as follows:

- assessment materials and evaluators for special education evaluation and support,
- lack of staffing, and increased workloads, inadequate number of appropriately licensed long-term subs for special education,

- staff attendance at IEP meetings is difficult due to unavailability of substitutes or overlapping meeting schedules, specifically
  - 69% of respondents reported having attended the IEP meetings to which they were invited,
  - 51% of respondents were always or frequently involved in the evaluation plan and report process, and
  - 68% of respondents were always or frequently involved in the IEP development process.
- staff reported professional development and specialized trainings are not adequate to support students with disabilities, which impacts consistent service provision to students in need, and
- [Burlington SD Final Integrated Field Report](#) (IFR) dated April 2019, also stated “School leadership reports that the district is very good at providing equal resources across the district but does not feel that distribution is necessarily equitable when considering specific needs of schools”.

### **Communication Concerns**

Staff surveys and interviews denote communication concerns related to supporting students with disabilities:

- systemic issues with communication and support from central office,
- lack of consistent communication procedures, including the IEP team not always being kept in the loop and progress monitoring being left to individual general education teachers, and
- IEPs are not always shared in a timely fashion with relevant staff,
  - 71% of respondents stated there is a procedure in place to share information in the IEP, but it is implemented inconsistently,
  - 56% of respondents reported that the IEP meeting information is shared within 30 days,
  - 61% of respondents “always” or “frequently” feel that their ideas as IEP team members are heard, and
  - 47% of respondents “always” or “frequently” think that the IEPs address the skills students need to demonstrate progress for grade level goals and objectives.

### **Inconsistent Processes and Implementation of Procedures**

Staff surveys, interviews, and classroom observations denote inconsistent processes and implementation of procedures across the district.

- universal design for learning and co-teaching are not utilized in the district



- general educators and special educators do not interact with any regularity, and some special educators have never met students on their caseload (takes up to 4 weeks for parents to be notified who is the case manager for their child).
- there is confusion among staff, family, and students, related to:
  - inconsistent approaches to problematic behaviors, specifically because of the tension between punitive approaches and restorative practices or Positive Behavioral Interventions and Supports (PBIS), and
  - the distinction between educational support teams (EST), building support teams (BST), the [Vermont Multi-tiered System of Supports](#) (VTmtss), and when it is appropriate for a special education referral.
  - most staff state they are actively discouraged from making direct referrals to special education and that students must go through EST, even when it could mean a substantial delay in evaluation
    - only 26% of respondents to the staff survey reported that direct referrals can “always” or “frequently” be made to special education, and
    - only 33% of special education referrals are “always” or “frequently” acted upon in a timely fashion.

### **Early Childhood Special Education**

- Required meeting notices to parents are not provided within a reasonable amount of time before the date the school proposes or refuses to initiate or change:
  - the identification, evaluation, or educational placement of their child, or
  - the provision of special education and related services (FAPE) to the child;
- Transition paperwork is not regularly accessible either electronically or in the student’s paper file;
- Parental consent, for both services and placement, is not consistently signed by the parent;
- Alignment of curriculum with Vermont Early Learning Standards is not consistent across the district, varying from classroom to classroom;
- In some cases, IEP goals did not address the needs of the student, nor were goals considered to be measurable.
- Services as written in the IEP do not consistently align with the needs of the student, or goals written within the IEP;
- In the case where there is no Head Start teacher, special educators are acting in two roles: as special educator and general educator creating curriculum;
- Related Service providers do not have a functional caseload, which can impede positive student outcomes, constrain service delivery options, and limit collaboration and communication as well as professional development opportunities;



- Transition from PreK to Kindergarten needs to be further reviewed due to higher suspension/expulsion rates in Kindergarten.

### **Kindergarten – 12th Grade**

- Required meeting notices to parents are not provided within a reasonable amount of time before the date the school proposes or refuses to initiate or change:
  - the identification, evaluation, or educational placement of their child, or
  - the provision of special education and related services (FAPE) to the child;
- Special education paperwork is often incomplete or incorrectly completed. IEP goals are not written consistently across the district and in some cases, IEP goals did not address the needs of the student, nor were goals considered to be measurable or aligned with either Common Core or Vermont’s Education Quality Standards;
- Services as written in the IEP are inconsistently aligned with the needs of the student, or goals as written in the IEP;
- Staff surveys and interviews indicate a lack of knowledge regarding Common Core, IEP evaluation process, VTmtss framework, as well as personalized learning plan (PLP) requirements and proficiency-based graduation requirements (PBGR); and
- High School guidance staff appear to be unfamiliar with the special education process and the concept of meaningful educational benefit, and that students with disabilities also are required to have a personalized learning plan (IEPs do not replace PLPs).

### **Findings of Non-Compliance and Required Corrective Actions**

Federal Regulation 34 CFR §300.600 allows the SEA authority and monitoring responsibility to identify non-compliance by LEAs. In exercising its monitoring responsibilities, the SEA must ensure the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the non-compliance [34 CFR §300.600(e)]. Findings of non-compliance are listed numerically, with the regulation addressing the violation listed first in italics, followed by the required corrective action and timeline for completion. ***If the district is not able to comply with these timelines, the district must submit a written rationale for any expected delays to the SEA for approval no later than May 30, 2020.***

**Finding 1:** *In violation of State Board of Education Rule (SBE Rule) 2365.1.1, as well as IDEA Regulation 34 CFR §300.503: The LEA did not consistently provide written notice to the parent or guardian of a student within a reasonable time before it proposed, initiated, or changed, or refused to initiate or change a student’s identification,*

evaluation, educational placement or the provision of a free appropriate public education.

**Action 1:** BSD has had multiple opportunities to participate in universal and targeted technical assistance and has yet to demonstrate adequate progress in this area. BSD will be required to participate in additional intensive technical assistance coordinated by the AOE. This intensive technical assistance must be completed by January 1, 2021.

**Action 2:** Upon BSD completion of action item 1 above, the AOE will verify through a random sampling of student records in Goalview (or other software used by BSD for student record management) that all appropriate forms have been completed and that prior written notifications to parents continues to be provided in a timely manner.

**Finding 2:** *In violation of State Board of Education Rule (SBE Rule) 2363.8, as well as IDEA Regulation 34 CFR §300.300(b):* Consent was not signed by the parent and received by the LEA prior to the initial provision of services. Dates were not consistently included in Goalview software and student permanent special education paper files were not centrally located; therefore, AOE was unable to verify compliance.

**Action 1:** BSD permanent special education files are in desks and buildings throughout the district and were unavailable for review by the AOE. Due to lack of availability, we were unable to verify potential paperwork violations such as access logs, parent signatures, meeting notices, etc. The location of these permanent special education files (not case manager working files) may be relocated to any building that has the infrastructure to hold approximately 750 student files. Files may also be scanned and uploaded to Goalview (or other student records management software) as an alternative to maintaining paper files. All permanent files for students with disabilities (ages 3-21) will be moved to a central location within the district by April 1, 2021.

**Action 2:** The AOE will conduct one or more random checks for compliance during the month of April 2021.

**Finding 3:** *In violation of State Board of Education Rule (SBE Rule) 2363.7, as well as IDEA Regulation 34 CFR §300.320:* IEP goals were not consistently written at grade level with measurable criteria, related services were not provided to advance the student appropriately toward attaining IEP annual goals, and there was inconsistent alignment of the Education Quality Standards and Vermont Early Learning Standards across the district.

**Action 1:** BSD staff have participated in targeted technical assistance related to the educational benefit process in November 2019, and January 2020. Using the knowledge and skills from this training, BSD will self-select one (1) student on an IEP in each school building and conduct an educational benefit review for that student. A total of nine (9) educational benefit review summaries, and all related student paperwork, will be submitted to AOE no later than January 1, 2021.

**Action 2:** BSD will also be required to provide training on the educational benefit review process for any new special education case manager employed for the 2020-2021 school year. A sign-in sheet and agenda for this training will be submitted to AOE no later than January 1, 2021.

**Finding 4:** *In violation of State Board of Education Rule (SBE Rule) 2363.7(i), as well as IDEA Regulation 34 CFR §300.43(a)(1):* Post-secondary transition plans do not provide evidence of student invitation, outside agency invitation, age-appropriate assessments, or adequate and measurable post-secondary goals.

**Action 1:** As part of the close-out requirements for 2018-2019 monitoring activities, BSD was required to redirect 15% (\$188,328.67) of its IDEA Basic fund allocation for SY2019-2020, towards actions and activities that would lead to compliance in the area of post-secondary transition plans. BSD submitted a grant application amendment for these activities which was approved by the AOE. All actions/activities are to be completed no later than June 30, 2020. The AOE is requiring a fiscal audit during SY2020-2021 to determine how these funds are being used to address continued non-compliance in this area.

**Action 2:** BSD has had multiple opportunities to participate in universal and targeted technical assistance in this area and has yet to demonstrate adequate progress. BSD will be required to participate in additional intensive technical assistance coordinated by the AOE. This intensive technical assistance must be completed by January 1, 2021.

**Action 3:** After completion of intensive technical assistance, BSD will be required to submit ten (10) post-secondary transition plans that are 100% compliant by March 1, 2021.

**Action 4:** If the required submissions in action 3 above, are not 100% compliant, BSD will be required to submit additional post-secondary transition plans on a

monthly basis until they are 100% compliant for three (3) consecutive months.

**Finding 5.** *In violation of State Board of Education Rule (SBE Rule) 2362.2.1(c), as well as IDEA Regulation 34 CFR §300.301:* The initial evaluation shall be completed and the report issued within sixty (60) days from either the date parental consent is received by the LEA or the date on the prior written notice that informs parents the LEA will be conducting a record review as the sole basis for the initial evaluation.

**Action 1:** BSD has had multiple opportunities to participate in universal and targeted technical assistance in this area and has yet to demonstrate adequate progress. BSD will be required to participate in additional intensive technical assistance coordinated by the AOE. This intensive technical assistance must be completed by January 1, 2021.

**Action 2:** The AOE will verify through submission of LEA self-reporting and random sampling of student records that all appropriate forms have been completed and that 100% of initial evaluations are compliant for SY2020-2021. Submissions to AOE will be due per the 2020-2021 monitoring cycle due dates.

**Action 3:** If the required submissions in action 2 above, are not 100% compliant, BSD will be required to submit additional data on a monthly basis until they are 100% compliant for three (3) consecutive months.

## General Supervision Requirements

In alignment with the general supervision authority granted to the Agency of Education in 16 VSA §2941 and 2943 and 34 CFR §§300.120 and 300.600, the SEA will review and verify all documents submitted by the LEA. Furthermore, in the absence of a statewide IEP system, all monitoring activities will require the SEA to have READ-ONLY electronic access to all software used for producing special education documentation (examples are not limited to: DocuSped, Goalview, Powerschool, etc.). Read-only access will be granted by the LEA upon request of the SEA and at the end of each school year, the LEA and SEA will determine the timeframe for continued access based on need(s) for subsequent tracking of improvement or corrective action plans. To comply with state and federal regulations related to access of student records [*SBE Rule 2365.2.3 and 34 CFR §300.614*], the SEA will provide the LEA with a list of student perm numbers that were accessed electronically as part of the final monitoring report. In the alternative, the LEA and the SEA may agree to an alternate method of electronic access to district records.

## **Selective Monitoring for SY 2020-2021**

Burlington School District will be required to participate in selective monitoring activities related to program monitoring, with monthly reporting to the AOE, for the 2020-2021 school year. Selective monitoring consist of reviewing one or more (but are not limited to) any of the following data elements: stakeholder concerns, phone log information, complaint log information, dispute resolution requests, email correspondence, as well as critical and/or special investigative audits and intra-agency findings related to special education. These may occur at any time and are unrelated to the differentiated monitoring process, except that a selective review may be deemed necessary as a result of the findings in one or more monitoring activities.

## **Intensive Technical Assistance**

Burlington School District has had multiple opportunities to participate in universal and targeted technical assistance in multiple areas previously mentioned in this report and has yet to demonstrate adequate progress. Therefore, BSD will be required to participate in additional intensive technical assistance coordinated by a representative of the AOE. Technical assistance activities will be conducted in accordance with findings outlined in this report and aligned with other AOE required improvement activities, whenever possible. It is further recommended that BSD participate in Vermont's Systemic Improvement Plan (SSIP) as a way to access additional supports for improving student outcomes. SSIP supports are designed to improve statewide assessment outcomes for students with disabilities through systems coaching and capacity building for district and building level leadership teams.

## **Root Cause Analysis**

Furthermore, BSD will conduct a root-cause analysis to identify education strategies and priorities intended to ensure that all students have access to a free appropriate public education (FAPE). The AOE requires that the district respond to the following questions pertaining to Vermont students in Burlington School District:

1. What are the specific factors contributing to on-going non-compliance?
2. How can IDEA Grant application funds be more equitably distributed to support students with disabilities?
3. How does the system design around special education staffing, supervision, and resource allocations impact communication and collaboration between building level and central office?
4. How can adjustments to programming/service delivery provide students with disabilities a better opportunity for access to equitable education materials and instruction?
5. How can the principles of least restrictive environment (LRE) be better met for all students with disabilities?

6. How are students with disabilities in the general education and alternative programs provided access to a free appropriate public education (FAPE)?

BSD will submit their root cause analysis to AOE by August 15, 2020 for use in developing technical assistance and further corrective action measures as needed to support students with disabilities.

If BSD needs assistance in conducting a root cause analysis, please contact the Special Education Program Manager for Technical Assistance and Professional Development at [christopher.kane@vermont.gov](mailto:christopher.kane@vermont.gov).

### **Special Education Policies and Procedures**

By May 1, 2021, Burlington School District will be required to make publicly available a current copy of special education policies and procedures. These must be detailed documents that address at a minimum:

- a definition of special education and terms used specific to special education,
- policies and procedures for both special educators and paraprofessionals including training, certification or licensing requirements related to providing specialized instruction or supporting students with disabilities,
- special education laws and procedures relevant to
  - special education referrals and evaluations, including Child Find, or disproportionate representation,
  - annual IEP meetings and prior written notice
- procedural safeguards and rights of parents of students with disabilities, and
- resources or checklists used by BSD for special education service delivery.

In addition, the [BSD support services webpage](#) must be updated with comprehensive parent resources and information related to procedural safeguards and rights of parents of students with disabilities.

### **Referral to Fiscal Division**

The special education program team will refer Burlington School District to the finance division at the Agency of Education for the purpose of a comprehensive fiscal audit related to the use of IDEA funds for both the 2018-2019 and 2019-2020 school years. This referral is initiated based upon the concerns outlined in the common themes and trends section regarding the lack of resources to support students and 2019-2020 IDEA B allocations listed in the grants management system that include a line item for a \$1.15-million rollover of funds from prior



years. Also noted in the grants management system is BSD's proportionate share allocation of \$25,940.55.

Burlington School District will also be required to use IDEA funds to assign a monitoring liaison role that will report directly to the Agency of Education for the 2020-2021 school year. This position will be responsible for coordinating and submitting all monitoring activities for BSD until such time as BSD has shown progress towards correcting deficiencies and findings noted in this and previous reports.

## Conclusion

This report summarizes the findings of the monitoring reviews held during the 2019-2020 school year for the Burlington School District (SU015). Failure to meet the requirements outlined in the non-compliance section or on-going corrective action requirements identified in the previous school years, could result in additional monitoring requirements or financial sanctions as outlined in federal statutes related to monitoring, technical assistance and enforcement (34 CFR §300.600(a)(3)). In addition, Vermont's Agency of Administration's Administrative Bulletin 5, *Policy for Grant Issuance and Monitoring*, allows for financial sanctions as authorized below:

If a granting agency determines that a grantee is out of compliance with State law or rule or Federal law or regulations, terms and conditions of the grant agreement, performance requirements or auditing requirements; is suspected of fraud or misuse of funds; fails to take corrective action on audit findings, etc. they may terminate the grant agreement, or pursue other remedies as necessary or appropriate. A granting agency should act as may be appropriate for the situation with the purpose of gaining compliance or limiting risk to the State. Possible sanctions may include:

- Delaying payments or withholding partial payments;
- Making payments on a reimbursement basis only;
- Placing additional reporting requirements on the award, provided the grant agreement provides for this remedy;
- Disallowing costs and/or offsetting or requesting repayment if funds had been advanced;
- Conducting or arranging for an independent audit;
- Cancellation of the award;
- Classifying the grantee as "high-risk" and withholding future awards.

If you have any questions regarding this report, please contact the Special Education Program Manager for General Supervision and Monitoring at [Tonya.Rutkowski@vermont.gov](mailto:Tonya.Rutkowski@vermont.gov).

## Acknowledgement by Superintendent or Designee

### Findings of Non-Compliance and Required Corrective Actions for SY2019-2020

I have reviewed and understand the following conditions that will be imposed on the Burlington School District for the school year 2020-2021 as a result of the monitoring activities for school years 2018-2019 and 2019-2020:

1. BSD will be subject to selective Special Education program monitoring activities for SY2020-2021, including but not limited to:
  - a. BSD will conduct a root-cause analysis to identify education strategies and priorities intended to ensure that all students have access to a free appropriate public education (FAPE). BSD will submit root cause analysis by August 15, 2020.
  - b. BSD will participate in intensive technical assistance coordinated by the AOE to be completed by January 1, 2021.
  - c. A total of nine (9) educational benefit review summaries and all related changes made in student paperwork will be submitted to AOE no later than January 1, 2021.
  - d. Submission of (10) post-secondary transition plans that are 100% compliant by March 1, 2021.
  - e. All permanent files for students with disabilities (ages 3-21) will be moved to a central location within the school district by April 1, 2021.
2. BSD will be subject to a comprehensive fiscal audit related to use of IDEA funds for both the 2018-2019 and 2019-2020 school years. This audit will be conducted by the fiscal division at the AOE.
  - a. As part of the fiscal audit, BSD will provide an accounting of how it used \$188,328.67 (15%) of its 2019-2020 IDEA Basic allocation required by the Agency of Education for actions and activities in support of Indicator 13 compliance (post-secondary transition plans).
3. BSD will update all special education policies and procedures by May 1, 2021.
4. BSD will submit all required AOE fiscal, programmatic and data reports on time.

I understand that missed deadlines or failure to comply with the above will be brought to the attention of the AOE State Director of Special Education for review and potential further action, including withholding of payments and/or participation in future grant awards, and notification to Burlington School District Board.

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**Signature of Superintendent or Designee**

**Date**

**Printed Name:** \_\_\_\_\_



The acknowledgement page must be returned signed and sent as a pdf file to [Tonya.Rutkowski@vermont.gov](mailto:Tonya.Rutkowski@vermont.gov) no later than May 30, 2020.