VERMONT AGENCY OF EDUCATION
1 National Life Drive, Davis 5, Montpelier, VT 05620-2501
(p) 802-828-1130 | (f) 802-828-6430 | education.vermont.gov

# Common Areas of Noncompliance and Resources Surrounding Timelines and Child Find

## Purpose

The Vermont Agency of Education (AOE) is committed to providing all Local Educational Agencies (LEAs) with research-based, actionable resources to support the implementation of high-quality Special Education services statewide. In accordance with this commitment, The AOE is releasing this tool to help support LEAs that are out of compliance in Child Find and other monitoring timelines and provide resources for increasing compliance in this area. According to the Federal Office of Special Education Programs (OSEP) Indicator 11 is defined and measured as follows: Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.

The following tool includes a chart that guides LEAs through four root causes, or common areas of concern for noncompliance. For each of these four areas, several resources are identified to support compliance in this area. The Individuals with Disabilities Education Act (IDEA) ensures that all children receive a free appropriate public education (FAPE), and Child Find is an integral part of insuring FAPE. Adhering to all timelines, including initial evaluations, reevaluations, and annual IEPs is crucial for compliance, but it also serves to protect individuals with disabilities by ensuring they are evaluated and provided with the proper supports to have equitable access. If a student needs additional supports, the evaluation process can be an opportunity to determine appropriate supports for a student who may need educational services that are different from grade-level peers, potentially changing the educational trajectory for a student who may be at risk of becoming disconnected.

## Using This Document

Based on data submitted during the course of monitoring reviews, interviews with districts, and parental concerns, the four most common root causes of non-compliance were Family Engagement, Available Data, Processes/Structure, and Expertise. As you analyze your data and reasons for noncompliant delays, please use the chart to identify what common area best matches your noncompliant reason for delay. There are resources related to each corresponding area embedded throughout the document.

Please note that these are four common areas identified throughout the state, but your LEA may have identified an alternative area of need that does not fit in with any of the categories illustrated below. If that is the case, please reach out for additional technical assistance by completing our [Special Education Professional Development Request Form] and having prepared the first steps listed below.

## Contact Information:

If you have questions about this document or would like additional information please contact: Cassie Santo, Student Support Services, at cassie.santo@vermont.gov.

## Process

1. Gather relevant data:
    a. The first step is for LEAs to collect and review their data. FFY20 LSED data is based on data that was submitted on March 15, 2022. Sources of data that inform this work may include:
        i. Form 3
        ii. Form 3a
        iii. Form 4
        iv. Form 8
        v. Indicator 11 – Data Collection Form
        vi. Triennial Dates Review – Data Collection Form
        vii. Annual Dates Review of IEPs – Data Collection Form
        viii. Parent Contact Logs
        ix. Other documentation related to timelines (can include parent and family communication, surveys, anecdotal reporting)
2. Create Review Team:
    a. Invite a team to review the data. This team should include some of the following members: the special education director, special educators, case managers, evaluators, family engagement coordinator, and any other staff that works with adhering to timelines and Indicator 11.
3. Consider and sort causes based on gathered data:
    a. As you identify reasons for noncompliance within the data, group them as they align with the four areas identified in the table below.
4. Select primary reason for noncompliance:
    a. Based on the alignment above select the primary cause. If you identify an alternative area of need that does not fit in with any of the categories illustrated below, please reach out for additional technical assistance by completing our Special Education Professional Development Request Form.
5. Review available resources:
    a. Each common cause section has accompanying resources available to better support compliance surrounding the root cause. Additionally, review and discuss the reflection questions found at the conclusion of this document.
6. Make a plan for next steps:
    a. Identify the recommended tool or resource for implementation.
    b. Identify the timeline and persons responsible for implementing recommendations or completing further self-assessments.

**What are our common reasons for non-compliant delay?**

| Family Engagement | Available Data | Processes/Structure | Expertise |
|---|---|---|---|
| *"Family never responded to LEA."*<br><br>*"Student was absent for a large portion of the year."*<br><br>*"Parent failed to sign required documents."*<br><br>*"Parent did not have transportation."* | *"No available data for evaluation."*<br><br>*"Student refused to complete testing."*<br><br>*"Work samples were never received."*<br><br>*"Need time to determine student's dominant language."* | *"Evaluator did not have time to complete required testing."*<br><br>*"Not enough staff/increases in staff caseload."*<br><br>*"Student not available due to school activities."*<br><br>*"The LEA who organizes testing was not available."* | *"School psychologist was not available during the testing window."*<br><br>*"Special educator organizing the evaluation did not know the timelines."*<br><br>*"There is not enough staff available to complete all components of the evaluation."*<br><br>*"New staff does not know what forms are required in various circumstances."* |

### Strategies for Addressing: Family Engagement

Description: Meaningful Family Engagement is a crucial component in supporting Child Find, evaluation processes, and timelines throughout the IEP process. LEAs can encourage case managers to have shared protocols for connecting with families, contact parents at the start of the year, establish positive rapport, determine the family's preferred methods of communication, and identify days/times they are available to meet. Resources to support increasing family engagement and forms for the evaluation process are linked below.

Primary Resource:

- Family Engagement for IEP Team Members: Strategies to support a more comprehensive approach to family engagement. These strategies are for you to consider as you develop a more comprehensive approach to family engagement for families of children with disabilities and your personal, school or district. The strategies are organized by Core Principles and align with the Self-Assessment. Completing the self-assessment in its entirety is recommended.

Additional Resources:

- Family Engagement Toolkit and Self-Assessment: A toolkit with core principles of family engagement with indicators, a self-assessment to reflect upon the spectrum of family engagement practices, and next step suggestions.
- VTmtss Field Guide: An expanded framework for enacting a multi-tiered system of supports. See Component 2: Effective Collaboration pp. 15-22.
- Form 3 - Prior Written Notice for Special Education Evaluation: Form 3 is used to inform parents of a special education evaluation.
- Form 3a - Consent for A Special Education Evaluation: Form 3a is parent consent for an evaluation and must be signed by parents before proceeding with an initial and re-evaluation.

- Form 4 - Notice of Initial Evaluation Delay: Form 4 is used if an initial evaluation is going to exceed 60 days.

### Strategies for Addressing: Available Data Resources

Description: Having multiple sources of data to draw from is beneficial for all students and effectively informs the evaluation from start to finish. Establish regular, scheduled times to collect data for all students. Data from a student's EST Plan or Section 504 Plan is used to inform initial referrals for Special Education. Many measures should be called on when assessing a student for special education services. The resources below support the improvement and identification of sources of data.

Primary Resource:

- Local Comprehensive Assessment System (LCAS): Making Connections with VTmtss: This document is intended to be used by school systems that are reviewing and improving their LCAS model. It can be used independently as a diagnostic/needs assessment tool in conjunction with the VTmtss Systems Screener, the VTmtss Framework, and with the VTmtss Driver Diagram within a more comprehensive continuous improvement process.

Additional Resources:

- Adverse Effect Chart Measures: A non-exhaustive list of various measures and sources of data that can be used to observe adverse effect.
- VTmtss Field Guide: An expanded framework for enacting a multi-tiered system of supports. See Component 4: Comprehensive and Balanced Assessment System pp. 35 – 52.
- K-12 Special Education Evaluation Implementation Guide: Processes and procedures contained within this guide include all changes going into effect as of July of 2023. This guide is being released prior to that date in order to give school districts, teams, and professionals an opportunity to prepare for that implementation date. See section 3.2; Using Data to Identify Students in Need of Support.
- Form 2 - Special Education Evaluation Plan and Report: Form 2 is used to plan for an evaluation, to identify sources of data that will be used for an evaluation, and to document those results to determine eligibility.

### Strategies for Addressing: Processes/Structures

Description: Reaching compliancy with Indicator 11 is reliant on having systems in place to ensure timelines are met. Establish processes and structures for adhering to timelines and train staff in these systems. Build schedules that support collaborative time for teachers and ensure case managers have protected time to complete paperwork. Provide oversight to ensure that progress monitoring occurs regularly. The resources below support analyzing current processes and structures and employing strategies that could improve compliancy with Indicator 11.

Primary Resource:

- VTmtss Field Guide: An expanded framework for enacting a multi-tiered system of supports. See pp. 89 – 91 and complete the reflection tool. If the reflection tool does not align with particular areas of need, consider the additional resources for processes/structures listed below. For example, if you determine that stakeholders do not have adequate time to collaborate, see the resource below titled: "Finding Time for Collaborative Planning."

Additional Resources:

- Comprehensive Needs Assessment Toolkit: A tool to support teams in developing or refining their processes.
- Finding Time for Collaborative Planning: An analysis of multiple models to employ that support collaborative time for teachers.
- Master Schedule Review: A tool that guides districts to review master schedules through an inclusive lens.
- Reducing Special Education Paperwork: A variety of strategies in supporting special educators and processing through the required paperwork.

### Strategies for Addressing: Expertise

Description: All teachers and staff should be familiar with the districts child find systems and required timelines. Ensure that multiple staff are qualified to administer assessments in accordance with the following rule:

- **Vermont Special Education Rule 2362.2.4(4)(iv) and (v),** the Local Education Agency must ensure the assessments are administered by trained and knowledgeable personnel and administered in accordance with any instructions provided by the producers of the assessments.

A qualified evaluator is a professional who is appropriately trained to administer, score, and interpret a given assessment. This could range from a professional who is a special education teacher with training on the assessment instrument, to someone with a Ph.D. in school psychology. Any professional administering an assessment would also need to have had training on a particular assessment, but any individual with the required expertise and training can conduct an individual assessment. Additionally, staff members involved in assessing students will need training on where to access information and data to guide decisions regarding assessments, and on processes and timelines for initials, reevaluations, and annual IEPs. The resources below provide details for timelines surrounding Indicator 11, as well as opportunities to self-assess and generate comprehensive expertise amongst staff members involved in these processes.

Primary Resource:

- Child Find Guidance: A document from the U.S. Department of Education that supports interpreting requirements of the Individuals with Disabilities Education Act considering COVID 19. Some of the topics discussed include timelines, implementing initial evaluation and reevaluation procedures, and determining eligibility.

Additional Resources:

- VTmtss Field Guide: An expanded framework for enacting a multi-tiered system of supports. See Component 5: Expertise pp. 53 - 58.
- Indicator 11 – Child Find Instructions for Data Collection: Instructions for data collection and what types of data need to be collected and reported.
- Indicator 11 - LEA Self-Assessment: A self-assessment for LEAs to review their procedures with Indicator 11.
- K-12 Special Education Evaluation Implementation Guide: Processes and procedures contained within this guide include all changes going into effect as of July of 2023. This guide is being released prior to that date in order to give school districts, teams, and professionals an opportunity to prepare for that implementation date. See sections 4.4, 5.5, 6.6, 7.4, and 8.5 to review timelines throughout the evaluation process.

## LEA Reflection Questions

As you engage in the first steps, discuss these questions with team members. Acknowledge what is working and identify areas that can be improved. Establish goals to increase performance with Indicator 11 and share tools with staff that support these goals. If after reviewing these questions, the LEA is seeking more information or is not able to answer the questions, consider conducting an Educational Benefit Review. Please reach out to Betty Roy for more information at betty.roy@vermont.gov.

1. What is the process for completing initial special education evaluations and providing parents with reports within 60 days of parental consent? Who ensures that the reports are mailed home according to the timelines?
2. What procedures are in place to track when consent is received? Who is responsible for organizing the testing for the student?
3. How are evaluations assigned to assessors? What contingency plans are in place if there is a shortage of assessors?
4. What supports are in place for assessors to complete evaluations and reports in a timely manner?
5. Who monitors the progress of evaluations during the 60-day timeline? How is information sharing facilitated among all stakeholders?
6. When does assessment planning begin for triennial reevaluations? Who ensures that this process is completed no more than three years after the previous evaluation?

7. What types of supervision are in place to ensure that IEPs are reviewed at least once annually and updated to appropriately reflect the student's progress?
8. Who coordinates IEP meetings? What structures exist to ensure timeliness with the IEP process?
9. What sources of data are employed to guide decision making? How are staff members trained on accessing this data to inform referrals, evaluations, and annual IEP meetings?
10. What strategies and opportunities are employed to engage with families? How are LEAs documenting their attempts to contact?
11. What training is offered for staff to familiarize themselves with assessments utilized for evaluations? Are opportunities provided for staff to look at evaluation reports and understand how assessment results can inform instruction?