

Impact and Implications of Special Education Rule Changes

March 16, 2023

Vermont Agency of Education

Objectives

Participants will:

- Review Special Education Eligibility and Tiered System of Supports
- Understand the background Special Education Rule Changes and Act 173
- Identify how the rule changes impacts the work of general educators

Reminder: What is Special Education?

[Rule: 2360.2.12](#)

The term "special education" means specially designed instruction that cannot be provided within the school's standard instructional conditions...`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 ...that apply to all children**

Special Education: Three Gate Eligibility and Evaluation

Requirements for Special Education Eligibility:

1. The student has a disability according to the established criteria;
2. The student's condition adversely affects educational performance in one or more basic skill area; and
3. The student needs specially designed instruction.

2362 and 2362.1 of the Special Education Rules

Tiered System of Supports

[Tiered system of supports and educational support team \(16 V.S.A. §2902\)](#)

All Vermont schools are required to have a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment, including an educational support team (EST).

[VTmtss Field Guide](#)

- Systemic and Comprehensive Approach
- High Quality Instruction
- Comprehensive Assessment
- Expertise
- Effective Collaboration

The VTmtss Framework

- Systemic infrastructure
- Administrators as key innovators
- Interconnected, interrelated, and interdependent components



Referrals and a Tiered System of Supports

- The most effective method of meeting student needs is a highly effective school system. All students are general education students, and all staff shares responsibility for all students.
- An evaluation cannot be delayed based on a student not yet receiving interventions or not having completed an intervention in progress.
- Intervention should continue during the evaluation process and its data used to inform the determination of a disability.

Special Education Rule Changes: Background

In 2016 AOE commissioned two studies.

1. UVM Study: Evaluates special education funding models
2. DMG Report: Compares current practice to best practices for special education service delivery in 10 representative Supervisory Unions/Supervisory Districts.

In 2018, the General Assembly enacted Act 173 that:

1. Emphasized the need for increased **effectiveness, availability, and equity** of services provided to all students who require additional support in Vermont's schools.
 2. Established an Advisory group to shape proposed rules and procedures.
 3. Mandated resources to support professional learning in best practices.
 4. Outlined a several-year transition to the new funding system providing time for rule-making, procedure development and professional learning.
- Next, the State Board of Education opened the entirety of rule 2360 which resulted in several changes to the Special Education (3-21) Rules.
 - The State Board adopted the new Special Education Finance Changes and updated 2360 on May 13, 2021, to be made effective July 1, 2022, with portions delayed to July 1, 2023.

Special Education Rule Changes: Background (continued)

- The AOE divided the significant rule changes into seven categories and have presented guidance, and basic training on (can be found on the [Special Education Rules webpage](#));
 - Connections to MTSS
 - New Parent Input Requirements
 - Change in the definition of Special Education
 - New requirement around data IEP Goal Writing
 - The addition of Functional Skills as a basic skill area (to be implemented July 1, 2023)
 - Change in the definition of Adverse Effect (to be implemented July 1, 2023)
 - Change in the eligibility process for Specific Learning Disability (to be implemented July 1, 2023)

Impacts to General Education

- The general education system of instruction and intervention including the data used to inform this system is key to special education in general and these rule changes.
- Upcoming webinar, and resource documents highlights general education involvement throughout the student's educational experience, including the special education eligibility and evaluation process, referrals, specially designed instruction and implementing the Individualized Education Program (IEP).
- Direct impact of the changes to rules related Adverse Effect and SLD.

Impacts to General Education: Adverse Effect

[Rule 2362](#)

2362.d(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 (Evaluation Planning Team)** 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.

2362.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.

Impacts to General Education: Adverse Effect (Need)

[Rule 2362](#)

2362.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.**

Impacts to General Education: Specific Learning Disability Eligibility

Five Key Elements of SLD Process

- The student demonstrates a **lack of adequate achievement** in one of the eight basic skill areas **when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards.**
- **The student demonstrates a lack of progress when provided with scientific research-based instruction and interventions.**
- Underachievement is not the result of exclusionary factors, including visual, hearing or motor disability, intellectual disability, emotional disturbance, cultural factors environmental or economic disadvantage, limited English Proficiency, **or lack of instruction in reading or math.**
- **Observational data reflect academic and behavioral performance within the classroom reflects area(s) of concern.**
- Documented parental notifications and participation throughout the process.

Impacts to General Education (continued)

In summary the general ed environment needs to provide:

- Appropriate, research-based instruction for student's age or state approved grade level standards
 - o specifically including essential components of reading instruction (phonemic awareness, phonics, fluency including oral reading skills, vocabulary development, reading comprehension strategies), and math instruction
- Research based interventions
- Observational and other data sources (responses to instruction and interventions, benchmarking, progress monitoring) that reflect academic and behavioral performance within the classroom

Roles and Responsibilities: School Leadership

- Provide professional learning, supervision, mentoring, and coaching to support high-quality universal instruction for all students, in PreK-grade 12; behavior, social-emotional, and mental health well-being are intertwined.
- Ensure fidelity of implementation for core general education program and interventions. Fidelity of implementation refers to teachers' use and delivery of curriculums, instructional strategies, strategies to foster a positive school climate, social/behavioral supports and interventions in the manner in which they were designed and intended to be used.
- Focus on building a systemic culture of growth and improvement
- Establish ongoing, authentic, collaborative partnerships with families and community to address the needs of the whole child; non-academic and academic.
- Embed time for collegiate planning, problem-solving, and data analysis.
- Utilizes the collective expertise of all staff within the system, families, community partners, and students to ensure that every student is provided effective interventions and layered supports as needed.
- Provide access to the data from a comprehensive assessment system that includes screening, progress monitoring, and formative and summative assessments to inform decision-making and engage in continuous improvement efforts to equitably distribute human and material resources.

Roles and Responsibilities: Teachers and Interventionists

- Use diagnostic, benchmark, formative assessment, progress monitoring and keen observation to engage in responsive teaching that is culturally sensitive and based on research
- Collaborate to plan instruction and participate in peer observation
- Ensure provided instruction and interventions are research based and delivered with fidelity
- Provide quantitative and qualitative input to EST and EPT/IEP meetings and comprehensive evaluations
- Actively participate in school-wide efforts to address students' behavioral and social-emotional learning and mental health well-being.
- Continuously work to improve and expand content and pedagogy to ensure fidelity of implementation of differentiated instruction and intervention.
- Confidently collect, use, and discuss data to inform decisions regarding the instruction and intervention and measure student progress and success.

Roles and Responsibilities: Curriculum Coordinators

- Facilitate the collaboration of educators and support the ongoing embedded professional learning of standards, curriculum, instruction, and interventions for all students.
- Supports the building administration in ensuring that all instruction is informed by research, supported by a standards-based curriculum, and provided by highly-qualified educators.
- Guides teachers in using data to understand well-articulated standards and curriculum for academic, behavior, and social-emotional skills.
- Uses disaggregated data to assess the efficacy of the curriculum and instruction for all student populations.
- Supports district and school teams in making decisions about the equitable allocation of instruction, curriculum, and resources.

Resources

- Act 173
 - [District Management Group Report](#)
 - [Study of Vermont State Funding for Special Education](#)
 - [Act 173 - Full Text](#)
- Tiered System of Support
 - [VTmtss Field Guide](#)
 - [Educational Support Team Practice Profile](#)
 - [Educational Support Team: Making Connections with VTmtss](#)
- Special Education Rule Changes
 - [AOE Special Education Rule Change Webpage](#)
 - [K - 12 Special Education Evaluation Implementation Guide](#)
 - - Section 3: System of Supports
 - [Special Education Rules, July 1, 2022](#)
- Upcoming Webinar On General Education Responsibilities in the Special Education Process
- Upcoming Resource Crosswalk (preview on the following slides)

Resources (2)

Resources to Support District Leaders and the Special Education Process

General educators are integral to the special education process. Established systems of supports should be in place that directly involve general educators in ensuring appropriate interventions and supports are provided for all students. The resources in this section will support general educators in understanding and identifying areas of support, the initial evaluation processes, characteristics and signs of suspected disabilities, and eligibility determination.

[Child Find, LRE, and Special Education Initial Evaluation Process](#): All educators are integral to Child Find and to ensuring that a free appropriate public education is accessible for all students. General Educators must implement research-based interventions and delivering universally designed instruction to best meet the needs of all learners in their classrooms. This section of the Special Education Evaluation Implementation Guide will walk educators through the evaluation process, their role in the data collection, and the principals behind the rule changes set to take place in July 2023.

[Determining When to Make a Referral](#): Educators and administrators should use judgement and review a wide array of available data when deciding to refer a student for an evaluation. General Educators must provide data regarding academic and functional skills, continuously monitor student progress to inform instruction and intervention, and access other professionals and supports as needed.

Resources (3)

[Disability Characteristics Checklist](#) and [Signs of Suspected Disability](#): Both charts in the Special Education Evaluation Implementation guide can support school staff to identify whether a student has a disability under one of the categories outlined by IDEA. It is crucial for general educators to understand the characteristics and signs of a suspected disability, and to implement classroom supports to enhance progress and access in the general education setting.

[Eligibility Determination](#): Effective July 2023, eligibility for special education services is based on three criteria which are described in this document. It is essential that General Educators understand this process and be active participants in determining a student's eligibility for special education.

[Specific Learning Disability: Multidisciplinary Evaluation Team Members and Responsibilities](#): This document outlines the roles each individual plays in the evaluation planning team process and the eligibility determination. General Educators must implement universal instruction, continuously monitor student progress to inform instruction and intervention, and refer students to the EST when there are concerns.

Resources (4)

Resources to General Educators and the Special Education Rule Changes

[Guidance to Rule Change: Functional Skills](#): Students can be eligible for special education in the basic skill area of functional skills. It is crucial that General Educators understand functional skills as a potential area of need and implement interventions that support functional skill development for all students.

[Special Education Services](#) – Read rule 2360.2.12 to understand the changes to special education services as they compare to previous rules. This is especially applicable for general educators co-teaching with a special educator.

[Using Data to Identify Students who Need Support](#): Data is essential to best identify students who need additional support and to gauge the effectiveness of the supports provided. It is necessary that General Educators collect data and refine supports as they determine if students are accessing and making progress. This section of the Special Education Evaluation Implementation guide lists assessment types that can inform instruction for groups of students or individuals.