
MEMORANDUM

TO: Special Education Administrators, Special Educators
FROM: Heather Willis-Doxsee, Vermont State Director of Special Education
SUBJECT: Update to State Board Rule 2363.11
DATE: September 19, 2024

Purpose

This memo serves as an update to evaluation practices related to [State Board Rule 2363.11](#) which references actions available to the district or supervisory union (SU) in the event that a student moves to a new district/SU during an evaluation period.

Update to Evaluation Procedures

The Agency of Education, with guidance from the Office of Special Education, is clarifying and updating the interpretation of [State Board Rule 2363.11](#). Rule 2363.11(c) allows districts/SUs to document with the parents a new expected date of completion if that student has moved to a new district/SU during the initial evaluation period. This allowance is only to be used during initial 60 day evaluation timelines consistent with [State Board Rule 2362.2.1\(f\)](#) and [34 CFR § 300.301](#). [State Board Rule 2363.11\(c\)](#) shall not apply to re-evaluation requirements outlined in [Rule 2362.2.3](#) indicating that a re-evaluation must be completed at least once every three years.

Details

In the Individuals with Disabilities Education Act (IDEA), [34 CFR § 300.301](#) (Initial Evaluations) gives an exception ([300.301\(d\)](#)) to the 60-day timeline requirement for completion of the initial evaluation. It reads as follows:

(d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—

- (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
- (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's



previous public agency as to whether the child is a child with a disability under § 300.8.

This language is consistent with [State Board Rule 2362.2.1\(f\)](#).

The potential area for misinterpretation comes from [State Board Rule 2363.11](#) (IEP For A Student Moving Into The LEA When The Student Has Been Eligible Or Was Being Evaluated For Special Education In Another State Or In Another Vermont LEA [\(34 C.F.R. § 300.323\(e\)](#) and [\(f\)](#)).

(c) Child Moving During an Evaluation Process: If a child transfers to another LEA within the state or moves into a Vermont school from out of state, the completion of the evaluation shall be coordinated and completed by the new school, including documentation with the parents of the child of the expected completion date of the evaluation should it differ from the original expected date of completion. This evaluation should be completed as expeditiously as possible.

This rule mimics the language in [34 CFR § 300.304](#) (Evaluations Procedures) which has the language around student transfers quoted below.

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with [§ 300.301\(d\)\(2\)](#) and [\(e\)](#), to ensure prompt completion of full evaluations.

The major difference between the state rule and IDEA is the fact that in IDEA the 'expeditiously as possible' clause is specifically noted as consistent with [§ 300.301\(d\)\(2\)](#) and [\(e\)](#). Those rules are the initial evaluation rules therefore indicating that [State Board Rule 2363.11\(c\)](#) should only be applied to initial evaluations and not any evaluation procedure as is potentially implied by alternative readings of the state rule.

Therefore to be consistent with IDEA regulations [State Board Rule 2363.11](#) may only be read as applying to initial evaluations.