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MEMORANDUM

TO: Special Education Administrators
FROM: Cindy Moran, Vermont Director of Special Education
SUBJECT: Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act
DATE: March 7, 2018

This letter is in response to a memo distributed by the Office of Special Education Programs (OSEP) on May 22, 2017 regarding "[Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act](#)." In this memo, OSEP expanded the definition of visual impairments. Accordingly, the Vermont AOE is also updating their definition of visual impairments. Under 34 CFR §300.8(c)(13), and in addition to the Vermont Agency of Education (VT AOE) specific state established criteria, "visual impairment including blindness" means an impairment in vision that, *even with correction*, adversely affects a child's educational performance.

Historically, the student evaluation team, which includes a case manager and possibly an organization such as VABVI, would stop a referral for evaluation at gate 1 (eligibility) if the student did not meet the VT AOE regulations for visual impairment. The new OSEP memo expands the definition of visual impairment which now allows the evaluation planning team to move to gate 2 (identifying adverse effect) if the student evaluation team has observed some unusual vision behaviors that are affecting a child's educational performance.

The following must be taken into consideration when determining a child's eligibility for services:

1. During the first step, the eligibility team is required to reach a decision as to whether the child has one or more of the conditions that the State has identified and believes could affect a student's visual functioning (Rule 2362.1(l)) Examples of such conditions might include: the child has a reduced visual field to 20 degrees or a visual acuity of 20/70 or less in the better eye; the child has been diagnosed with cortical visual impairment; or the child has a diagnosis of a degenerative condition that is likely to result in a significant loss of vision in the future.
 - a. **Change of Practice:** Previously, the eligibility team might have refrained from determining if there was an adverse effect if the vision difficulties were not listed in the eligibility criteria for visual impairment. This is not consistent with IDEA and should no longer occur.
2. During the second step, the eligibility team determines the extent that they should proceed further and examine whether the condition adversely affects the child's educational performance.
 - a. **Change of Practice:** Previously, the IEP team might have determined that a child did not have an adverse effect if the impairment in vision was corrected. This is not consistent with IDEA and should no longer occur.