

Special Education Rule Changes

Overview and Impact on General
Educators

Objectives

Participants will:

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

Key Terms

Glossary of Key Special Education Terms

Key Terms in the VTmtss and Early MTSS
Frameworks Defined

Tiered System of Supports

Tiered System of Supports

- [Educational Support Teams Statute \(16 V.S.A. § 2902\)](#)
- All Vermont schools are required to maintain an Educational Support Team (EST).

Tiered System of Supports, continued

- There is not a single set criteria that defines what supports are considered a part of a particular tier or what student concerns might require that those supports be provided;
- It is ever-changing and evolving as new students needs are presented;
- Boundaries between layers/tiers of support are seamless and fluid, involving problem solving and data to make decisions.

Essential Questions for Student Supports

1. How are students who need additional supports identified?
2. How are supports for those students identified?
3. How are supports being delivered?
4. How is student progress being monitored?
5. Is the support being delivered by the most qualified staff?

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.
- Tiered systems are intended to direct attention and resources to areas of need.
- An evaluation cannot be delayed based on a student not yet receiving interventions.

Initial Referrals for Special Education

- The referral process for special education should be integrated within the overall educational system.
- When considering a referral for special education, consider the following questions:
 - Does the student demonstrate consistent or repeated struggle or underperformance compared to peers in classroom assessments?
 - Does the student have a concerning number of office referrals?
 - For the full list of questions to consider, please see the [K-12 Special Education Evaluation Guide](#).

Special Education Rule Changes

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. Establishes an Advisory group to shape proposed rules and procedures.
 2. Outlines a several-year transition to the new funding system providing time for rule-making, procedure development and professional learning.
 3. Mandates resources to support professional learning in best practices.
- 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.

DMG Report, 2017

1. Ensure core instruction meets the needs of most students;
2. Intervention that supports core instruction instead of supplanting;
3. Ensure students who struggle receive instruction from highly skilled teachers;
4. Systems-wide approach to supporting positive student behaviors;
5. Provide students who have more intensive support needs with specialized instruction from skilled and trained experts.

Special Education Rule Changes

- Adverse Effect
- Specific Learning Disability (SLD)
- Specially Designed Instruction (SDI)

Special Education Rule Changes: Three Gate Eligibility

Guiding statements to support teams navigating the criteria:

1. The student has a disability according to the established criteria;
2. *The student's condition adversely affects educational performance;* and
3. The student needs specially designed instruction.

Special Education Rule Changes: Eligibility for Children Ages Six Years through 21

- In July 2023, Vermont will return to an adverse effect definition that matches that of the rest of the nation. The regulation will no longer require three measures of adverse effect that fall into the lowest 15th percentile.
- Rather than wait until students fall into the lowest 15th percentile of their grade level peers, earlier identification can be made, resulting in the provision of more timely and appropriate supports and services for students in need.

Special Education Rule Changes: Eligibility for Children Ages Six Years through 21

- Must be in a basic skill area;
- Team must consider academic and nonacademic aspects of the student's functioning;
- Educational deficiencies must persist over time;
- It must be documented that scientific, research-based interventions have been implemented with fidelity.

Special Education Rule Changes: Eligibility for Children Ages Six Years through 21

Although the new regulation no longer requires the documentation of three measures of adverse effect for a basic skill area, those measures, such as grades, performance on individual and group assessments, continuous progress monitoring, attendance, observations, clinical judgment from qualified experts, and samples of student work, should continue to be used to substantiate an adverse effect.

Considerations for Determining Adverse Effect

Adverse effect on educational performance may be found when it:

- is not due to lack of motivation
- impacts school attendance
- causes the student to fail to complete, and/or turn-in, class work and homework, and
- results in difficulty with focusing and/or attending that prevents the student from attending classes and timely completing their homework

General Educators Role: Adverse Effect

- It is essential that general educators know how to refer students to the EST when they are concerned. Teachers must be providing high quality instruction that is differentiated to support each student's inclusion and growth in general education settings.
- To make determinations related to adverse effect there must be data from the general education classroom:
 - Data that demonstrate that, prior to or as part of the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
 - Data-based documentation of repeated assessment of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction

Additional Procedures for Identifying Children With Specific Learning Disabilities

The Transition Away from the Discrepancy Model

- In making the determination that a student has a specific learning disability the LEA shall decide whether to use a model based on whether the student responds to scientific, research-based intervention or to use a model based on other alternative research-based procedures for determining whether a child has a specific learning disability.

Additional Procedures for Identifying Children With Specific Learning Disabilities

In making the determination that a student has a specific learning disability, the EPT shall document use of the following:

- High-quality instruction and scientific research-based tiered interventions aligned with individual student need;
- Frequent monitoring of student progress to make results-based academic decisions;
- Use of student response data to evaluate the effectiveness of interventions.

Additional Procedures for Identifying Children With Specific Learning Disabilities

The EPT may determine that a student has a specific learning disability if:

- When provided with learning experiences and instruction appropriate for the student's...grade-level standards, the student does not achieve adequately in one or more of the basic skill areas.
- The student does not make sufficient progress to meet...grade level standards in one or more of basic skill areas identified.
- The EPT determines that its findings are the primary result of the student's learning disability.

General Educators Role – Identifying Children with SLD

- Data must demonstrate a lack of adequate achievement for the student when provided with learning experiences and instruction appropriate for the student's...grade-level standards.
- Data must demonstrate a lack of progress when provided with scientific research-based instruction and interventions.
- The lack of progress must not be a result of exclusionary factors.
- Observational data must reflect the areas of concern.
- Documentation of parental participation throughout the process.

Special Education Rule Changes: Three Gate Eligibility

Guiding statements to support teams navigating the criteria:

1. The student has a disability according to the established criteria;
2. The student's condition adversely affects educational performance; and
3. *The student needs specially designed instruction.*

Special Education Rule Changes: Special Education Services

What is Specially Designed Instruction (SDI)?

- Planned, organized, and meaningful and is delivered in an explicit, intentional and systematic manner;
- Can be provided in any location, including multiple locations during the school day;
- Directly addresses the goals in the student's IEP;
- Specific instruction that is delivered to the student, not differentiated instruction, accommodations, active learning strategies or other activities designed to facilitate learning for all students.

Special Education Rule Changes: Special Education Services

What is Specially Designed Instruction (SDI)?

- Closely monitored to ensure that the intended results are being achieved;
- Addresses any area of individual need;
- Does not involve lowering standards or expectations for the student.

Who can deliver SDI?

- The delivery of specially designed instruction is the core job responsibility of special education teachers.

Special Education Rule Changes: Special Education Services

Who can deliver SDI?

- Certified special education teachers & certified general education teachers with support from special education teachers can work together to align and integrate the SDI for each student.
- School-based team members, such as related service providers, can also provide SDI during the service provided or through co-teaching.
- An intervention specialist with deep content knowledge and expertise implementing evidence-based interventions is also qualified to provide SDI.
- A paraprofessional is allowed to provide SDI when a certified special education teacher designs the SDI, and the paraprofessional is under the supervision of the certified special education teacher.

Special Education Rule Changes: Special Education Services

Some terms defined from previous slide:

Intervention specialist – academic, socio-emotional, and behavioral.

School-based team member –related service providers, guidance counselors, and other interventionists with appropriate credentials.

Define support – a para can assist professional teachers in many aspects of SDI, including 1:1 and small group work on goals and making adaptations as approved by the teacher, lesson preparation, data collection, learning strategies, etc. Paraprofessionals may provide SDI to students receiving special education services when a certified special education teacher designs and the paraprofessional is under the supervision of the certified special education teacher.

Special Education Rule Changes: Special Education Services

Generally, SDI *differs* from core instruction and interventions in the following ways:

- SDI is defined and guaranteed by IDEA and implemented in accordance with an IEP;
- SDI teaches specific skills a student does not have but needs to access and progress in the general education curriculum;
- SDI is individualized;
- SDI must be delivered by a qualified provider;
- Students who receive SDI need sustained intensive support in order to maintain adequate rates of progress;
- Students who receive SDI may also receive instructional and testing accommodations;
- It is delivered in the student's LRE, which may be a location other than the general education classroom.

Special Education Rule Changes: Special Education Services

SDI is *similar to* core instruction and interventions in the following ways:

- SDI is aligned with the standards and instructional expectations for all students;
- SDI may be delivered in the general education classroom;
- SDI may be implemented together with general education strategies;
- Assessment practices used in general education classrooms such as formative assessment, screening, and progress monitoring are used.

General Educator's Role: SDI

SDI can be a collaborative process.

- General education teachers can work collaboratively with special education service providers to help with SDI.

SDI vs. Accommodations & Modifications

- Accommodations and modifications might be part of SDI, but the words are not interchangeable
- Teaching the student how to use an accommodation or modifying the content they're taught would both fall into the SDI category
- SDI refers to the actual instruction and the adaptation of those instructions (which could include accommodation or modification)
- Accommodations and modifications could be applied without a special education teacher across settings

Special Education Rule Changes: Reminders for All Educators

1. Special education is a service, not a placement.
2. LEAs have a responsibility to ensure that all students are receiving quality instruction and interventions to help them progress in the general education classroom.
3. A student with a disability should not be removed from the general education environment unless the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.
4. Students found to have a disability, but not an adverse effect nor a need for special education services, must be referred to the building principal and a Section 504 Team meeting convened.

General Educator's Role: Implementing IEPs

Individualized Educational Programs (IEPs) are the plans for each child...receiving special education services that includes:

- a statement of the child's present levels...related to how the child's disability affects the child's involvement and progress in the general education curriculum.
- a statement of measurable annual goals...designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum.
- a statement of the special education and related services...and a statement of the program modifications or supports for school personnel that will be provided for the child to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.

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](#)
 - [Special Education Rules, July 1, 2022](#)

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