

MEMORANDUM

TO: Members of the State Board of Education
FROM: Emily Simmons, AOE General Counsel
SUBJECT: Public Comment on Proposed Revisions to Rule Series 2360 and 1300
DATE: October 14, 2020

Background

At the State Board's September regular meeting, you requested a summary of public comment received so far on the proposed changes to rule series 2360 and new proposed rule 1300. You asked that this summary describe "themes" emerging in the public comment.

Themes in Public Comment Received So Far

I would characterize the major "themes" of the 11 instances of public comment as follows:

- 9 Requests to eliminate "Adverse Effect" rule
 - 1 comment does not mention adverse effect
 - 1 comment opposes changing the adverse effect rule
 - 5 Requests to add additional parental consent provisions, similar to New Hampshire's rule. The requested change described by these 4 comments would allow a parent to consent "partially" or "disagree" to proposed changes in their student's IEP.
 - 5 comments do not reference a change to parental consent rule.
 - 1 comment opposed to changing the parental consent rule.
 - 1 comment expresses support for the rules as drafted, and detailed the suggestions for changes included in other public comment, with reasons that the suggested changes ought not to be adopted.
 - 3 comments stated the commenter "supports the DLP [Disability Law Project] proposal."
 - This proposal includes many amendments to the rule as drafted, and an additional rule on Multi Tiered Systems of Support that is not present in the current draft.
 - 1 comment did not endorse the DLP proposal in total, but did state support for an MTSS rule.
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 - 1 comment expressed disagreement with using a block grant model for special education funding.
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Next Steps

The majority of public comments so far are centered around two major topics of interest to commenters. First, is the issue of whether to retain the current rule on identification of students with disabilities or to amend that rule, deleting the adverse effect criteria. Second, the issue of parental consent to IEP terms, and whether our Vermont rule should follow on the approach used in New Hampshire and other states.

I recommend that the Board request a substantive presentation from Agency of Education staff on these two issues, as they exist in current rule and practice. Based on my work with Board members during this rulemaking so far, I think it would be helpful to you in your decisionmaking process to come.