



April 22, 2020

Public Comment to the State Board of Education on the Special Education Rules

Provided by Karen Price, Co-Director of Family Support, VFN

I am providing comment to you from the Vermont Family Network (VFN), a state-wide non-profit organization that has been helping Vermont families for more than 30 years. In my role as a project director, I am responsible for our state's only federally designated Parent Training and Information Center (PTI). Our charge is to provide support, information, and training to parents of children with disabilities and the professionals who support them. One of our focus areas is to provide Technical Assistance in the areas of special education and parental rights/procedural safeguards under IDEA (Individuals with Disabilities Education Act), the federal law that mandates special education. In addition to our technical expertise, we ourselves are parents of children with disabilities. We have almost daily contact with many parents of children with disabilities all over Vermont and record around 4,000 contacts with over 1,000 parents each year. I am a parent of a 22-year-old son with an intellectual impairment who was on an IEP through his entire school career. I am also a member of SPEAC (Special Education Advocates Coalition), a group of public and private advocates convened by the Disability Law Project of the Vermont Legal Aid.

VFN fully supports the Rule 2360 proposal that has been presented to the SBE by the Disability Law Project of Vermont Legal Aid. While Act 173 is an education funding law, our position is that funding changes cannot occur without corresponding changes in practice. The breadth of the Vermont Special Education Rules must be reviewed and adjusted in tandem with funding changes.

I would like to speak specifically to a few areas of proposed changes. The first is Parental Rights and Parental Consent. The IDEA is clear that parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. The reality is that we hear daily from parents who do not feel meaningfully included in the special education process. Parents feel that their input is not considered when decisions are made about their children's IEP and that there is a basic power imbalance at the IEP table. These proposed changes would help provide parents a more equal place at the table:

2365.1.1 Content of Notice

Currently, there is no specific time period in which a parent must receive prior written notice when a school proposes to initiate or change, or refuse to initiate or change, a student's identification, evaluation, educational placement or the provision of a free appropriate public education. The guidance calls for a "reasonable" time, but practice has been variable including times involving decisions the school is aware the parent does not agree. The proposed 14-day period provides the parent adequate time to decide whether the change is one with which they will agree, or, if not, to pursue dispute resolution options, e.g., mediation, administrative complaint, due process.

2365.1.3 Parental Consent

Currently, there is no process that a parent sign off on an IEP that they agree fully with, agree partially with, or disagree with. There is a lack of clarity about what parents can do if they disagree with part of the IEP and how to ensure that the services that they agree with will continue. Often, because there is no finality of a signed document, multiple versions of the IEP will exist in which that nobody can recall which version is the most current, or the version that everyone has agreed to. The proposed changes will provide parents clear documents that indicate consent, refusal of consent or partial consent to the IEP as well as a process to work out a resolution of outstanding issues.

2362.2.3 Re-evaluation Requirements

The second area is the IEP timeline. Currently, there is no time limitation regarding special education re-evaluations when the re-evaluation is done prior to the three-year re-evaluation due date. The proposed change would limit the timeframe for re-evaluations to the same timeline as initial special education evaluations, i.e. 60 days. We have seen families wait for months for the completion of re-evaluations, which delays the receipt of any additional or different services that may have been identified as a need.

2363.7 Content of IEP

The third area is transition age. Transition planning is a process mandated by IDEA to facilitate a student's move from school to post-school activities. Currently, the Vermont Rules state that a transition plan be in effect in the first IEP in which a student turns 16, a student's junior year. We propose that the transition age be 14, as some other states have chosen for their Rules. Many students with learning disabilities can benefit from transition planning activities that begin in middle school. This change would also conform with the reauthorization of the Workforce Innovation and Opportunity Act (WIOA) 2014, whereby federal funding through Vocational Rehabilitation (VR) is available for students starting at the age of 14. Furthermore,

changing the transition age would more closely align with Act 77, where all students in grades 7 through 12 are required to have Personalized Learning Plans.

2362 Eligibility ages 6-21

The fourth area is adverse effect. The proposed change will help to bring Vermont into line with the way 49 other states determine eligibility for special education. When IDEA was reauthorized in 2004, it was clear that educational performance is more than academic performance, upon which Vermont's definition of adverse effect is based. Our work with parents shows that the adverse effect criteria in Vermont's Rules exclude children with functional deficits from being eligible for special education services. The children affected the greatest are those with mental health diagnoses and those diagnosed with high functioning autism. These are children with normal to above average IQs, and who may have few to no learning problems but struggle with understanding social norms, behaving appropriately, and/or communicating with peers and/or adults. During the eligibility process, information regarding functional deficits are often not documented or considered. This leaves many children with emotional behavioral disabilities and Autism Spectrum disorders with no access to specialized instruction to meet their unique educational needs.

Thank you.

Karen Price, Essex, VT
Co-Director of Family Support - Education
Project Director, Parent Training & Information Center
Karen.price@vtfn.org
VermontFamilyNetwork.org