

# Online Learning Series

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## Preparing Families to Provide Testimony About Changes to Special Education Rules

October 7, 2020



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*Glad you're here!*

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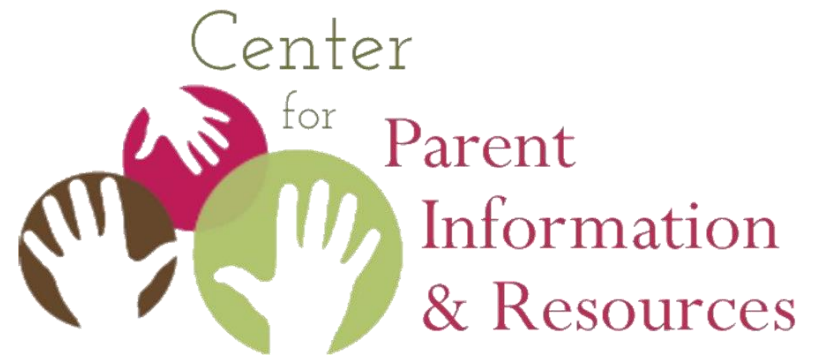
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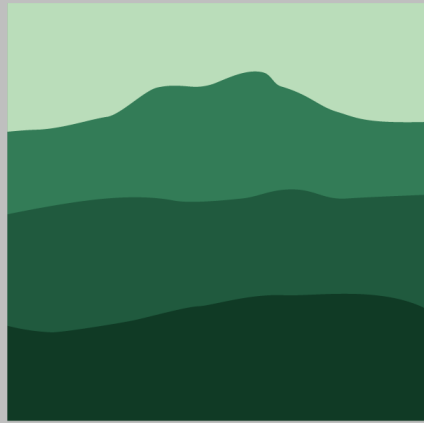
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# Housekeeping

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- Webinar being recorded
- Recording will be saved on [VFN website](#)  
[VFN YouTube channel](#)



# Asking Questions

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- Use **Chat** to type your question
- If you want to ask your question out loud, use **Raise Hand** to be unmuted
- Functions at bottom of your screen



# What are the Special Ed Rules?

- Rules that schools must follow in providing special education services –
  - Identifying children with disabilities,
  - Doing assessments,
  - Deciding who is eligible
  - Setting up and running IEP meetings,
  - Writing IEPs and changing IEPs...
- Federal Rules and **State Rules**
- Not revised often – last time was 2013!





# What is Public Comment?

- Opportunity for *anyone* who cares about the rules to be heard
- Required process every time rules are being changed
- Important for the Board of Education to hear from *as many people as possible* to understand that there are issues that are a concern to lots of people.



# Top Ten (or more) Issues

- Adverse Effect
- Basic Skills Areas
- Parental Consent
- Timelines for Re-evaluations
- Access to Documents before Meetings
- Transition Services Age
- Timelines for Prior Written Notice
- Placement as an IEP Team Decision
- Need for a Rule about MTSS
- MTSS and Child Find
- Students with Disabilities in Choice Districts



# Adverse Effect

- “Second Gate” (of 3)
- Current rule is *unfair*
  - Academic areas included
    - Oral expression
    - Listening Comprehension
    - Written Expression
    - Reading: Basic Skills, Comprehension
    - Math: Calculation, Reasoning
    - Motor Skills
  - Social, emotional, behavioral, and other needs  
**EXCLUDED**



# Adverse Effect (Cont.) - Proposed Change

- Change eligibility to a *two-gate* system
  - (1) Student has one or more of the disabilities described in Rule 2362.1
  - (2) The student needs special education services to benefit from his or her educational program and this support cannot be provided through the educational support system, standard instructional conditions or supplementary aids and services provided in the school.
- Simple
- Allows teams to look at *any* issues impacting student's ability to benefit from education
  - Interpersonal relationships
  - Independence
  - Teamwork
  - Work initiation and completion
  - Decision making
- Fair and inclusive

# Basic Skills Areas

- **Currently:**
  - Oral expression
  - Listening comprehension
  - Written expression
  - Basic reading skills
  - Reading comprehension
  - Mathematics calculation
  - Mathematics reasoning
  - Motor skills
- **Proposing to add:**
  - Functional Skills – from Rule 2361.1(17)
  - Transferrable Skills (SBOE Adopted Standards)



# Functional and Transferrable Skills

- **Functional:**

- specific daily living,
- personal,
- social, and
- employment skills,
- or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other life long learning opportunities



- **Transferrable:**

- a broad set of knowledge, skills, work habits, and character traits that are believed to be critically important to success in today's world, particularly in collegiate programs and modern careers.



# Adverse Effect and Basic Skills together

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- Two-step eligibility + Modification of Basic Skills to include functional and transferrable skills
- Needed to modernize the eligibility process for students with disabilities and to become more fair and equitable.



# Parental Consent

- **Consent:**
  - Parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication
  - Parent **understands and agrees in writing** to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity





# Parent Consent (cont.) – Proposed Additions

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- Initial evaluation
- Initial provision of special education and related services
- **Annual renewal of IEP and placement decision**
- **Disability classification**
- **Changing services (type or amount)**
- Re-evaluation
- Access to public or private insurance



# Parent Consent (cont) – New Hampshire Model

## Parent's Response to the Proposal for the IEP

Please indicate your response by checking the box(es) which reflect(s) your decision.

*I understand that any portion(s) of the IEP that I accept will be implemented immediately.*

- I consent to the IEP as proposed
- I refuse to consent to the IEP as proposed
- I partially consent to the IEP as proposed

I have received the Procedural Safeguards Handbook: Yes  No

I refuse consent for the following activities or services in the proposed IEP:

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I request the following changes (additions or revisions) to the services or activities in the proposed IEP:

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I request an IEP team meeting be convened within 21 calendar days to discuss what I refuse to consent to and/or the changes I have requested.

Signature of Parent/Guardian/ Surrogate/Adult Student

Date



# Timelines for Re-Evaluations

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- Special education re-evaluations are conducted at least once every 3 years, unless the parent and school agree otherwise
- No timeline exists for the completion of a re-evaluation
- Proposed timeline will conform with the initial evaluation completion timeline of 60 days.



# Access to Documents Before Meetings

- Now: No requirement for schools to provide parents with examiners' evaluation and assessment reports before Evaluation and Planning Team meetings
  - Proposed change would require the school to provide parents with copies of all relevant documents at least 5 days prior to meeting
- Why?
    - Parents need time to review key documents
    - Only way to be knowledgeable about documents, form questions, be prepared as active and equal team members
    - Equal access to information
    - Meeting efficiency

# Transition Services Age

- Currently, IEP teams are required to begin planning for transition to adulthood within the IEP when a youth is 16 years old
- Proposed change would move the age of transition to age 14
- Aligns with Vocational Rehabilitation work providing career and postsecondary activities/instruction to school-aged youth

# Timelines for Prior Written Notice

## Rule 2365.1.1

- LEA must provide prior written notice *within a reasonable period* before it proposes to initiate or change, or refuses to initiate or change, a student's identification, evaluation, educational placement or the provision of FAPE.
  - Proposed change: within a reasonable period ***but not less than fourteen (14) days***.
  - 14 days can be waived with written informed consent by parent

# Placement as an IEP Team Decision

## Rule 2364.3

- Placement decision must be made by IEP team: “group of persons, *including parents*, and other persons knowledgeable about the child, the meaning of the evaluation data and the placement options. 34 C.F.R. 300.116
  - Made in conformity with LRE
  - Determined at least annually
  - *Based on child’s IEP* (Rule 2364.3(g))
  - As close as possible to child’s home



# Placement as IEP Team Decision – cont'd

- **Current Rule/*Proposed Rule*:**
  - IEP team shall determine the educational placement for the child given the following:
    - 1) placement refers to provision of special education and related services *and the appropriate selection on the continuum of alternative placements*, rather than on a specific site;
    - 2) *If the IEP team is unable to reach consensus, then the LEA determines the specific site of the placement, such as the specific classroom or specific school.*



# Separate MTSS Rule - Proposed

- The State Educational Agency shall ensure that every Local Educational Agency has adopted policies and procedures for:
  - 1) Identifying when a student is in need of the assistance of the LEA's Multi-Tiered System of Supports;
  - 2) Establishing benchmark performance for all students who need the assistance of the LEA's MTSS;
  - 3) Creating a mechanism and timeframe for monitoring student progress on a regular basis;
  - 4) Informing parents when a student is in need of the LEA's MTSS, and an option to hold a team meeting about the child;
  - 5) Conveying the results of progress monitoring to the student's parents; and
  - 6) A process, which includes student's parents, to determine when a student has not made adequate progress within the LEA's MTSS and to identify appropriate next steps for such a student.



# Proposed MTSS rule – cont'd

- *“The State Educational Agency shall establish a model MTSS policy and procedure that must include best practices to ensure that the state and the local educational agencies Child Find obligation is satisfied.”*

# MTSS and Child Find Rule 2360.3

- Proposed language: 2360.3(h)
- *The LEA's Child Find obligation applies to students it is currently serving in a MTSS. If the LEA has reason to suspect the child has a disability and is in need of special education and related services then the student must be located, identified, and evaluated.*
- *The student can continue to receive MTSS while the evaluation is pending.*



# Special Education Students in Choice Districts

- Choice districts refers to towns without public schools
- Parents choose child's school, includes independent schools
  - Proposed rule addresses special education students in choice districts:
    - LEA shall convene IEP team meeting
    - Invite representative of independent school
    - IEP team determines how to ensure provision of FAPE in accordance with IEP and LRE
      - Options for ensuring provision of services include:
        - District sends staff to school
        - District contracts to provide services at school
        - District provides services at school
        - District provides services at service provider's location
        - District contracts with independent school to provide services
        - District provides transportation, if necessary to ensure provision of FAPE



# Elements to Public Comment

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- Who are you?
- Why do you care about Special Education in Vermont?
- Challenges you have experienced?
- Changes you would like to see in the rules



# How to Engage in Public Comment

- Speak at a Board of Education Meeting during the “Public Comment” part of the agenda
  - October 21, 2020, Location, Agenda TBD
  - November 18, 2020, Location, Agenda TBD
  - December 16, 2020, Location, Agenda TBD
- Send a letter to the Board of Education:
  - 1 National Life Drive, Davis 5, Montpelier, VT 05620
- Send an email message:
  - [SBE.PublicComment@vermont.gov](mailto:SBE.PublicComment@vermont.gov)
- Deadline: **December 31, 2020**



# Upcoming Virtual Events

- Parent Focus Groups for VT Developmental Disabilities Council 5-Year State Plan



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# How Can We Help You?



Vermont  
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1-800-800-4005 or (802) 876-5315

<http://www.VermontFamilyNetwork.org>

