

## ADMINISTRATIVE COMPLAINT

Mail signed, completed form to: Secretary, VT Agency of Education, 1 National Life Drive, Davis 5,  
Montpelier, VT 05620-2501

### Complainant Information:

\*Name, First and Last: \_\_\_\_\_

\*Organization and Title, if applicable: \_\_\_\_\_

\*Address: \_\_\_\_\_

\*Tel: H (\_\_\_\_) \_\_\_\_\_ W (\_\_\_\_) \_\_\_\_\_ C (\_\_\_\_) \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Relationship to Student: \_\_\_\_\_

### Student Information:

\*Name, First and Last: \_\_\_\_\_

\*Address: \_\_\_\_\_

\_\_\_\_\_ If Student is homeless, please provide contact information for Student.

\*Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_ Current Grade Level: \_\_\_\_ Has student received a diploma? \_\_\_\_

\*School of Attendance: \_\_\_\_\_

\*District of Residence: \_\_\_\_\_

Parent/Guardian Name, if applicable: \_\_\_\_\_

Parent/Guardian Address and Telephone Number, if different from Student:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DISCLAIMER:** These forms were developed by Vermont Legal Aid, Inc. to provide guidance and support to parents in filing an administrative complaint on behalf of their child without a lawyer from Vermont Legal Aid, Inc. to help them (pro se litigant). This form, and any use of this form, does not form an attorney client relationship. This form was developed and intended for use only in Vermont when filing an administrative complaint on the issues described in this document with the Vermont Agency of Education. Except for identified fillable fields, this form is locked from editing. An individual who uses these forms, either in their original format, or who makes any changes, agrees they are using the forms as a pro se litigant and are not represented by Vermont Legal Aid, Inc. A person who uses this form agrees and acknowledges the use of this form does not create an attorney client relationship. Vermont Legal Aid, Inc., June 2021

**\*Disability (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Autism Spectrum Disorder | <input type="checkbox"/> Multiple Disabilities          |
| <input type="checkbox"/> Deaf                     | <input type="checkbox"/> Orthopedic Impairment          |
| <input type="checkbox"/> Deaf-Blindness           | <input type="checkbox"/> Specific Learning Disability   |
| <input type="checkbox"/> Developmental Delay      | <input type="checkbox"/> Speech or Language Impairment  |
| <input type="checkbox"/> Emotional Disturbance    | <input type="checkbox"/> Traumatic Brain Injury         |
| <input type="checkbox"/> Hard of Hearing          | <input type="checkbox"/> Visual Impairment              |
| <input type="checkbox"/> Learning Impairment      | <input type="checkbox"/> Other Health Impairment: _____ |

**Attorney or Advocate Information (if applicable):**

Name, First and Last: \_\_\_\_\_

Address: \_\_\_\_\_

Tel (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Were the issue(s) identified below, the subject of a previous due process complaint, administrative complaint or mediation?  Yes  No

Are the issue(s) identified below, the subject of a current due process complaint, administrative complaint or mediation?  Yes  No

*Please note: If the issues raised in this complaint were the subject of a due process hearing, the hearing decision is final. If the issues raised in this complaint are the subject of a current due process complaint, the administrative complaint investigation will be set aside until the due process complaint is closed.*

Are you interested in receiving information about mediation, or would you like to request mediation, in an attempt to resolve the issues identified below? Please select one of the following:

- Yes, I would like to receive information on mediation.
- Yes, I would like to request mediation to attempt resolution of the issues identified below.
- No.

\*A copy of this request must be provided to the Special Education Coordinator or Superintendent for the School District. Please confirm that this has been done by checking the appropriate box and providing the date: A copy of this request was:  Mailed or  Delivered on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_.

**The copy was provided to:**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_

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## Complaint

### FACTS

1. My child qualified for special education and related services on .
2. My child's IEP says they need the following supports and services:
  
3. My child was last evaluated on .
- 4.
  
5. During the COVID-19 pandemic, my child only received the following services:
  
6. My child needs compensatory services in the following areas:
  
7. I asked my child's IEP Team for compensatory services and:

## LEGAL SUPPORT

The Individuals with Disabilities Education Act (IDEA) and Vermont Special Education Rules guarantee a student who qualifies for special education the right to a Free and Appropriate Public Education through the development and implementation of an Individualized Education Program (IEP). VSER 2360.2; 34 CFR §300.101. IEPs must contain a description of the special education and related services, supplementary aids, and services a child needs to benefit from their educational programming. VSER 2363(a); 34 CFR § 300.320. A student's IEP must be reasonably calculated to provide them educational benefit in light of their individual circumstances. *Andrew F. v. Douglas County School District*, 137 S. Ct. 988 (2017).

Although many students have struggled and experienced education loss or stagnation during the COVID-19 pandemic, students who qualify for special education and related services remained entitled to FAPE throughout school closures. Both the Vermont Department of Education and the U.S Department of Education specifically declined to waive the FAPE entitlement during COVID-19.

Under the Individuals with Disabilities Education Act (IDEA), the LEA is responsible for providing a student with a FAPE. During the 2020-2021 school year the FAPE obligation includes:

- a. Reviewing the appropriateness of the IEP in effect when a change in service delivery model occurs or when student progress monitoring indicates a lack of progress; and
- b. The continuation of existing responsibilities to address FAPE.<sup>1</sup>

If an LEA continues to provide educational opportunities to the general student population during a school closure, the school must ensure that students with disabilities also have equal access to the same opportunities, including the provision of FAPE. (34 CFR §§ 104.4, 104.33 (Section 504) and 28 CFR § 5.130 (Title II of the ADA)).<sup>2</sup>

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<sup>1</sup> Vermont Agency of Education, *Assessing COVID-19 Impact for Eligible Students with Disabilities as a Requirement of FAPE*, Rev. Sept. 9, 2020 at 2. [https://education.vermont.gov/sites/aoe/files/documents/edu-assessing-covid19-impact-for-eligible-students-with-disabilities\\_0.pdf](https://education.vermont.gov/sites/aoe/files/documents/edu-assessing-covid19-impact-for-eligible-students-with-disabilities_0.pdf), Accessed on: May 22, 2021.

<sup>2</sup> U.S. Department of Education, *Questions and Answers on Providing Services To Children With Disabilities During the Coronavirus Disease 2019 Outbreak*, March 2020 at 2. <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>, Accessed on May 22, 2021.

When a qualified student does not receive FAPE they are entitled to compensatory services. Regardless of whether students with disabilities are eligible to receive COVID-19 recovery services available to all students, under the IDEA, students with disabilities who have not received FAPE are entitled to compensatory education.

As a student who qualifies for special education and related services and is entitled to FAPE, my child is entitled to compensatory education services to compensate them for the District's failure, or inability to provide my child FAPE during the pandemic.

#### **REMEDY REQUESTS**

- a. Preserve my child's right for compensatory services beginning on March 18, 2020 through such time as the Federal Government declares the State of Emergency has ended.
- b. Evaluate my child to determine their education loss, regression, or stagnation during the COVID-19 pandemic.
- c. Provide appropriate compensatory education services to address my child's education loss or stagnation.
- d. Any other relief the Secretary deems appropriate.