

# Vermont Special Education Procedures and Practices Manual

Adopted by:

**Barre Unified Union School District**

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1. An Individualized Education Program (IEP) written to meet the unique needs of each student regarding specially designed instruction, supports, services, and student-specific academic and non-academic goals. Those needs will be supported within the general education environment to the maximum extent appropriate, so that the student can meet the educational standards that apply to all students.
2. Special education and related services to all eligible students at no cost to the student's family, as required by the IEP.
3. Assistive technology devices and/or services to all eligible students to increase, maintain or improve the student's functional capabilities.
4. Instruction in the Least Restrictive Environment (LRE), which means that, to the maximum extent appropriate, the student is educated with their non-disabled peers. The use of special classes, separate schools or other removal of the student from the general education environment only occurs if the nature or severity of the student's disability is such that the student cannot be successfully educated in the general education environment with the use of supplementary aids and services. LRE means that eligible students should be taught with their peers as much as possible. LRE may look different for each student. Our LEA has its own continuum of placements, and each placement is based on student need. If the student is placed outside of the general education classroom, the IEP shall include an explanation as to why.
5. Accommodations, supplementary aids and services to students to support the student in the LRE. Extended School Year Services (ESY) are provided when a student's IEP Team determines, on an individual basis, that those services are necessary for the provision of FAPE. Our LEA does not limit the availability of ESY services to students with specific disabilities, nor does it limit the amount of services a student can receive. The decision to provide ESY services, and the type(s) of service(s) provided, is based on the student's need. ESY services may extend the school day, and may be offered on weekends, holidays and school vacations, as well as during the summer months.
6. Residential program placement. If our LEA places a student with a disability in a public or private residential program deemed necessary to provide special education and related services to a student with a disability, the program, including non-medical care and room and board, will come at no cost to the parents of the student.
7. Supplementary aids and services determined appropriate and necessary by the student's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities as provided to students without disabilities.
8. Access to educational programs and services. Our LEA ensures that students with disabilities served by our LEA have available to them the variety of educational programs and services available to nondisabled students served by our LEA, including art, music, proficiency-based graduation requirements, industrial arts, consumer and homemaking education, and vocational education.
9. Appropriate physical education services. Our LEA ensures that a student with a disability receives appropriate physical education services. Our LEA affords each student with a disability the opportunity to participate in a regular physical education program available

established diagnosed conditions set forth in [VTSBE 2360.5.5\(a\)\(2\)](#), screening is not necessary because records establish that the child has a disability and is eligible for Part C services.

Screening procedures are activities that are jointly developed in regional agreements and carried out by the regional CIS/EI provider and/or our LEA to identify, at the earliest possible age, a child suspected of having a disability and in need of early intervention services. They include the administration of state-approved screening tools and methods by qualified personnel.

For students aged 3 through 21, it is our LEA's responsibility to conduct Child Find activities.

In order to implement Child Find, our LEA has developed and is implementing a Child Find System. Our LEA must provide a public notice related to Child Find. That notice shall:

- Be available in all the native languages within our LEA;
- Ensure confidentiality of all students;
- Describe the students whom our LEA is seeking to find and what will be done with the information collected;
- Contain a summary of policies and procedures that our LEA will follow (storage, disclosure to third parties, retention and destruction of information);
- Contain a description of the Family Educational Rights and Privacy Act (FERPA) and implementing regulations;
- Be advertised in a local newspaper, Front Porch Forum, radio and/or social media, local community centers, pediatrician offices, and/or on applicable websites, should the LEA choose to.

(34 CFR §§ [303.320](#), [303.21](#), [303.421](#), [303.420\(a\)\(1\)](#)/[VTSBE 2360.5.3](#))

## Evaluation

### Initial Evaluations

A referral for an initial special education evaluation may come from: parents/guardians, school staff/504 team/Educational Support Team (EST), a representative from the AOE, regional Children's Integrated Services/Early Intervention programs (CIS/EI), or another Vermont state agency or department (e.g., Agency of Human Services, Department for Children and Families, Department of Mental Health).

A written referral is not required, with the exception of children identified by CIS/EI as potentially eligible for Part B services at age three. Between six months and 90 days before the child's third birthday, the regional CIS/EI program must provide written notification to our LEA. The IDEA Part C to Part B Transition section contains specific and additional information on CIS/EI transition to ECSE. Our LEA will document the date on which the referral was made and by whom. Within 15 days of the referral, our LEA begins the special education evaluation process, and requests consent to initiate the evaluation from the parent/guardian or Educational Surrogate Parent (if the student is in DCF custody). Should our LEA not complete the

[\(34 CFR § 300.303/VTSBE 2362.2.3\)](#)

## Determination of Eligibility

Every evaluation will include three sections (or gates):

1. Disability Determination: The team must determine what questions they want answered. The answers will help to determine if the student meets the eligibility criteria for one of the 13 special education disability categories:
  - Autism spectrum disorder (ASD);
  - Deaf/blind (DB);
  - Developmental delay\* (DD);
  - Emotional disturbance (ED);
  - Hearing loss (HL);
  - Intellectual disability (ID);
  - Multiple disabilities (MD);
  - Other health impairment (OHI);
  - Including, but not limited to [Long COVID](#);
  - Orthopedic impairment (OI);
  - Specific learning disability (SLD);
  - Speech/language impairment (SLI);
  - Traumatic brain injury (TBI);
  - Visual impairment (VI).

\*developmental delay is the only special education disability category that applies for ages 3 through 5.

2. Adverse Effect: If the student has a disability, how does it impact the student's ability to learn? The answers will determine which academic areas are being affected (e.g., math calculation, basic reading, oral expression, written expression and/or functional skills). Adverse effect begins with age 6 evaluations and does not apply for ages 3 through 5.
3. Need for Special Education: Once the disability has been identified and the determination of how it impacts the student's education is described, the team must determine if the student requires specially designed instruction to benefit from their educational program. Specially designed instruction means adapting the content, methodology, or delivery of instruction as appropriate to the needs of an eligible student under the IDEA:
  - a. To address the unique needs of the student resulting from the student's disability; and
  - b. To ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students.

[\(34 CFR §§ 300.8\)](#)

Once special education eligibility has been determined, the team must then meet again (or continue after the eligibility meeting) to write an Individualized Education Program (IEP). The

When making any decisions during an evaluation meeting or an IEP meeting, all parties strive for consensus. It is best that decisions are made together with everyone in agreement. If there is not agreement between the team members, then it is the responsibility of our LEA representative to make the final decision. If they disagree with the LEA's decision, the parent/guardians have the right to pursue alternative dispute resolution procedures through mediation, due process or through an administrative complaint.

## Development, Review, and Revision of IEP

### Individualized Education Program (IEP)

An IEP is a written plan for a student who is eligible for special education. An IEP Team develops and implements the IEP. The IEP is reviewed and revised at least every year, more frequently if needed. One year is defined as 365 days. A student's first IEP is developed within 30 days of their special education eligibility meeting.

For a preschool age child, the IEP shall address how the student's disability affects their access to and active participation in age-appropriate activities within the LRE. The IEP present levels of performance, goals, and objectives shall align with the following early childhood outcome areas:

- Positive social and emotional skills and relationships;
- Acquisition and use of and knowledge and skills; and
- Taking appropriate action to meet the student's need.

Each IEP must have the following components:

1. The current levels of achievement, strengths and needs of the student (this may be both academic and social/emotional/behavioral), as well as a description of the student's current functional performance.
2. Input from the parent.
3. A statement of any individual accommodations in the administration of State, district-wide or local assessments of student achievement.
4. Academic, developmental (age appropriate) and functional goals and objectives that are measurable, with projected dates of accomplishment. Goals should be written to reflect the expectation that they will be completed within a year of being articulated.
5. Goals which enable the student to participate in the general education curriculum (or for preschool students, participate in activities) with non-disabled peers.
6. A way of providing progress reporting of annual goals to the student's parents as often as progress reporting is provided to the parents of the student's non-disabled peers.
7. A list of services (including special education, related services, supplementary aids and services, and Extended Year Services (ESY)) that the student is entitled to receive, under their IEP. Services must contain:
  - A description of services (e.g., math intervention, speech language skill development, behavior support);

- Information regarding any accommodations that the student will receive for state or LEA wide or local assessments, an explanation as to why the assessment as generally provided is not appropriate, and a determination about how the student will be assessed;
- Discuss/determine if the student needs Extended School Year Services (ESY).

Our LEA will make the student's IEP available to each general education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation. Further, teachers and providers will be made aware of their specific responsibilities related to IEP implementation as well as the specific accommodations, modifications and supports as outlined in each student's IEP.

[\(34 CFR § 300.324/VTSBE 2363.6\)](#)

student preferences and interests. As outlined in the Vermont [IEP post-secondary transition plan template](#), the assessments must delve into identifying information about that student's strengths, needs, preferences and interests. Other agencies may attend the transition meeting if they will be involved or paying for services after the student graduates. Examples of these agencies include Vocational Rehabilitation, Developmental Services, Department of Mental Health and Designated Agencies.

When a student nears graduation, our LEA will write a Summary of Performance for that student. It will be based on the student's unique needs and will include academic achievement, functional performance and recommendations on how to assist the student in meeting their post-secondary goals. Please see the Sample Summary of Performance Plan on the [Vermont AOE website](#) for info on the Summary of Performance.

[\(VTSBE 2362.2.4\(g\)\(i\)\)](#)

### Placement

Our LEA ensures that the educational placement for students with disabilities (i.e., the provision of special education and related services) is determined by the IEP Team based on the student's individual circumstances and individual needs, and not based on the student's disability category.

Our LEA ensures an evaluation is conducted before special education and related services are provided to a student with a disability, and that an educational placement is provided to implement each student's IEP. The IEP Team makes placement decisions. The placement is based upon and implements the student's IEP, is determined at least annually, and in uniformity with the least restrictive environment provisions described below.

[\(34 CFR § 300.116/VTSBE 2364.3, 34 CFR §§ 300.301\(a\), 300.114, 300.115, 300.116, 300-117, 300.116\(b\)\)](#)

### Notice of Placement

Our LEA provides notice of a student's educational placement, following the development of the IEP, and a copy of the IEP and notice is given to the student's parent(s).

[\(34 CFR § 300.503\)](#)

Civil Rights Act of 1964, Vermont's Act 166 of 2014, VTSBE Rule Series 2600, and the Vermont Agency of Human Services (AHS) Child Development Division (CDD) licensing regulations. For students who are enrolled in public or private UPK programs and receive ECSE services, the UPK program shall allow access to ECSE service providers and permit announced and unannounced visits by representatives of Agency of Education, AHS and our LEA staff.

Each student's LRE is differentiated dependent upon the student's needs. Some benefits of inclusion include:

- Students have the opportunity to learn from each other;
- Students can build and maintain relationships;
- Students eligible for special education are not considered different or "other" by their peers;
- Students have access to the same instruction as their peers, although it may be modified to meet their needs;
- Students benefit from the resources available in the classroom.

Special classes, separate schooling or other removal of students with disabilities from the general educational environment shall occur only if the nature or severity of the student's disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Pursuant to [16 V.S.A § 2959b](#), the IEP Team may consider the cost of the provision of special education or related services to the student if:

1. The IEP has been developed with the parents in accordance with Rules 2363;
2. The IEP Team has determined that the student's placement contained in the IEP is appropriate for the student;
3. Each of the options under consideration by the IEP Team for fulfilling the requirements of the student's IEP would constitute a free appropriate public education in the least restrictive environment for the student; and
4. The funding mechanism for the special education service was not used to deny a free appropriate public education to the student.

[\(34 CFR § 300.114/VTSBE 2364.1, 34 CFR § 300.324\(a\)\(4\)-\(6\)\)](#)

## Residential Placement

At any time, a parent/guardian or IEP Team member may request that the IEP Team consider sending a student to a residential placement. Once that request has been made, the Secretary of Education must be informed in writing. The Secretary may establish a Residential Review Team to consider the request to investigate the need for a residential placement. In addition, the IEP Team is provided with technical assistance (by either the Residential Review Team or a designated member) regarding the need for residential placement, alternatives to residential placement and alternative cost-effective residential facilities.

The Residential Review Team has 30 days to investigate the residential request. The Residential Review Team may:

Informed parental consent shall be required:

1. Before conducting an initial evaluation or reevaluation which consists of more than a review of existing data.
2. Before the initial provision of special education and related services. Consent for initial evaluation may not be construed as consent for initial provision of special education services.

Consent, where given:

1. Shall be after the 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.
2. Shall be in writing and shall indicate that it is given voluntarily with the knowledge that it may be revoked at any time, with the understanding that the revocation is not retroactive.

Parental consent is not required:

1. Before reviewing existing data as part of an evaluation or a reevaluation;
2. Before administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students; or
3. Before a reevaluation, if our LEA can demonstrate that it has taken reasonable measures to obtain consent and the parent failed to respond.

If the parents of a student refuse consent for an initial evaluation or a reevaluation which includes the gathering of new information:

1. Our LEA may continue to pursue these evaluations by seeking mediation, using due process or reviewing existing data.
2. Our LEA may decide not to pursue the evaluation and shall document its justification for doing so in the student's record.
3. If the parent of a student enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation, or the parent fails to respond to a request to provide consent, our LEA may pursue the initial evaluation of the student by utilizing mediation or due process. The public school shall not have violated its obligation to locate, identify, and evaluate students suspected of being students with disabilities if it declines to pursue an evaluation to which a parent has failed to consent.
4. Except as otherwise provided in regulations, our LEA may not use a parent's refusal to consent to an initial evaluation to deny the parent or student any LEA service, benefit or activity outside of special education.

[\(34 CFR § 300.300/VTSBE 2365.1.3\)](#)

Parental Revocation of Consent

IDEA requires 100% of the children enrolled in Part C who are eligible for Part B to have Part B early childhood special education services in place by each child's third birthday.

This transition for children and their families as they leave Part C should be seamless, so they have timely access to appropriate services. With a transition plan and supports in place, families can move smoothly from one program or system to another, or among services within a program or system. [Local structures, policies, agreements](#), personnel development processes, and other mechanisms must be in place within our LEA in order to support the transition process.

[Form 6B](#) is a required Vermont Agency of Education form. It is as a guidance tool for Part B eligibility determination and a parent information and consent form. This document is to be completed by our LEA with the family during the transition meeting(s). Depending on the family and student's needs, the transition meeting may be several meetings. Therefore, Form 6B should be seen as a document that is completed over a period leading to the student's third birthday and possible implementation of the ECSE IEP by the student's third birthday. The [C to B Transition module](#) provides more information.

### Early Childhood Special Education Eligibility at Age Three

Only our LEA can determine the eligibility of a 3-year-old to receive ECSE services. Part C/EI can decide if a child is potentially eligible for ECSE services based on requirements in [2360.5.10\(c\)](#) and present this evidence to our LEA. It is up to our LEA to consider and review all evidence presented by Part C/EI to determine the child's ECSE services eligibility.

A meeting notice of the initial IEP meeting will be sent to their CIS/EI Part C Coordinator or designee at the request of the parent.

1. If our LEA determines the child eligible for early childhood special education services, an IEP must be developed and implemented by the child's third birthday ([2360.5.10](#)). This will help ensure a seamless and effective transition for children with disabilities from Part C/EI to Part B ECSE within our LEA. The required components for an ECSE IEP are listed in [Rule 2363.7](#). For all children who transition from CIS/EI Part C to Part B ECSE, the IEP Team must consider the Individualized Family Service Plan (IFSP)/One Plan content when developing the initial IEP. This includes the natural environments statement. [Form 5: the ECSE \(Ages 3 through 5\) IEP template](#) is another important form in this process.
2. The IEP Team must develop the ECSE IEP prior to the end of our school year so that the child's IEP is in place at the beginning of the following school year. Furthermore, if the child is to receive uninterrupted services during the summer months, the IEP Team must determine the date when the child's services will begin.

### Early Childhood Special Education Eligibility from Age 3 until 6<sup>th</sup> Birthday

Essential Early Education (EEE) is IDEA Part B Early Childhood Special Education (ECSE) services for children ages three through five, inclusive. Special education and related services are provided by our LEA to ensure children receive age-appropriate services within inclusive environments to the fullest extent possible. Decisions on a child's environment are made individually by the IEP Team, including family members, and should be considered after our

If a student moves to our LEA who was previously eligible for special education services, or who was being evaluated for special education in another Vermont LEA, we will either adopt the student's existing IEP, or develop a new IEP for the student. If our LEA develops a new IEP for the student, we will implement their existing IEP to the greatest extent possible until that time. In the absence of exceptional circumstances, a student's IEP services shall commence within one week of their enrollment.

[\(34 CFR § 300.323\(e\)\)](#)

To make this transition as smooth as possible, both the previous and new LEA will have to take reasonable steps to send and receive all relevant documents in a timely fashion.

[\(34 CFR §§ 300.124, 300.101\(b\)\)](#)

### Out-of-State Transfer Students

If a student eligible for special education services in another state moves into our LEA mid-school year, our LEA, in consultation with the student's parent(s), shall provide a FAPE to that student, including services comparable to those described in the student's former IEP. This arrangement will continue until our LEA conducts an evaluation to determine initial eligibility in Vermont, and if eligible, until we develop and adopt a new IEP.

When a student eligible for special education transfers from another state to our LEA within the same school year, our LEA will conduct an evaluation as soon as possible to determine eligibility and, if appropriate, develop, adopt and implement a new IEP. Documentation of the evaluation shall include the evaluation's expected completion date, should it differ from the original expected date of completion.

To facilitate the transition of a student, the previous LEA and our LEA shall take reasonable steps to promptly send and receive, in accordance with the provisions of the Family Education Rights and Privacy Act (FERPA), the student's records, including the IEP, supporting documents, and any other records relating to the student's special education and related services. This rule may not be interpreted to limit either the previous LEA or our LEA's responsibilities pursuant to VTSBE Rule [2365.2.12](#) and [2365.2.13](#).

[\(34 CFR § 300.323\(e\), 34 CFR § 300.323\(f\), 34 CFR § 300.323\(g\)\)](#)

### Access Rights to Records

Our LEA ensures a parent's rights to inspect and review any education records relating to their students that are collected, maintained or used by our LEA under the IDEA.

[\(34 CFR § 300.612/VTSBE 2365.2.2\)](#)

Procedures:

Our LEA will comply with a parent's request to inspect and review their student's educational records without unnecessary delay:

- Before any meeting regarding an IEP; or

## Dispute Resolution Procedures

The AOE provides dispute resolution processes and procedures for parents of students with disabilities and LEAs.

Our LEA's policy is to ensure parents are made aware of their rights to dispute resolution options by providing parents with a copy of their notice of procedural safeguards at least annually, as well as upon initial referral for special education, upon parent request for evaluation, upon request, and not later than the date on which the decision to take disciplinary action against a student eligible for special education is made.

## Due Process Procedures

### Opportunity To Examine Records and Parent Participation in Meetings

The parents of a student with a disability are afforded, in accordance with the policies in the section of this document titled Confidentiality of Information, an opportunity to:

- Inspect and review all education records with respect to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education to the student, and:
- Participate in meetings with respect to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education to the student.

Our LEA will provide parents of students with disabilities notification to ensure they have the opportunity to participate in meetings. The term "meeting" in this policy does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans or coordination of service provision. A meeting also does not include preparatory activities that LEA personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

The IEP Team, which includes the parent, makes decisions on the educational placement of the student. In implementing this policy, our LEA uses procedures consistent with the policies described above.

If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their student, our LEA uses other methods to ensure their participation, including individual or conference telephone calls or video conferencing. A placement decision may be made by the IEP Team without the involvement of the parent if our local educational agency is unable to obtain the parent's participation in the decision. In this case, our LEA must have a record of its attempt to ensure parent involvement.

(34 CFR §§ 300.501, [300.322\(e\)](#))

### Independent Educational Evaluations

Parents or adult students have the right to ask for an independent evaluation if they don't agree with the results of the evaluation that was obtained by our LEA. The independent evaluation:

- A student in conditional state custody, on a Section 504 Plan or being evaluated for Section 504 Plan, is not eligible to have an educational surrogate parent appointed to them.
  - A copy of the current prescribed intake form may be obtained by emailing [AOE.SpecialEd@vermont.gov](mailto:AOE.SpecialEd@vermont.gov).
3. The intake form allows for the referring agency, LEA, or other entity to recommend an educational surrogate to the AOE. If a recommendation cannot be determined, it should be noted on the intake form and the AOE will attempt to locate an individual to be appointed.
  4. The Vermont Secretary of Education, or their designee (the Vermont Educational Surrogate Parent Program), shall assign an individual to act as the educational surrogate parent. The educational surrogate parent may represent the student in all matters related to:
    - The identification, evaluation and educational placement of a student; and
    - The provision of a Free Appropriate Public Education to the student.
  5. The Vermont Educational Surrogate Parent Program shall make reasonable efforts to ensure the assignment of an educational surrogate parent within 30 days after the appropriate entity has determined a student requires an educational surrogate parent and the entity has submitted the required intake form to [AOE.SpecialEd@vermont.gov](mailto:AOE.SpecialEd@vermont.gov).
  6. Before making the appointment, the Vermont Educational Surrogate Parent Program shall assure that the individual appointed as the educational surrogate parent:
    - Has no personal or professional interest that conflicts with the interests of the child/student to whom they are assigned;
    - Has the knowledge and skills to ensure adequate representation of the student;
    - Is not an employee of the AOE the student's LEA, or any other agency involved in the education or care of the student.
      - In the case of a student who is an unaccompanied youth, appropriate staff of the emergency shelter, transitional shelter, independent living programs or street outreach programs may be appointed as a temporary educational surrogate parent by the Vermont Educational Surrogate Parent Program.
  7. Our LEA shall inform the Vermont Educational Surrogate Parent Program of any current status, or future changes in status, that would create a conflict of interest for the educational surrogate parent, as described in parts above.
  8. Copies of the appointment letters will be provided by the Vermont Educational Surrogate Parent Program to the educational surrogate parent, the referring entity, and to the special education administrator for the responsible LEA unless otherwise determined by our LEA.
  9. All letters of appointment as the educational surrogate parent must be maintained by our LEA for inspection upon request of the Vermont Agency of Education Monitoring Team or any other agency/legal entity with a legitimate interest in the student's special education programming and services.
  10. Our LEA shall ensure that the special education documents for the student shall identify the educational surrogate parent as the individual serving the role of the parent in

## Procedures

- Our LEA will request a due process in accordance with [VTSBE 2365.1.6.2](#);
- Our LEA will not raise issues at the due process hearing that were not raised in the complaint;
- our LEA will respond in good faith to make a complete response to requests for the voluntary production of information as soon as practical;
- Our LEA will provide parents with a copy of the Procedural Safeguards Notice.

[Link to Vermont Agency of Education information on Mediation, Due Process, and Administrative Complaints](#)

[Link to Vermont Special Education Rules \(section 2365.1.6\) on Due Process Complaint Procedures](#)

[Link to Vermont Special Education Rules \(section 2365.1.6.7\) regarding scheduling of resolution session, mediation, prehearing conference, and due process hearing](#)

(34 CFR §§ [300.507](#), [300.508](#), [300.510](#))

## Transfer of Rights at Age of Majority

Our LEA affords rights of privacy to students similar to those afforded to parents, taking into consideration the age of the student and type or severity of disability.

Please note:

1. The rights of parents regarding education records under FERPA transfer to the student at age 18.
2. Our LEA provides notice of transfer of rights to both the student and their parents.
3. If the rights accorded to parents under Part B of the IDEA are transferred to a student who reaches the age of majority (age 18 in Vermont), the rights regarding education records also transfer to the student.
4. Once a student reaches the age of 17, the IEP must include a statement that the student has been informed regarding this transfer of rights.
5. When a student with a disability reaches the age of 18, unless he or she has been determined to be incompetent as defined by state law, our LEA transfers the rights of parents under the IDEA to the individual adult student.

(34 CFR § [300.520](#)/VTSBE [2365.1.12](#))

## Discipline Procedures

### Preliminary Information

1. Multi-Tiered System of Supports:
  - Vermont state statues (16 VSA § 2902) mandate that each public school shall develop and maintain a tiered system of academic and behavioral supports.

## Authority of School Personnel

School personnel will consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a student with a disability who violates the school's code of student conduct. Those determinations will be consistent with the discipline procedures of the Individuals with Disabilities Education Act (IDEA).

### General

The school principal or their designee, in consultation with the student's special education case manager, are authorized to remove a student with a disability who violates a code of student conduct from the student's current placement to an appropriate interim alternative educational setting (IAES) for not more than ten consecutive school days (to the extent those alternatives are applied to students without disabilities). The principal/designee, in consultation with the student's special education case manager, may also remove the student for additional period of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement (see section titled change of placement below).

After a student with a disability has been removed from their placement for ten school days in the same school year, the school will provide services for any subsequent days of removal to the extent required under the services section of this policy.

### Additional Authority

Only in some circumstances shall disciplinary procedures for students with disabilities be applied in the same manner and for the same duration as the procedures would be applied to students without disabilities. School personnel in consultation with the special education administrator shall make those decisions.

### Services

A student with a disability who is removed from their current placement shall:

- Continue to receive educational services so as to enable them to continue to participate in the general education curriculum (although in another setting) and to progress toward meeting the goals set out in their IEP, and:
  - Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, which are designed to address the behavior violation so it does not recur.
  - These services may be provided in an interim alternative educational setting.

The school is not required to provide services during periods of removal to a student with a disability who has been removed from their current placement for ten school days or less in one school year if services are not provided to students without disabilities who have been similarly removed.

code of conduct, our LEA notifies the parents of that decision and provides the parents a procedural safeguards notice.

When our LEA determines that maintaining the current placement of a student with a disability is substantially likely to result in injury to the student or others, the LEA may request an expedited due process hearing to change the student's placement to an appropriate interim alternative educational setting for not more than 45 school days. The request for a due process hearing may be repeated if our LEA believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

(34 CFR §§ [300.530](#), [300.530\(g\)](#), [300.530\(h\)](#), [300.531](#), [300.532](#))

### Manifestation Determination Reviews

Within 10 school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, our LEA, the parent, and relevant members of the student's IEP Team (as determined by the parent and our local educational agency) review all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parents.

The conduct is determined to be a manifestation of the student's disability if our local educational agency, the parent and relevant members of the student's IEP Team determine that either:

- The conduct in question was caused by, or had a direct and substantial relationship to, the student's disability, or
- The conduct in question was the direct result of our LEA's failure to implement the IEP.

If our LEA, the parent, and relevant members of the student's IEP Team determine the conduct in question was the direct result of our LEA's failure to implement the IEP, we will take immediate steps to remedy those deficiencies.

If the conduct was a manifestation of the student's disability, the IEP Team returns the student to the placement from which the student was removed unless the student has been placed in an interim alternative educational setting or the parent and local educational agency agree to a change of placement as part of the modification of the behavioral intervention plan, and either:

- Conducts a functional behavioral assessment, unless our LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implements a behavioral intervention plan for the student, or
- If a behavioral intervention plan already has been developed, the IEP Team reviews the behavioral intervention plan, and modifies it, as necessary, to address the behavior.

If the conduct was not a manifestation of the student's disability, the student receives (as appropriate):

- A functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur, and

## Placement During Appeals

If a parent of a student with a disability disagrees with any decision regarding a disciplinary change in placement or a manifestation determination, they may appeal the decision by requesting a hearing. If our LEA believes that maintaining the current placement is substantially likely to result in injury to the student or others, they may also appeal a decision by requesting a hearing. During such appeal, the student will remain in the placement to which the student was removed pending the decision of the hearing officer or until the expiration of the disciplinary placement, whichever occurs first. The parent and our LEA may agree to a different placement during the appeal.

Unless our LEA and the parents agree in writing to waive the resolution meeting or agree to use the mediation process, our LEA will conduct a resolution meeting within seven days of receiving notice of the parent's due process complaint.

(34 CFR § [300.532](#), [300.533](#))

## Protections for Students Not Yet Eligible for Special Education and Related Services

Our LEA provides the protections asserted for a student under the Individuals with Disabilities Education Act (Part B) to a student who has not been determined to be eligible for special education and related services, who has engaged in behavior that violated a code of conduct of our LEA, if our LEA had knowledge (as determined in accordance with the provisions below) that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

Our LEA has knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred:

- The parent of the student expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student needs special education and related services;
- The parent of the student requested an IEP Team evaluation of the student; or
- The teacher of the student, or other personnel of our LEA, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the LEA or to other supervisory personnel of the LEA.

Our LEA does not have knowledge that a student is a student with a disability if:

- The parent of the student has not allowed a special education evaluation of the student or has refused special education services; or
- Our LEA conducted an IEP Team evaluation and determined that the student was not a student with a disability.

If our LEA does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subject to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors.

requested, the parents are given notice of their right to a hearing under VTSBE Rule [2365.2.8](#) and [2365.2.9](#).

8. If the result of the hearing is that the information to be amended is determined to be inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, our LEA will amend the records as requested and inform the parents in writing.
9. If the result of the hearing is that the information is not inaccurate, misleading or otherwise in violation of privacy or other rights of the student, our LEA will inform the parent of their right to place a statement commenting on the information or setting forth their disagreement with the decision of the LEA.
10. Our LEA will obtain parental consent prior to disclosing PII to anyone other than officials of participating agencies using the information subject to 1) the participating agency may not further release the information without parental consent or 2) disclosure is otherwise permitted by law:
  - a. Pursuant to a lawful subpoena, provided our LEA makes reasonable attempts to notify parents in advance who may seek a protective order limiting the scope of the subpoena or quashing it;
  - b. The subpoena mandating disclosure specifies the existence or the contents of or the information furnished in response to such subpoena or court order should not be disclosed by the receiving party;
  - c. Disclosure is to law enforcement and the information sought is needed in connection with an emergency or necessary to protect the health and safety of the student or other individuals; and
  - d. If a parent refuses disclosure, our LEA may seek an order from a due process hearing officer permitting disclosure.
11. Safeguards. Our LEA will protect the confidentiality of PII at collection, storage, disclosure and destruction. One LEA official shall be identified as responsible for ensuring confidentiality. Employees collecting or using PII shall be trained or instructed regarding FERPA and Vermont's policies and procedures for the protection of PII. Our LEA shall maintain for public inspection a current listing of names and positions of employees who may have access to PII.
12. For auditing or monitoring purposes, our LEA follows record schedules addressing the life cycle management, retention, and disposition of school-related records [as defined by Vermont State Archives and Records Administration \(VSARA\)](#).
13. For auditing or monitoring purposes, our LEA is required to retain copies of Individualized Educational Programs, Evaluation Plan and Reports, and other material maintained in an educational record for a minimum period of five years from the end of the school year where the document was in effect.
14. Our LEA shall inform parents or the adult student when educational records (exceeded the five-year requirement above) containing personally identifiable information are no longer needed in the provision of special education services to the student and are to be destroyed. Educational records exceeding the five-year requirement may also be destroyed upon request of the parent or adult student.

disciplinary actions, and statewide assessments. Additionally, our LEA maintains data necessary to determine if significant disproportionality based on race and ethnicity is occurring in our LEA with respect to the identification of students with disabilities, the placement of students in educational settings and the incidence, duration and type of disciplinary actions.

## Appendix A: Attestation Form

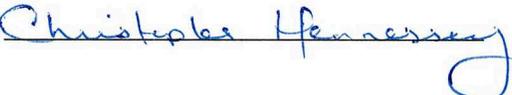
As a condition of funding under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), local educational agencies are required to establish written policies and procedures for implementing federal special education laws. This Vermont Special Education Procedures and Practices Manual has been developed to help local educational agencies meet this requirement.

LEAs must develop or adopt written policies and procedures in a number of different areas, and our LEA has chosen to adopt the model procedures and practices promulgated by the Vermont Agency of Education in order to satisfy these requirements. This document, while comprehensive, does not include every requirement set forth in the IDEA, the regulations implementing IDEA, and/or the Vermont Special Education Rules 2360 series. Our LEA recognizes its obligation to follow these laws, regardless of whether their provisions are restated in the Vermont Special Education Procedures and Practices Manual.

The Vermont Agency of Education recommends that school boards adopt these procedures and practices as recommended by the Vermont School Board Association. The Agency of Education recommends that school boards sign and upload this document on their website and maintain an available copy of this signed attestation for monitoring purposes.

The Barre Unified Union School District, hereby adopts the Vermont Special Education Procedures and Practices Manual.

Printed Name of Special Education Director: Stacy Anderson  
Signature:  Date: July 12, 2023

Printed Name of Superintendent: CHRIS HENNESSEY  
Signature:  Date: JULY 18, 2023