



State of Vermont
Vermont Department of Education
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MEMORANDUM

TO: Superintendents, Principals and Heads of School

FROM: Mark D. Oettinger, General Legal Counsel

CC: State Board of Education; Jeff Francis, VSA Executive Director; Ken Page, VPA Executive Director; John Nelson, Esq., VSBA Executive Director; Dwight Davis, VISA Executive Director; Martha Allen, Vermont-NEA President; Joel Cook, Esq., Vermont-NEA Executive Director; David Coriell, Governor's Education Liaison; Stephen Dale, DCF Commissioner; Joan Senecal, DAIL Commissioner

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Information to be Included in School Reports, Handbooks and Other Notices

This document provides information on requirements for local school districts to publish annual school reports and other information that must or should be included in school handbooks or other documents. Most statutory references to information or notices that must be provided to parents do not specify the format of the information or notice nor do they specify, for example, that it must be included in the student handbook. The statutory or regulatory source of the requirement and whether a particular format or mailing is directed in the underlying legal requirement are provided. This list is not intended to be a complete list of what school districts are obligated to provide under state and federal law. It will be reviewed annually and updated/supplemented as needed. Information about omissions from or possible additions to this list is most welcome and should be submitted to Mark Oettinger, Vermont Department of Education General Counsel, at (802) 828-0416 or mark.oettinger@state.vt.us.

A. School Reports to Parents and Communities

Annual Student Performance Results

16 V.S.A. §165(a)(2) requires that each school report to its community, on a format selected by the school board on the following:

1. Progress of students generally toward meeting academic standards,
2. Information about the health and social well-being of children in the district,
3. Progress toward meeting the action plan developed for that year,
4. Contextual information about student performance,
5. Information about early reading instruction in the district,
6. Early care and education opportunities available to district children,

7. Community support available to families,
8. Availability of career counseling and technical center program information,
9. Participation in the technical center by district students, job opportunities for district students, and the number of graduates in the previous year who went on the college, the military, or the workforce,
10. Information on district students with respect to student attendance, discipline and drop-out and graduation rates, and
11. Data allowing comparison with other schools on cost-effectiveness.

Financial and Other Information

16 V.S.A. §563(10) and (11) require annual reporting to voters on various financial and other matters. More specifically, subsection (10) requires a report on the conditions and needs of the district school system including the following be provided at least 10 days before the school district's annual meeting:

1. Superintendent's report,
2. Supervisory union treasurer's report,
3. School district treasurer's annual report for the previous school year,
4. Balance of any reserve funds,
5. Summary of the town auditor's report,
6. Summary of the public accountant's report if it is a year in which the district's books were audited by a public accountant, and
7. Notice of the time and place where the full report of the town auditor or public accountant is available for public inspection and copying.

Subsection (11) requires the distribution, at least 10 days in advance of the budget vote, of a proposed budget for the upcoming year that includes:

1. All revenues from all sources and expenses, including as separate items any union school or supervisory union assessment,
2. Any amount of deficit for the most recently closed fiscal year and how it was or will be remedied,
3. Anticipated homestead tax rate and the percentage of household income used to determine the income sensitivity in the district, broken down to include rates attributable to union school and supervisory union assessments,
4. The definition of "education spending," the number of pupils and equalized pupils, and the amount of spending per equalized pupil in the preceding three years, and
5. If a union school district, the amount of the assessment to the member districts and the amount of the assessments per equalized pupil in the preceding three years.

B. Information to be Included in the Student Handbook or Otherwise Provided to Parents

These are listed in order from the requirements that are most clearly set forth in statute to those that might be advisable to include in some form of notice to parents or students. State items are listed first. Federal items are listed second.

State Items

1. *Hazing and Harassment* – 16 V.S.A. §565(d) requires school boards annually, prior to the commencement of curricular and co-curricular activities, to provide to students and their parents or guardians notice of the hazing and harassment policies and procedures.

The notice to students should be age-appropriate and should include examples. The notice must “appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for the school.”

2. *School Comprehensive Plan for Responding to Student Misbehavior* – 16 V.S.A. §1161a(a) requires schools to adopt a comprehensive discipline plan. Among the requirements is that the plan must include “procedures for informing parents of the school’s discipline policies, for notifying parents of student misconduct, and for working with parents to improve student behavior.” 16 V.S.A. §1161a(a)(3).
3. *Technical Center Offerings* – 16 V.S.A. §1541a(b) provides that high schools are to give technical centers the names and addresses of students and their parents so that they may be contacted and notified of technical center offerings.
4. *Periodic Release Time Courses* – 16 V.S.A. §1053 requires schools, at the request of a religious group, to publish “periodic release time religious education courses” to be “included in public school catalogs and listings of course offerings.” It is not clear whether such a provision would be constitutional under current First Amendment analysis.
5. *Periodic Hearing and Vision Screening Guidelines* – 16 V.S.A. §1422 was revised significantly by Act 44 of 2009. The Commissioner of Health is responsible for developing research-based guidelines for school districts and primary care providers. School districts and primary care providers will attempt to avoid duplicating services provided by the other and will share information as practicable and allowable by law.*
6. *Military Recruitment* – 16 V.S.A. §563(27), school boards shall annually inform each secondary student and the student’s parents or guardians of the right to *opt out* of the federal requirement that student contact information be provided to military recruiters or institutions of higher education pursuant to 20 U.S.C. § 7908(a)*. A school board shall enable the secondary student and the student’s parents or guardians to disallow the provision of student contact information to either military recruiters or institutions of higher education, while allowing provision of information to the other. (“secondary student” means a pupil in grade 9, 10, 11, or 12.)

*N.B. - See also “Federal Item” (item #12) below.

7. *School Choice* – school boards must annually inform students and their parents or guardians of their options for school choice under applicable laws or policy. (§563(28))
8. *High School Completion Program* – Established through 16 V.S.A. §1049, the High School Completion Program allows a person not enrolled in school and between the ages of 16 and 22 to be eligible to request an individual graduation plan in order to obtain a high school diploma. Educational services may be provided by a public/independent high school, an approved provider, or a combination of these. School districts shall award a high school diploma to persons who successfully complete their approved graduation education plans.

9. As a reminder, pursuant to State Board Rule, “every school district receiving federal and/or state funds for program support will develop a program of safety, institute that safety program, and monitor it to make sure it is kept current.” [SBE Rule 4101.] In addition, school districts shall adopt alcohol and drug policy. [SBE Rule 4212. See, also Rules 4212.1 – 4222 relating to components of alcohol and drug policies.]

Federal Items

10. *FERPA Policies* – 34 C.F.R. Part 99 (the federal regulations promulgated pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g et seq.) requires an annual notification to parents of their rights under the Act. Such notice must include that parents have the right to:
 - a. Inspect and review their children’s records,
 - b. Seek amendment of the record if it is inaccurate or misleading,
 - c. Consent to disclosure of personally identifiable student information except as provided in 34 C.F.R. §99.31, and
 - d. File a complaint with the United States Department of Education if they believe the Act has been violated.

In addition, the annual notice must include:

- a. The procedure for exercising the right to inspect and review education records,
- b. The procedure for requesting amendment of the records, and
- c. The criteria the school uses for disclosing student records to persons within the school who have legitimate educational interests in reviewing the records.

Finally, if the school does disclose “directory information” (e.g. names and addresses of students, date of birth, field of study, academic or other honors attained, participation on sports teams, etc.), and most schools do in some form or another, the school must notify parents of:

- a. The types of directory information that will be released,
- b. The right to refuse to let the school release particular or all directory information on their own children, and
- c. The period of time within which the parent has to notify the school that he or she does not wish to have the school designate some or all of the information about the parent’s child designated as directory information.

The Vermont Department of Education recommends that schools also include in their annual FERPA notice that parents (or eligible students) have the right to seek protective action if a school receives a judicial order, or lawful subpoena, that would otherwise require disclosure of a student record.

11. *Protection of Pupil Rights Act* – The Protection of Pupil Rights Act, 20 U.S.C. §1232h (hereinafter “PPRA”), requires parental notification in a number of respects:
 - a. 20 U.S.C. §1232h(c)(2)(A)(i) requires local education agencies to notify parents annually, at the beginning of the school year and within a reasonable time after any amendment thereof, of the adoption or continued use of PPRA policies.

These local policies must include the following:

- i. The rights of parents to inspect surveys created by a “third party” (meaning not federally funded) before it is administered,

- ii. Procedures for such inspection of surveys,
 - iii. Arrangements to protect student privacy with respect to surveys on sensitive matters,
 - iv. The right to inspect any instructional materials used as part of the educational curriculum,
 - v. Procedures for inspecting the instructional materials,
 - vi. The administration of any physical examinations or screenings,
 - vii. The collection or disclosure of student information for marketing purposes,
 - viii. The right of a parent to inspect any instrument used in the collection of personal information for marketing purposes before such information is collected or disclosed, and
 - ix. Procedures for obtaining access to such instruments in a timely fashion.
- b. 20 U.S.C. §1232h(c)(2)(A)(ii) requires an annual notice to parents of the right to opt out of certain activities including collection of personal student information for marketing purposes, administration of certain surveys, and non-emergency invasive physical examinations or screenings.
- c. 20 U.S.C. §1232h(c)(2)(B) provides that schools notify parents, at least annually at the beginning of the school year, of the specific or approximate dates when any of the following will occur: collection of information for marketing purposes, administration of surveys containing sensitive questions, and any non-emergency, invasive physical examinations or screenings.
- d. 20 U.S.C. §1232h(d) provides that schools must “give parents and students effective notice of their rights under this section [PPRA].”
12. *Military/Postsecondary Recruiters* – 20 U.S.C. §7908(a)(2) requires schools to notify parents, presumably each year although the time period is not specified, that they may request that their child’s name, address and telephone listing not be released to military or postsecondary recruiters without prior written parental consent.
13. *Section 504 Grievance Procedures* – 34 C.F.R. §§104.7 and 104.8 require schools to notify parents and others that the school does not discriminate on the basis of handicap and of the availability of a grievance procedure to address complaints regarding Section 504 of the Rehabilitation Act.
14. *Civil Rights Act Provisions* – 34 C.F.R. §100.6(d) requires “recipients” of federal funding to provide information to “beneficiaries” regarding the nondiscrimination requirements of the Civil Rights Act as applied to the recipient’s operations.
15. *Title IX Grievance Procedures and Dissemination of Policy* – 34 C.F.R. §§106.8(b) and 106.8(a)(1) provide that recipients of federal funding publish their grievance procedures with respect to discrimination on the basis of sex and that each recipient “implement specific and continuing steps to notify....students and parents of elementary and secondary school students....that it does not discriminate on the basis of sex in the educational program or activity which it operates, and that it is required by title IX....not

to discriminate in such a manner.” The latter section requires publication of this notice in a variety of ways, including in bulletins, catalogs, or application forms.

16. *Notices to Parents Under the No Child Left Behind Act* – Local education agencies are required to notify parents in a variety of circumstances. Here are a few of the more significant ones:
- a. 20 U.S.C. §6311(h)(2)(A)(i) requires local education agencies receiving Title I assistance to prepare and disseminate to all parents an annual “report card.” At minimum, it must contain the number and percentage of schools identified as needing improvement, for how long they have been so identified, and information on how students achieved on state assessments compared to students in the state as a whole.
 - b. 20 U.S.C. §6316(b)(6) requires a local education agency “promptly” to notify parents of children in attendance that its school has been identified as a school in need of improvement with an explanation of what it means and what will happen as a result, as well as notifying parents of the option for public school choice (where available) and supplemental educational services.
 - c. 20 U.S.C. §6311(h)(6) requires notice by a school district receiving Title I funds at the beginning of the school year to the parents of each student regarding the qualifications of the school’s teachers. The notice is to include the rights of parents, upon request, to obtain information as to whether the child’s teacher has met state qualifications and licensing criteria, whether the teacher is teaching under a waiver or provisional license, and what the major of the teacher was in his or her baccalaureate degree. If the child receives services from a paraprofessional, the paraprofessional’s qualifications must also be furnished. And, the notice will also contain a statement as to whether the student will be taught by a teacher for four or more consecutive weeks who has not met the federal requirements for “highly qualified teacher.” Finally, this notice must also alert parents to their right to obtain information as to the level of achievement of their child in each of the state’s academic assessments.
 - d. 20 U.S.C. §6312(g)(1) provides that parents of students who are of limited English proficiency are to be notified not later than 30 days after the beginning of the school year that their child has been identified as in need of services. The statute contemplates a very specific and detailed listing of information to be provided in an understandable manner to the parents of the child.
 - e. 20 U.S.C. §6318(a)(2) requires each local education agency with Title I schools to “develop jointly with, agree on with, and distribute to, parents of participating children a written parental involvement policy.” Again, the required content of the policy are spelled out in great detail in the statute.
17. *Notices Under the Individuals with Disabilities Education Act* – The federal special education law, 20 U.S.C. §§1400, *et seq.*, requires notice to parents in a variety of ways. However, the most prominent requirements are found in 34 C.F.R. §§300.125, 300.503 and 300.504

- a. 34 C.F.R. §300.111 relates to “child find” activities. As interpreted in Vermont regulations, child find includes, among other activities, notifying the public of the availability of special education services for children with disabilities aged 3-21. Similar provisions address child find for students aged birth-3. *See* Rule 2360.3.5 of the Vermont State Board of Education Manual of Rules and Practices.
- b. The provisions of §300.503 require written notice to a parent of a student with a disability within a reasonable period of time before the school district proposes to initiate or change the identification (eligibility), evaluation or educational placement of the student or the provision of a free, appropriate, public education to the student, or whenever it refuses to do the same. The content of the notice is, again, very detailed.
- c. The requirements of §300.504 involve the provision of a notice of “procedural safeguards” whenever a child is initially referred for a special education evaluation, whenever an Individual Education Plan meeting is called, whenever a reevaluation is sought, and whenever a due process complaint has been filed. Once again, the contents of this notice are very detailed.