



State of Vermont
Vermont Department of Education
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MEMORANDUM

TO: Superintendents, Principals, and Heads of School

FROM: Mark D. Oettinger, General Counsel
Vermont Department of Education

DATE: August 11, 2011

SUBJECT: Information to be Included in School Reports, Handbooks and/or Other Notices

This is the Department's annual communication, pursuant to 16 V.S.A. § 212(14), in effort to compile a complete list of information that schools are required under state or federal law to make available to the electorate, community members, parents or guardians, and students. The statutory or regulatory source of the requirement and whether a particular format or mailing is directed are provided below. 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.

I. New Requirements

A. Concussion Guidelines and Related Forms

The Vermont legislature enacted Act 58, Sections 39-41, (16 V.S.A. §1431) setting new requirements for public and approved independent schools that are intended to prevent students with undiagnosed or untreated concussions or other head injuries from prematurely participating in recreation or school sponsored athletic activities. The Commissioner and the VT Principal's Association were required to develop statewide guidelines and other materials designed to educate coaches, youth athletes and their parents and guardians about the nature and risk of concussions and other head injuries, the risks of premature participation in athletics after sustaining such an injury and the importance of evaluation and treatment by a qualified health care provider.

The information in these guidelines and other materials, set out below, must be provided annually to each youth athlete and to the athlete's parents or guardians starting at the beginning of the autumn 2011 sports season.

[School Athletic-Team Related Concussion Guidelines PDF](#)
[Appendix A: Resources for Coaches PDF](#)
[Appendix B: Resources for Students PDF](#)
[Appendix C: Resources for Parents PDF](#)

B. Seclusion and Restraint

The Vermont State Board of Education rules on seclusion and restraint went into effect on August 15, 2011. These rules, set out below, require public and approved independent schools to annually at or before the beginning of each academic year inform parents of enrolled students of the policies pertaining to the use of physical restraint and seclusion, the intent to use positive behavioral strategies and supports and its intention to avoid the use of physical restraint or seclusion to address targeted student behavior.

Persons who impose a restraint or seclusion must report its use to the school administrator no later than the end of the school day and school administrators must report certain types of restraints or seclusions to the superintendent.

The rules require notice to parents within 24 hours of each use of seclusion and restraint and an opportunity for parents to participate in a review of an incident of restraint and seclusion.

The superintendent or headmaster (if there is no sending district or LEA) must report to the Commissioner within 3 school days if:

1. There is death or an injury requiring outside medical treatment or hospitalization of staff or student as the result of a restraint or seclusion;
2. Physical restraint or seclusion has been used for more than 30 minutes or;
3. Physical restraint was used in violation of state board rules.

Rule 4500 [Use of Restraint & Seclusion in Schools](#)
[Restraint/Seclusion Incident Documentation form \(Sample\)](#)
[Parent/Guardian Notice of Restraint/Seclusion Incident \(Sample\)](#)

II. **School Reports to the Commissioner, Parents, and Community**

A. Annual Student Performance Results

16 V.S.A. § 165(a)(2) requires that each school report to its community, or in the case of a regional technical center, “community” means the school districts in the service region, in a format selected by the school board, the following:

1. Student progress toward meeting standards from the most recent measure taken, § 165(a)(2)(A),
2. Progress toward meeting the goals of the action plan developed for that year, § 165(a)(2)(C),
3. Statistical information about the school or community that the school board deems necessary to place student performance results in context, § 165(a)(2)(D),
4. A description of how the school ensures that each student receives appropriate career counseling and program information regarding availability of education and apprenticeship program offerings at technical centers, § 165(a)(2)(H),
5. Information on dropout and graduation rates presented in a manner designed to protect student confidentiality, § 165(a)(2)(J), and
6. Data provided by the Commissioner to enable a comparison with other schools, or school districts if school level data are not available, on cost-effectiveness § 165(a)(2)(K).

B. Status of Educational Support Systems

16 V.S.A. § 2904 requires an annual report from each superintendent to the commissioner on the status of the educational support systems in each school in the supervisory union. The report must describe the services and supports that are a part of the education support system, how they are funded, and how building the capacity of the educational support system has been addressed in the school action plans. The report must also include a description and justification of how Medicaid reimbursement funds

received under 16 V.S.A. § 2959a were used.

This report is in addition to the annual report required of the education support team for each public school in the district, per 16 V.S.A. § 2902(c) (6), outlining the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of identifying and serving students through the educational support system.

C. Measuring Secondary School Completion Rates

Act 44 of 2009 requires each school district operating one or more secondary schools to report to taxpayers, at the time school budgets are presented for approval, the school district's progress toward achieving 100 percent secondary school completion.

D. Financial and Other Information

1. 16 V.S.A. § 563(10) requires that a report on the conditions and needs of the district school system including the following be provided to the electorate at least ten (10) days before the school district's annual meeting. This report must contain:
 - a. Annual reports from each of the following: the superintendent, supervisory union treasurer, and school district treasurer,
 - b. The balance of any reserve funds established pursuant to 24 V.S.A. § 2804,
 - c. A summary of the town auditor's report for fiscal years which are audited by town auditors, as required by 24 V.S.A. § 1681,
 - d. A 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 notice of the time and place where the full report of the town auditor or public accountant is available for public inspection and copying, in compliance with 24 V.S.A. § 1683(a).
2. 16 V.S.A. § 563(11) applies to budgets for school years 2009-10 through 2013-14 (fiscal years 2010-2014):
 - a. Part (A) requires a school board to prepare and distribute annually a proposed budget for the next school year.
 - b. Part (B) states that for fiscal years 2010-2014, if the proposed budget contains education spending in excess of the Maximum Inflation Amount, and the district's education spending per equalized pupil in the previous fiscal year was in excess of the statewide average, the board must present the budget to the voters by means of a divided question in lieu of another form of budget adoption or vote. A detailed ballot can be found at 16 V.S.A. § 563(11) (B) (ii).
 - c. Part (C) requires the distribution, at least ten (10) days in advance of the budget vote, of a proposed budget for the upcoming year that includes:
 - i. Revenues from all sources, and expenses, including as separate items any assessment for a supervisory union of which it is a member, and any tuition to be paid to a technical center,
 - ii. The specific amount of any deficit incurred in the most recently closed fiscal year and how it was or will be remedied,
 - iii. The 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, and
 - iv. The definition of "education spending," the number of pupils and equalized pupils, and the

amount of spending per equalized pupil in the proposed budget and in each of the prior three years.

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

The below items are listed in order from the requirements that are most clearly set forth in state or federal statute, to those for which it might be advisable to include in some form of notice to parents or students.

A. State Items

1. *Hazing and Harassment* Per 16 V.S.A. § 565(d), school boards must annually, prior to the commencement of curricular and co-curricular activities, provide to students and their parents or guardians notice of the hazing and harassment policies and procedures. The notice to students should be in age-appropriate language and should include examples, and must, at minimum, appear in any publication of the school district that sets forth comprehensive rules, procedures, and standards of conduct for the school. In addition, each school building must identify two designated employees to receive reports of hazing and harassment and there must be a procedure to publicize their availability.¹
2. *Comprehensive School Plan for Responding to Student Misbehavior* 16 V.S.A. § 1161a(a) requires schools to adopt a comprehensive plan for responding to student misbehavior.
3. *Technical Center Offerings* 16 V.S.A. § 1541a(b) provides that school boards that maintain high schools must provide the names and addresses of students to the technical center for its region so that they may be contacted and notified of technical center offerings.
4. *Periodic Release Time Courses* 16 V.S.A. §§ 1052-1053 provide that upon request of a religious group, periodic released time religious education courses shall be included in public school catalogs and listings of course offerings, provided that all such course offerings are identified as given under the provisions of 16V.S.A. Chapter 24. Whether such provisions are legal under current state and/or federal constitutional analysis is as yet undetermined.
5. *Periodic Hearing and Vision Screening Guidelines* Per 16 V.S.A. § 1422, the Commissioner of Health, in cooperation with the Commissioner of Education, is responsible for developing research-based guidelines for students' periodic hearing and vision screenings by school districts and primary care providers.²
6. *Military Recruitment* 16 V.S.A. § 563(27) requires school boards to annually inform every student in grades 9-12 and his or her parent or guardian of the right to *opt out* of having the school provide the student's contact information (i.e., name, address, telephone listing) to military recruiters and/or institutions of higher education, pursuant to 20 U.S.C. § 7908(a).
7. *School Choice* Under 16 V.S.A. § 563(28), school boards must annually inform students and their parents or guardians of their options for school choice under applicable laws or policy.
8. *High School Completion Program* Vermont's High School Completion Program (16 V.S.A. § 1049a) allows an individual between the ages of 16 and 22 who has not yet earned a high school diploma to request an individual graduation plan in order to obtain a high school diploma. Educational services may be provided by a public or approved 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.

¹ 16 V.S.A. §§ 14 (c)(2) & 565(c)(1)

² See also PPR (20 U.S.C. § 1232h; 34 C.F.R. Part 98) and FERPA (20 U.S.C. 1232g; 34 C.F.R. Part 99), with regard to parental consent and/or notification.

9. *School Safety Programs* Pursuant to the State Board of Education Manual of Rules and Policies (SBE), every school district receiving federal and/or state funds for program support must develop a safety program, institute the program, and monitor it to ensure the program is kept current. (SBE Rule 4101) In addition, school districts shall adopt an alcohol and drug policy that is in keeping with SBE Rule 4200 et seq.
10. *Life-Threatening Allergies and Life-Threatening Chronic Illnesses* 16 V.S.A. §563(29) requires school boards to assign an employee to annually inform the parents of students with life-threatening allergies and life-threatening chronic illnesses of the applicable provisions of Section 504 of the Rehabilitation Act of 1973 and other applicable federal and/or state statutes and federal and /or state regulations. This would include notice of the provisions of 16 V.S.A. §1387 that permits students with life-threatening allergies or asthma to possess and self-administer emergency medication at school in accordance with a plan of action authorized and developed under the requirements of this statute.³

B. Federal Items

1. *The Family Educational Rights and Privacy Act (FERPA)* FERPA, 20 U.S.C. § 1232g as implemented in 34 C.F.R. Part 99, requires annual notification to parents or eligible students of their rights under the Act. Such notice must include that parents or eligible students have the right to:
 - a. Inspect and review the student’s records,
 - b. Seek amendment of the student’s education record that the parent or eligible student believes is inaccurate, misleading, or otherwise in violation of the student’s privacy rights,
 - 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 under 34 C.F.R. §§ 99.63 and 99.64 if they believe the educational agency or institution has failed to comply with the Act.

Additionally, the annual notice must include:

- e. The procedure for exercising the right to inspect and review education records,
- f. The procedure for requesting amendment of the records under 34 C.F.R. § 99.20, and
- g. If the educational agency or institution has a policy of disclosing records under 34 C.F.R. § 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

An educational agency or institution may disclose “directory information” if the school: (1) publicly notifies parents or eligible students of the types of directory information that will be released, (2) informs parents or eligible students of their right to refuse to let the agency or institution release particular or all directory information, and (3) states the period of time within which the parent or eligible student has to notify the school in writing 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.⁴ The Vermont Department of Education recommends that schools also include in their

³ See 16 V.S.A. § 1387(c)

⁴ Per 34 C.F.R. § 99.3, “Directory information” is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It may include but is not limited to a student’s name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, current grade level, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and most recent educational agency or institution attended.

annual FERPA notice that parents or eligible students have the right to seek protective action for the student’s education records if the agency or institution receives a judicial order or lawful subpoena that would otherwise require disclosure of a student record under 34 C.F.R. § 99.31(9).

2. *The Protection of Pupil Rights Amendment (PPRA)* PPRA, 20 U.S.C. § 1232h as implemented by 34 C.F.R. Part 98, protects the rights of parents and students in two ways. First, the PPRA ensures that all instructional materials intended for use in connection with any survey, analysis, evaluation, or other research or experimentation program, are available for inspection by a student’s parent or guardian.⁵ Second, it requires schools or contractors to obtain written parental or student consent before requiring a minor student to participate in any such survey, analysis, or research program. Local education agencies (LEA) are required to adopt policies regarding the PPRA, in consultation with parents. In addition, the LEA must provide notification of those policies to parents or eligible students, and the opportunity for the student to opt out, at the beginning of every school year, and within a reasonable time after any substantive amendment to the LEA’s PPRA policies.
3. *Military or Postsecondary Recruiters* Under 20 U.S.C. § 7908(a), secondary schools must notify parents and students of their right to request that the student’s name, address, and telephone number not be released to military or postsecondary recruiters without prior written consent of the parent or secondary student.
4. *Civil Rights Provisions*
 - a. Recipients of federal funds, including education agencies and institutions, are required to make available information regarding the applicability and compliance of the recipient’s programs with the nondiscrimination requirements of the Civil Rights Act, as amended.⁶ Title VI of the Civil Rights Act of 1964 prohibits discrimination generally on the basis of race, color or national origin. National origin discrimination includes discrimination on the basis of limited English language proficiency.⁷ Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of race, sex, national origin and religion.⁸
 - b. Title IX of the Education Amendments of 1972 prohibits discrimination generally on the basis of sex in educational programs or activities receiving or benefiting from federal funds.⁹ The US Department of Education has issued guidance indicating that sex discrimination includes discrimination on the basis of sexual orientation. Recipients must designate a Title IX coordinator and must publish their grievance procedures with respect to discrimination on the basis of sex.¹⁰ Additionally, each recipient must “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.¹¹
 - c. Section 504 of the Rehabilitation Act of 1973¹² prohibits discrimination on the basis of disability by recipients of federal funds. Section 504 requires recipients to designate 504 coordinators,

⁵ See 34 C.F.R. § 98.4(a).

⁶ 34 C.F.R. § 100.6(d).

⁷ 42 U.S.C. A. § 2000d *et. seq.*, 34 C.F.R. § 100 *et. seq.*

⁸ 42 U.S.C.A. § 2000e *et seq.*

⁹ 20 U.S.C. §§ 1681-1682.

¹⁰ 34 C.F.R. § 106.8

¹¹ 34 C.F.R. §§ 106.8(b) and 106.9(a)(1).

¹² 29 U.S.C. § 794

adopt a grievance procedure¹³ and to provide notice to students, parents, employees, unions and professional organizations that the school district does not discriminate in admission or access to or treatment or employment in its programs or activities. This notice must be included in any materials or publications given generally to participants, applicants or employees and it must inform them of the grievance procedure and identify the 504 coordinator.¹⁴

5. *No Child Left Behind Act (NCLBA)* 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 to notify parents of children in attendance “promptly” 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 right 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 must 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 is to be spelled out in great detail in the statute.
6. *Individuals with Disabilities Education Act (IDEA)* 20 U.S.C. §§ 1400, *et seq.*, as enacted in Part 300 of the C.F.R., requires notice to parents in a variety of ways, including the following:
 - a. Section 300.111 Child Find: Vermont has policies and procedures in place incorporating IDEA child-find requirements, including notifying the public of the availability of special education services for eligible children aged 3 to 21 years. Similar provisions address child-find for students from birth to age 3.¹⁵

¹³ 34 C.F.R. § 104.7(a).

¹⁴ 34 C.F.R. § 104.8

¹⁵ SBE Rule 2360.5.

- b. Section 300.503 Prior Notice: IDEA requires written notice to a parent of a student with disabilities within a reasonable period of time prior to a school district either proposing or refusing to initiate or change the identification, evaluation, or educational placement of a student, or the provision of a free, appropriate, public education (FAPE) to a student.
- c. Section 300.504 Procedural Safeguards Notice: A notice of “procedural safeguards” must be provided one time per school year, except that a copy must also to be given to the parents:
- i. Upon initial referral or parent request for a special education evaluation,
 - ii. Upon receipt of the first due process complaint in a school year,¹⁶
 - iii. Upon receipt of the first State complaint in a school year,¹⁷
 - iv. In accordance with the discipline procedures in 34 C.F.R. § 300.530(h), or
 - v. Upon request by a parent. The contents of this notice must include a full explanation of all procedural safeguards available under the IDEA.¹⁸

¹⁶ 34 C.F.R. § 300.507.

¹⁷ 34 C.F.R. §§ 300.151 through 300.153.

¹⁸ 34 C.F.R. § 300.504(c) for details.