

**Summary of AOE proposed changes to Act 173  
DRAFT  
January 6, 2019**

**Sec. 5 16 V.S.A. chapter 101 is amended to read:**

§ 2942. DEFINITIONS

As used in this chapter

\* \* \*

- (8) A “student who requires additional support” means ~~a student~~ any student who may require additional supports at any given time.
- (A) ~~who is on an individualized education program;~~
  - (B) ~~who is on a section 504 plan under the Rehabilitation Act of 1973, 29 U.S.C. § 794;~~
  - (C) ~~who is not on an individualized education program or section 504 plan but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk;~~
  - (D) ~~for whom English is not the primary language; or~~
  - (E) ~~who reads below grade level.~~

**Explanation:** These definitions restrict which students qualify as needing additional support, the intent of the law is to support all students when their needs require it. This update to the definition ensures that all students will receive additional support when they are struggling to learn.

**Sec. 5 16 V.S.A. §2961 is amended to read:**

\* \* \*

- (A)(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over the most recent three school years for which data is available.

**Explanation:** Update to the definition of Long term membership to clarify which years the AOE should use in the calculation.

- (A)(4) “Uniform base amount” means an amount determined by:
- (A) dividing an amount:
    - (i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); and
    - (ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by
  - (B) the statewide long-term membership average daily membership for prekindergarten through grade 12 for the 2019-2020 school year.

\* \* \*

**Explanation:** Update to align the calculation of the uniform based amount with the years that the funding was originally designated for. Without this change, the intent to level off state support for special education will not be realized.

#### § 2967. AID PROJECTION

(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union of its anticipated state special education funding ~~special education expenditures~~ under this chapter for the ensuing school year.

(b) As used in this section, state special education funding ~~special education expenditures~~ shall include:

- (1) ~~funds costs~~ eligible for grants and reimbursements under sections 2961 and 2962 of this title;
- (2) ~~funds costs~~ for services for persons who are visually impaired;
- (3) ~~funds costs~~ for persons who are deaf or hard of hearing;
- (4) ~~funds costs~~ for the interdisciplinary team program;
- (5) funds expended for training and programs to meet the needs of students with emotional or behavioral challenges under subsection 2969(c) of this title; and
- (6) funds expended for training under subsection 2969(d) of this title.

**Explanation:** The state will no longer be collecting services plans and will not be able to publish costs. The state will be able to publish the calculation by SU of the census grants and other state special education appropriations under current law.

#### § 2975. UNUSUAL SPECIAL EDUCATION COST; FINANCIAL ASSISTANCE

The Secretary may use funds for allowable special education expenditures, as defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall be appropriated in the amount of two percent times the Census Grant as defined in § 2961 up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in subsection 2967(b) of this title and State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. ~~The Secretary's decision regarding a supervisory union's eligibility for an amount of assistance shall be final.~~

**Explanation:** This provides a calculation and an appropriation to make funds available for unusual special education costs annually.

2018 Acts and Resolves No. 173, Sec. 17 is amended to read:

#### Sec. 17 TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021.

(b) On or before November 1, 2019, a supervisory union shall submit to the Secretary such information as required;

- (i) by the Secretary to estimate the supervisory union's projected fiscal year 2021

extraordinary special education reimbursement under Sec. 5 of this act; and  
(ii) for IDEA reporting in a format specified by the Secretary.

- (c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

**Explanation:** To comply with IDEA, the State is required to collect information from SUs. These data were historically collected via the service plan, which is repealed by this section.