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Administrator Handbook

Dear Administrators:

As the Agency of Education releases the newest version of the Administrator Handbook, I want to point out a few additions to the packet. With the new Administration in Washington and the implementation of the Every Student Succeeds Act (ESSA), Vermont is in transition on several fronts, including how we talk about and manage our responsibility for ensuring all students are safe, healthy and well educated. This year, the legislature made a few changes to align Vermont statute with ESSA and ESSA definitions.

In this edition of the handbook, along with the traditional information on reporting requirements and statutory regulations, I also want to highlight important guidance and best practices for transgender and gender nonconforming students; hazing, harassment and bullying; the safety and well-being of new Americans; and mandated reporting.

The Agency of Education is committed to ensuring that Vermont's public education system operates within a framework of high expectations for every learner and that there is equity and opportunity for all. If any child in Vermont feels afraid, unsafe, unable to come to school or uncared for, that child's ability to learn and thrive is compromised. All children benefit from a healthy school environment and are better able to learn when the child feels safe and supported. No child should fear that their identity will cause other people to do harm. That is a core right of all of our Vermont students. These policies and best practices help to ensure that core right.

You have heard Governor Scott's three goals: grow Vermont's economy, make Vermont an affordable place to live, work and do business; and protect vulnerable Vermonters.

I feel lucky to live in a state that brings these priorities to the forefront in all of the work we do. We need to be firm that our communities and our schools are safe and welcoming places that embrace and support all of our children and families.

Sincerely,

A handwritten signature in black ink, appearing to read "Rebecca Holcombe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rebecca Holcombe, Ed.D.
Secretary of Education

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

The Administrator Handbook 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 mandated in the law are provided. This list is likely under-inclusive. 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 directed to Molly Bachman, General Counsel, Vermont Agency of Education, at (802) 479-1756 or molly.bachman@vermont.gov.

Also included for informational purposes is a summary of education-related legislation that passed during the 2017 Legislative Session, and has now become law.

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. Progress toward meeting the goals of the continuous improvement plan developed for that year,
3. Contextual information about student performance,
4. Availability of career counseling and technical center program information,
5. Information on district students with respect to student attendance, discipline and for secondary schools, drop-out and graduation rates, and
6. Data allowing comparison with other schools on cost-effectiveness.

Financial and Other Information

16 V.S.A. §563(10) and (11) requires 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, and
4. Balance of any reserve funds.

16 V.S.A. §563, 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 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 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.

Information to be included in the Student Handbook or Otherwise Provided to Parents

Most of the items discussed below are required to be provided to parents. The Agency of Education (AOE) suggests the others be provided as a matter of best practice. State items are listed first, followed by Federal items.

State Items

Harassment, Hazing and Bullying

We believe that every student has the right to a safe and healthy school climate where they feel supported. On May 29, 2015, Secretary Holcombe issued a revised Harassment, Hazing and Bullying Prevention Model Policy that reminds school boards of their obligation to develop and adopt harassment, hazing and bullying prevention policies. The Secretary emphasizes the school board’s duty under 16 V.S.A. §§ 570a, 570b and 570c to *annually* designate two or more people to receive reports of harassment, hazing and bullying at each school. The names and contact information of employees designated to receive a Harassment, Hazing and Bullying (HHB) incident report, should be included in the school’s handbook to parents and students.

16 V.S.A. §570 requires school boards to develop and adopt harassment, hazing and bullying prevention policies that shall be *at least as stringent* as the model policies developed by the Secretary.

16 V.S.A. §570(c) requires that school boards annually, prior to the commencement of curricular and co-curricular activities, provide students and their parents or guardians, notice of the harassment, hazing and bullying 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.”

Secretary Holcombe’s [Memorandum on the Harassment, Hazing and Bullying Prevention Model Policy](#) as well as a copy of the [HHB Policy](#), are available on the AOE website.

Transgender and Gender Nonconforming Students

All students need a safe and supportive school environment to progress academically and developmentally. Many questions arise for students and school staff when considering the best supports for transgender and gender nonconforming students. The [Continuing Best Practices for Schools Regarding Transgender and Gender Nonconforming Students](#) are designed to provide direction for schools to address issues that may arise concerning the needs of transgender and gender nonconforming students.

Mandated Reporting

As educators and mandated reporters, it is our duty to help protect students from abuse and neglect. Act 60 of 2015 provides that any mandated reporter who reasonably suspects abuse or neglect of a child shall report in accordance with the provisions of Section 4914 of this Title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. 33 V.S.A. § 4913(c). Review the [joint memo from VDH and AOE regarding Mandated Reporting](#).

New Americans

We have a responsibility to ensure that all of our students feel safe and supported. This occurs when we create school cultures that are responsive to the needs of the children in our care, and our families. Under Federal law, undocumented children and young adults have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents (*Plyler vs. Doe*, 457 U.S. 202 (1982)). And, under state law, all Vermont children, including undocumented children are required to attend school until the mandated age of 16. Meeting this obligation means going beyond telling families to enroll their student(s). It includes working proactively to ensure they feel safe, supported and welcomed.

Public schools may not:

1. Deny or terminate a student's enrollment on the basis of actual or perceived immigration status.
2. Treat a student differently to verify legal residency in the United States.
3. Engage in any practices that have the effect of discouraging students from enrolling or attending school based on their immigration status.
4. Require students or their parents to disclose their immigration status or inquire of students or parents in ways that may expose their undocumented status.
5. Deny or terminate a student's enrollment due to the student's or parent's failure to provide a social security number.

See the letter on the State's responsibility to protect the rights of undocumented Vermont students:

- [Letter Regarding Undocumented Vermont Students](#)
- [Letter Regarding Undocumented Vermont Students \(Spanish\)](#)

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).

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.

Wellness Programs

16 V.S.A. §216 requires the Secretary of Education to prepare and update a list of school and community programs which have the potential to improve childhood wellness and the list is to be made available to all school districts and community organizations that request it. Current information about [Vermont wellness programs](#) is available online.

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.

Periodic Hearing and Vision Screening

16 V.S.A. §1422 requires schools to test the hearing and vision of students pursuant to research-based guidelines. Review the [joint memo from AOE and VDH on School Health Screenings](#).

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. This includes the board of a high school district announcing its capacity to accept students under 16 V.S.A. § 822a(c) on or before February 1 each year.

Concussions and Other Head Injuries

Under 16 V.S.A. § 1431 the principal or headmaster of each public and approved independent school must ensure that [statewide concussion and other head injury guidelines](#) are provided annually to each youth athlete and the athlete’s parents or guardians and that each youth athlete and a parent or guardian annually signs a form acknowledging receipt of the concussion and other head injury guidelines. There are training requirements for all coaches and referees of a contest on how to recognize the symptoms of a concussion or other head injury.

Please familiarize yourself with these requirements under [V.S.A. § 1431\(c\)](#) and more details regarding the required notice described above.

Seclusion and Restraint

State Board Rule 4500 defines the appropriate use of seclusion and restraint. Rule 4500 also sets forth the reporting requirements relative to any use of seclusion or restraint in school (e.g. – teacher to administrator, administrator to superintendent, and school to parent/guardian of affected student).

[Frequently asked questions about Rule 4500](#) are available online. Supervisory unions and districts can view the [Rule 4500: Restraint/Seclusion Documentation Report](#) online.

Flexible Pathways

Act 77 of 2013 expanded the availability of “[flexible pathways](#)” for students. Some features include (i) eliminating an age cap for the funding of the “high school completion program,” (ii) expanding opportunities for “dual enrollment;” (iii) beginning in November 2015, requiring the establishment of a personalized learning plan for every student in grades 7-12; and (iv) expanding “early college” to all Vermont state colleges. While the law does not require that schools inform the education community of these opportunities, it is recommended that administrators do so through outreach by guidance offices and in collaboration with career and technical centers.

Federal Items

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:

1. Inspect and review their children’s records;
2. Seek amendment of the record if it is inaccurate or misleading;
3. Consent to disclosure of personally identifiable student information except as provided in 34 C.F.R. §99.31; and
4. If they believe the Act has been violated, file a complaint with the Family Policy Compliance Office of the United States Department of Education, 400 Maryland Avenue, S.W., Washington D.C., 20202.

In addition, the annual notice must include:

1. The procedure for exercising the right to inspect and review education records,
2. The procedure for requesting amendment of the records, and
3. 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:

1. The types of directory information that will be released;
2. The right to refuse to let the school release particular or all directory information on their own children; and
3. 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.

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]."

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.

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; the school's notice shall identify the responsible employee designated to coordinate compliance with Section 504 and of the availability of a grievance procedure to address complaints regarding Section 504 of the Rehabilitation Act.

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.

Title IX Grievance Procedures and Dissemination of Policy

34 C.F.R. §§106.9(b) and 106.9(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.

Notices to Parents Under Elementary and Secondary Education Act

Local education agencies are required to communicate with parents in a variety of circumstances. Here are a few of the more significant ones:

1. 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 information reported to the LEA by the state, disaggregated by student group, as well as how the student achieved on state assessments compared to students in the state as a whole, and to students in other schools in the same LEA. With the passage of ESSA and the retraction of regulations, LEAs should continue to provide parents with information about school performance. New accountability measures will go into effect under the new Vermont ESSA State Plan. A [memo about parental notification regarding teacher qualifications](#) is available online.
2. 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. The notice must also contain a statement as to whether the student will be taught by a teacher for four or more consecutive weeks who is not licensed, as that term is defined under state and federal law. 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.

3. 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 very specific and detailed information to be provided in an understandable manner to the parents of the child.
4. 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.” The required content of the policy is spelled out in great detail in the statute.

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. §§300.111, 300.503 and 300.504.

1. 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 and Rule 2360.5.2 of the Vermont State Board of Education Manual of Rules and Practices.
2. 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 required notice is very detailed. *See* Rule 2365.1.1 of the Vermont State Board of Education Manual of Rules and Practices.
3. §300.504 requires 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.

2017 Legislative Session

The 2017 Legislative session adjourned on June 20, 2017 and reserved the ability to come back in October 2017. Below is a summary of various education bills that were passed by the Vermont Legislature and/or already enacted into law:

Act 2 (S.1)

This Act authorizes the Secretary of Education to conduct and use a secondary data collection to determine average daily membership for the 2016-2017 school year, and the equalized pupil count for fiscal year 2018. The bill was necessary because of fingerprinting delays in private providers that provided Act 166 prekindergarten education. The law requires superintendents and their contractors to complete fingerprint-supported background checks of any employee who might have unsupervised contact with children. This includes all employees of private prekindergarten providers who receive public funds under Act 166. The Agency of Human Services (Child Development Division) began fingerprint-supported background checks on September 1, 2016. The checks were not completed for most private providers in time for the statutorily mandated census count in October. Thus the October count did not accurately capture the number of children expected to be enrolled in prekindergarten (there was a discrepancy of about 800 students between the initial and the secondary count).

An artificially low count would have resulted in a low equalized pupil count for the purposes of setting a tax rate, and would have resulted in an artificially high tax rate in affected towns. This would have adversely affected schools and taxpayers especially in small districts.

[Act 2 \(S.1\)](#) authorized the AOE to complete and use a secondary count to determine average daily membership for the 2016-2017 school year and to determine equalized pupils for fiscal year 2018.

Act 49 (H.513 The Miscellaneous Education Bill)

[The House Miscellaneous Education Bill](#) was modified throughout the legislative session before being finalized in conference committee. The House and Senate Education committees agreed to forty-eight sections, with the first 23 sections related to Act 46 “findings and purpose.”

ACT 46 sections

The primary goal of the Act 46 sections of the Act is to provide additional support to towns that had yet to merge by allowing for greater flexibility in the merger structures and extending the timelines for unification to take place. The most substantive provisions related to Act 46 work were:

Phase 2 Mergers: The voter approval deadline for all “Phase 2” mergers (REDs, MUUSDs, and Side-by-Sides) is extended from June 30, 2017 to November 30, 2017. (Sec. 11)

Side-by-Sides: H.413 maintains the Act 156 requirement that both districts be organized for PK-12 but eliminates the requirement that one of the new districts must operate all grades. (Sec. 2)

Phase 3 Mergers: These mergers are already eligible for tax rate reductions and small school grants – now they will also receive the \$150,000 transition grant. (Sec. 12)

“Three-by-One” and “Two-by-Two-by-One Structures:” Creates two new processes by which potentially merging districts (or recently merged districts) plus a nearby, unmerged district jointly makes a proposal to the State Board. Deadline for votes of the electorate is November 30, 2017. (Secs. 3 and 4)

Vernon: Vernon can withdraw unilaterally from the union high school district. There has to be a new vote of the electorate. (Secs. 5-6)

Alt Structure Proposals:

- Deadlines for districts to submit a proposal is January 31, 2018 or 6 months after the State Board of Education (SBE) 3400 rules are final. (Sec. 10)
- Beginning on October 1, 2017, AOE and SBE must review any proposals that are submitted early. (Sec. 8(c))

Statewide Plan:

- SBE must develop and issue model articles of agreement for use by new unified districts created under the Statewide Plan when it issues the Plan. (Sec. 8(d))
- AOE will work with the Vermont Superintendents Association and the Vermont School Boards Association to develop a proposed process for districts to create their own articles and present the proposal to the Legislature by January 1, 2018. (Sec. 8(d))
- Any existing supervisory district (Montpelier, Springfield, etc.) with an ADM > 900 is exempt from merger under the Statewide Plan. (Sec. 8(e))
- If an already merged district agrees with the SBE’s request to include a nearby, unmerged district, then the UUSD receives \$10,000 for transition expenses (same if the enlarged UUSD does so before requested by the SBE). (Sec. 8(f))

Small School Grants: Act 46 requires the SBE to issue metrics by July 1, 2018 for how it will evaluate proposals under the statute as it will exist on July 1, 2019. Act 49 requires the SBE to issue a list of geographically isolated districts by September 30, 2017 (which means it has to develop metrics to determine and define an “isolated district”). (Sec. 9) The AOE does not have sufficient capacity or resources to complete this work on the new timeline described in Act 49.

SU Boundary Requests: SBE must act on request by district(s) to change Supervisory Union boundaries within 75 days but does not remove discretion from SBE to deny the request. (Sec. 14)

Please note that this new language creates substantial new work for the AOE and the SBE, while not applying any additional resources. The AOE is working to formulate a strategy for a response.

Other

Student Freedom of Expression: The Act contains new language related to freedom of expression for students in student journalism.

Vermont Standards Board for the Teaching Profession: This section provides for the inclusion of a superintendent on the 13-member standards board for professional educators.

Independent College Student Records: The Association of Vermont Independent Colleges (AVIC) **shall** maintain a memorandum of understanding with each of its member colleges under which each member college agrees to, upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section. This represents a step towards reducing the risk and cost to the State in the event of another college failure, such as the failure of Burlington College, but does not cover independent colleges that are not members of AVIC, such as Green Mountain College.

High School Completion Program: This modifies language related to the High School Completion Program (HSCP) to identify "adult education and learning services" providers as providers of the High School Completion program, replacing "contracted provider" language in original statute. HSCP services are reimbursed through grants (not contracts) so new language was needed to comply with Bulletin 3.5.

Weighting Study: The Act requires a weighting study and report, for which the AOE, in consultation with the Agency of Human Services (AHS), Vermont Superintendents Association, Vermont School Boards Association and the Vermont National Education Association would evaluate evidence supporting current weighting used to establish the equalized pupil count for the purpose of setting the tax rate. The Act also requires that the study or report include the relationship between current weights and outcomes. The bill also requires this group to make recommendations on the criteria used to determine weighted long-term membership of a school district, and whether factors for students from economically deprived backgrounds, and students for whom English is not the primary language, and students in districts with low population density should be modified. As the AOE notified the leadership prior to passage, the AOE has no capacity at this point to conduct this study. This is a very complex study, which would require sophisticated analysis and a tremendous amount of subjective judgment. Doing it poorly could create adverse effects for some districts. Given the lack of staff and resources to apply to this question, we are concerned that we may not have staff to support this study in a meaningful way.

Study on Approved Independent Schools: The Act creates an Approved Independent Schools Study Committee to consider and make recommendations on the criteria to be used by the SBE for designating an independent school as "approved" to serve publicly funded students. The purpose of the study committee is to make recommendations for the SBE with respect to rules. Recommendations must address:

1. An approved school's enrollment policy and any limitation on a student's ability to enroll;
2. How an approved school should be required to deliver special education services and which special education categories should be served; and
3. The scope and nature of financial information and special education information that an approved school should be required to be reported by the school to the SBE or AOE.

The study committee includes a member of the SBE.

The bill states that the SBE will suspend further development of any amendments to the rules that govern independent schools pending the receipt of the committee report by the legislature on or before December 1, 2017.

ACT 166 sections

Fingerprinting: The enactment of Universal Prekindergarten (Act 166 of 2014) created duplicative requirements for conducting fingerprint-supported background checks, relative to prekindergarten providers. Under pre-existing law, superintendents are required to conduct fingerprint-supported background checks of all employees and contractors who will have unsupervised contact with children in their schools. The new Pre-K Law entitles parents to 10 hours of publically funded kindergarten at any prequalified kindergarten of their choosing. Superintendents must enter into contracts with these private providers in order for public funds to flow to them, and therefore became responsible for those background checks. At the same time, as a condition of licensure as a childcare facility, providers must undergo a fingerprint-supported background check by the Department of Children and Families (DCF).

AOE, DCF, the Vermont School Boards Association and the Vermont Superintendents Association jointly proposed language to eliminate the bulk of duplication while assuring that a background check is conducted for all individuals who may have unsupervised contact with prekindergarten students. This language was incorporated into Act 49, and reduces duplicative fingerprinting until we have a better or more permanent fix. It relieves superintendents of the obligation associated with conducting background checks for any childcare facility that is licensed by DCF. It does not *prohibit* superintendents from conducting a second check upon hiring by the district; it does move responsibility and associated risk for the checks of private providers to CDD. The practical effect is that DCF is responsible for all checks of Pre-K staff in both public and private programs. At a superintendent's discretion, the record check of an employee or contractor with a public kindergarten can be repeated.

The Act also adjusted the language related to the quality approval process for Pre-K providers.

The Act provides that the Criminal Record Checks requirements of 16 V.S.A. § 255 will not apply to school districts' partners in any programs or student placements created by Flexible Pathways legislation, although superintendents are not prohibited from requiring a fingerprint-supported record check for these activities.

Summer Study related to other Pre-K Issues: In addition, on or before November 1, 2017, the Secretaries of Human Services and Education shall jointly present recommendations to the House and Senate Committees on Education, House Committee on Human Services, and Senate Committee on Health and Welfare that will ensure equity, quality, and affordability, and reduce duplication and complexity in the current delivery of prekindergarten services.

Act 43 (H.508 Adverse Childhood Events Bill)

[Act 43](#) aims to create "trauma-informed" systems in public health and education. The Act creates a position in AHS dedicated to policy and programs that support building resilience for individuals experiencing adverse childhood experiences ([Questionnaire for ACES](#)) to help mitigate the effects and reduce the profound public health and societal implications. The Act creates a new Adverse Childhood Experience Working Group that will meet monthly that includes legislators and AOE and AHS staff. This working group is tasked with completing a thorough review of current efforts underway, possible new strategies and the costs of implementing those strategies at both the State and school level. A report that references the

data and background materials must be produced by August 15, 2017. The working group will then meet starting in September and propose legislation by November 1, 2017. The working group will also provide an update on progress of the work group by February 2018 and develop an Adverse Childhood Experiences Response Plan by January 15, 2019. No additional funding was allocated with this bill to support these mandated activities.

Act 63 (S.33) Farm to School Bill

This Bill, which relates to the Rozo McLaughlin Farm-to-School Program, directs the State Agency of Agriculture, Food and Markets to execute, administer, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy. The Act also funds equipment, resources, training, and materials that will help to increase use of local foods in the School Food Service Programs. The Act also funds local farm food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visit farmers, that will help teachers and educators to use hands-on educational techniques to teach children about nutrition and farm-to-school connections.

[Act 63](#) also funds professional development and technical assistance provided by VT FEED (Food Education Every Day), in partnership with the AOE, Child Nutrition Programs, and farm-to-school technical service providers. The program helps teachers, Child Nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered childcare providers in developing a farm-to-school program. Awards shall be directed to those programs interested in improving or increasing participation in Child Nutrition programs and making progress in the implementation of a School Wellness Policy following the guidelines developed by the Agency of Agriculture, Food and Markets, the AOE, and the Department of Health in 2015. No award shall be greater than \$15,000.00. No additional funding was allocated with this bill to support mandated activities at the AOE.

The Act reduces an administrative burden on school meals programs by increasing the small purchase threshold for these programs from \$15,000 to \$25,000. This means that when making purchases valued at less than \$25,000, school food service managers will only have to check prices in three places, rather than doing a more time-consuming advertised bid process. Reducing this administrative burden should make it easier for school food service managers to procure more local milk, bread, produce, beef and other items.

S.22 Marijuana Legalization Bill

[S. 22](#) was vetoed by the Governor. The Vermont Legislature passed marijuana legalization on May 10. The bill as passed, delays legalization by one year, so in July 2018 it would be legal for someone over 21 to possess up to 1 ounce of marijuana, two mature plants and four immature plants. Governor Phil Scott said the plan does not meet his test for keeping children and roadways safe. Also part of the bill is the formation of a commission that will review taxing and regulating marijuana in the future. The AOE will likely be asked to support drug use prevention activities, but will not receive support for this work.

Act 63 (S.135) Economic Development Bill

[Act 63](#) relates to promoting economic development and includes sections related to both AOE staff time and Career and Technical Education (CTE). The Commissioner of Labor is identified as the workforce education and training lead in the state, and will work to coordinate public and private workforce programs to assure information is easily accessible to students, employees and employers.

The Act requires the Commissioner of Labor to convene a multi-agency working group on State Workforce Development, in partnership with the State Workforce Development Board, that will (a) assess Vermont's current workforce education, development, and training program and resource allocations; (b) identify efficiencies and delivery models that more effectively allocate, reallocate, redirect and deploy these resources; and (c) design two or more options for a State workforce development system.

One of the areas focused on is expanding access and accelerating CTE for students in grades 9-12 and adults. The working group shall have authority to request data and information as it determines is necessary, from agencies, departments, programs within the Executive branch, and nongovernmental entities that receive State-controlled funding.

New Workforce Education and Training (WET) fund categories will be created where the Department of Labor (DOL), in collaboration with the AOE, may grant awards to partners that include high schools and K-12 school districts, supervisory unions, technical centers and workforce education and training programs. WET funds may also be used as grants for Career Focus and Planning programs developed in collaboration with the AOE, with funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

The new position, Career Pathways Coordinator, was created within the AOE, and will work for the State Director for CTE. The coordinator will serve as the inter-agency point person for the development of a State-approved Career Pathways System; and convene stakeholders across the DOL, the Agency of Commerce and Community Development, AOE, AHS, the Statewide Workforce Development Board, CTE, employers, postsecondary partners and related entities in order to engage statewide education, employer, and workforce organizations to co-develop statewide career pathways models. This new position will be game-changing for AOE efforts to strengthen the connection between K-12 education and college and careers.

The Act also lifts the cap on Tax Increment Financing (TIF) districts, allowing the state to establish new TIF districts. TIF districts are a positive community economic development tool, but also reduce revenue to the Education Fund, which leads to upward pressure on tax rates. In 2016, the TIF cities retained a combined total of \$4,352,858 education property tax dollars that would have been paid to the state had there been no TIFs, according to the Vermont Tax Department. Currently 9 of the original 11 TIF districts created in Vermont are active: Burlington Waterfront, Winooski, Milton North/South, Milton Town Core, Burlington Downtown, Hartford Downtown, Barre City Downtown, St. Albans City Downtown and South Burlington Downtown. Note that these are all in our cities and towns, not our rural areas. Currently, a reality of TIFs is that less populated areas cannot take advantage of them. The new

bill makes an effort to target underserved areas that fit the grant criteria. In its [TIF annual report](#), the Tax Department estimates that by the end of all existing TIFs, the increase in the grand list value will generate incremental revenues totaling \$394 million (\$283 million education and \$89 million municipal). Of this, \$224 million in revenues that would otherwise have gone to the Education Fund instead are directed to the TIF district. Through 2016, the active districts have generated about \$49.6 million in incremental property tax revenue, of which about \$31 million has gone to finance TIF district infrastructure instead of supporting the Education Fund. This contributes to upward pressure on tax rates. After the retention period ends, the Tax Department estimates revenues to the Education Fund will increase by \$17 million annually. Increasing the number of TIF districts will likely increase education property tax rates over time by reducing revenue to the Education Fund.

H.542 The Budget Bill

[H. 542](#) was introduced during the veto session. This bill is identical to the original budget bill, with an added amendment from the House Ways and Means Committee to have the AOE, in consultation with the Department of Taxes and the Vermont Education Health Initiative (VEHI), determine the amount by which each supervisory union's or school district's education payment shall be reduced to recapture the savings from the teacher healthcare transition. More details are provided in the discussion on H.509 below.

All but one request for the AOE FY18 budget was approved by both the House and Senate versions of the Budget Bill. AOE had requested an increase in the grant amount for the Adult Diploma Program based on the statutory allocation. This method had not been followed for the past several years and AOE proposed to catch up with the FY18 budget request. The increase would have been \$434,862 added to the current year's \$850,000 amount. The House bill accepted this increase but the Senate only added \$50,000. The final number is still pending the conference committee decision.

The Education Fund has several parts in play as the session wraps up. The Governor's proposal to level fund school district funding at the FY17 level was not accepted and both the House and Senate agreed to fund districts at the level proposed by local boards and approved by the voters in March. This amount is expected to be about 3.3% (\$43 million) above the current year amount.

The Senate moved responsibility for the annual Teachers' Retirement Contribution (value of about \$7.8 million) from the General Fund to the Education Fund. This frees up resources in the General Fund, and makes current teacher retirement contributions the direct responsibility of the Education Fund.

The School-Based Health Services fund (school-based Medicaid special fund) usually transfers \$9.6 million to the Education Fund revenues, but the Senate proposed transferring \$3 million to cover childcare programs leaving the Education Fund with \$3 million less in revenue. The latest news from the budget conference committee is that this amount has been reduced to \$1 million.

For context, schools and AOE staff raise the Medicaid funds by making the reimbursement claims that bring in that money. Most of the Medicaid dollars are sent back to schools as a grant

or a transfer: 1) to the Education Fund to support lower tax rates and 2) to fund grants that they currently spend on extended day and summer programs, full day Pre-K, technology plans, mental health services and other priorities. There is a provision that up to 30% can be used for administration at the state level. It is currently at 15% by longstanding practice and has paid for about \$2.6M in staff at AOE (including staff to generate this revenue in the first place), as well as \$1.7M at DCF discretion. The proposal in the current budget bill brings us closer to the 30% limit and does increase upward pressure on local property tax rates.

Currently, almost every teacher contract statewide is being negotiated because teachers are transitioning to new health plans statewide. As educators shift to new plans, teachers and districts across the state are negotiating how to manage potential savings and ensure teachers are kept “whole.” Potential savings in FY18 for health insurance associated with the shift have been estimated by VSBIT to be up to as high as \$13 million in the current year, and up to \$26 million in subsequent years. The legislature and the Governor are currently working on strategies to “rebase” the health care benefits and ensure savings are used to reduce tax pressures statewide. At this time, given the numerous lines of the fund in flux, how any of these proposals will affect property taxes is still unknown.

Governor Phil Scott vetoed the original budget bill.

H.509 The Yield Bill

The Governor vetoed H.509, the so-called Yield bill. In the veto session a new version of this bill was added in the new budget bill, H.542 at sections H.1 to H.9. Section H.1 sets the property-dollar-equivalent yield for FY18 at \$10,160 and the income yield at \$11,990 per 2 percent of household income. H.2 sets the nonresidential property tax rate for FY18 at \$1.535. H.3 & 4 increase the percent of sales tax revenue going to the Education Fund from 35% to 36% and correspondingly reduces the percent going to the General Fund from 65% to 64%.

Sections H.5 – H.9 deal with the new health insurance plan(s) that VEHI will be offering beginning January 1, 2018 and the expected savings this change should bring. It sets targets for district savings and requires each district’s education spending grant to be reduced based on a calculation that determines the savings amount should local negotiations produce the expected outcome. The AOE is directed to determine these amounts by August 15, 2017 and the total savings amount is estimated at \$13 million. District education spending grants will be reduced by 65% of the calculated savings amount in FY18 and the remaining 35% calculated savings is to come from the FY19 education spending grant.

Section H.7 creates a Vermont Educational Health Benefits Commission whose mission is to determine the advantages of establishing a single statewide health benefit plan for all teachers, administrators, and other employees of supervisory unions and districts. The commission is directed to provide its findings and recommendations on or before November 15, 2017.

More details on these sections will be distributed as they are worked out.