

K-12 Special Education Evaluation Implementation Guide



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SECTION 1: OVERVIEW OF THE IMPLEMENTATION GUIDE

1.1 Purpose of this Guide

The Vermont Agency of Education (AOE) is committed to providing all Local Educational Agencies (LEAs) with research-based, actionable resources to support the implementation of high-quality Special Education services statewide. In accordance with this commitment, and in consideration of the updates to the Special Education rules, the AOE has developed this Implementation Guide (Guide) to provide practitioners and administrators with a common resource to support the development and/or refinement of a comprehensive Evaluation Process for Special Education.

The details of this guide are dependent on the rule changes that, due to legislative action, take place over the course of several years. While some rules go into effect on July 1, 2022, the remaining, which include rules related to Adverse Effect, Specific Learning Disability, and the addition of Functional Skills as a basic skill area, will go into effect on July 1, 2023. The processes and procedures contained within this guide include all changes going into effect as of July of 2023. This guide is being released prior to that date in order to give school districts, teams, and professionals an opportunity to prepare for that implementation date.

The Evaluation Process includes the discrete planning and implementation actions that help LEAs determine if a student is eligible for Special Education. The Guide sets forth recommendations for quality implementation of State regulations, including highlighting the AOE resources related to the Evaluation Process, with an emphasis on areas impacted by the VT SBE 2300 rule changes.

The Guide will focus on the Evaluation Process for school-aged students ages six through 21. An Early Childhood Special Education (ECSE) evaluation guide will be forthcoming for students ages 3 through 5. The ECSE evaluation guide will be a companion document to this guide and will specify ECSE evaluation processes and procedures including Child Find, transition from ECSE to school-aged services, ECSE eligibility, and more.

A comprehensive and well-planned Evaluation Process is essential to ensuring timely, responsive, and consistent support for students who are believed to need Special Education services. The Evaluation Process can be an opportunity to determine appropriate supports for a student who needs educational services that are different from grade-level peers, potentially changing the educational trajectory for a student who may be at risk of becoming disconnected. Because the Evaluation Process involves many community partners and steps, the Guide breaks

down the process into its component parts and offers practical solutions and supports for setting up effective systems in each LEA.

Note about Equity: Despite movement in the right direction, our country's educational systems continue to underserve students with disabilities. As a result, both academic and non-academic outcomes for this historically marginalized group have lagged when compared to their peers without disabilities. (Fuchs, 2015) (Mishkind, 2014)

That said, quality, data-driven evaluation processes help ensure that all students' needs are being met while also being mindful to not perpetuate patterns of over or misidentification that disproportionately impact students in marginalized communities.

Implementing an Evaluation Process that is clear, consistent, and based on evidence helps to ensure that each student in need of more support is given an equitable opportunity to get what they need to be successful in school.

1.2 Audience - Whom is this Guide for?

The Guide was designed to support both *practitioners* (e.g., teachers, special educators, school psychologists, related service providers, etc.) and *administrators* serving school-aged students ages six through 21 in the implementation of an effective Evaluation Process for determining Special Education eligibility. Practitioners should use the content and tools in the Guide as resources in their day-to-day practice for implementing a robust Special Education Evaluation Process. For administrators, the Guide offers strategic support for ensuring school and district-wide systems are in place to implement these practices across settings. It is recommended that all partners in the Evaluation Process review the Guide to better understand the role they play in ensuring practices are implemented effectively.






1.3 Anatomy of the Guide

Content and Format: The Guide consists of strategies, tools, and other resources to assist in both planning for and implementing a comprehensive Evaluation Process for Special Education services. It is organized to first reflect the steps of an Initial Evaluation Process for school-aged students ages six through 21.

Following a detailed description of each of the steps of the Initial Evaluation Process, the Guide concludes by discussing how the Reevaluation Process differs. While the Guide can be read cover-to-cover, it has also been designed as a resource to access relevant sections as needed.

Design Features: The Guide integrates various design features to highlight opportunities for application of ideas to practice. Those features are outlined in the table below.

Implementation Guide Design Features

Symbol	Description
	Practice Resources There are tools and tables that support additional knowledge and skill-building of practitioners and school leaders.
	Real World Scenarios Real world and practice-based scenarios have been added to provide examples of concepts or ideas in the field.
	Schoolwide Planning Tips Content that has implications for schoolwide planning is signified by use of the schoolwide planning symbol. These ideas may be particularly relevant for administrators.
	Rule Change References This icon signifies that the Guide is referencing an area that has recently been updated in statewide rules.
	Research References Research and links to studies that further explain certain concepts and ideas provide additional context when applicable.
Note about...	Text Box Notes Additional context and notes are highlighted throughout the Guide in gray boxes.

Symbol	Description
CHECKLIST	LEA Checklists At the end of every section, the Guide includes a checklist that summarizes key lessons and serves as an implementation benchmark for LEA leaders

In addition to the features outlined above, the Guide also includes the following elements to increase usability:

Appendix: This section at the end of the Guide consists of additional tools and tables with information that supports both knowledge and skill-building. The [Appendix](#) section is referenced throughout the Guide.

Glossary of Terms: To make the Guide applicable across audiences, a glossary that defines key terms related to the Evaluation Process has been included in [Appendix A](#) of the Guide.

Note about Language: As Special Education has many specific terms and terminology, the Guide seeks to align its terms with common definitions used throughout the state and to clarify how it's using terms to create a shared understanding across LEAs. Therefore, terms that are used specifically in the Guide are both capitalized throughout the Guide and defined in the Glossary.

Links to AOE Resources: To align content with relevant AOE resources, particular content, tools, and forms are hyperlinked throughout the document. Forms are referenced by number as well as name throughout.¹ A list of all AOE resources is also linked in [Appendix D](#).

Lists of Additional Resources: Where appropriate, the Guide links to resources, studies, or information from other organizations that may be of interest to practitioners. Sources for these references are also listed in the [Bibliography](#) at the end of the Guide.

¹ Note that AOE forms contain information required by State regulations to be documented by LEAs; however, the AOE does not require these specific forms to be used.

1.4 Contributions and Inputs to this Guide

The Guide was developed with the strategic contributions from key AOE community partners and experts in the field. Members of AOE leadership provided oversight of the resource development process, as well as providing input and feedback at key intervals.

Additional design and content input was gathered from experts, practitioners, and leaders across Vermont through the facilitation of numerous focus groups, office hours, and input gathering sessions.

Lastly, as part of the content development process, State-level guidance documents and exemplars, as well as research on the topic of evaluation, were reviewed to align with promising national and evidence-based practices. Thank you to everyone who has provided input throughout the development of the Guide.

SECTION 2: UNDERSTANDING THE BIG PICTURE

2.1 Free and Appropriate Public Education (FAPE)

The Individuals with Disabilities Education Act (IDEA) is a federal statute that mandates the minimum requirements that must be met when providing education to eligible students with disabilities.² In addition to IDEA, Section 504 of the Rehabilitation Act of 1973 also protects the rights of individuals with disabilities. Like IDEA, Section 504 applies to students with disabilities. Unlike IDEA however, the Section 504 has implications beyond just school settings, protecting any individual with disabilities from discriminatory practices including equitable access to participate in public programs and services - including school. Students can receive legally mandated services and support in school via Special Education under IDEA or via accommodations under Section 504.

Under the law, eligible students with disabilities (age 3 through 21) are entitled to a Free and Appropriate Public Education (FAPE). FAPE is defined as Special Education and related services that are provided for free by the LEA, that meet state standards, are aligned to appropriate education in the State involved, and are provided in conformity with an Individualized Education Program (IEP). An IEP is a legal document that sets forth a student's present levels of performance, annual goals, and services or supports that enable the student to advance toward attaining those goals. Whether FAPE has been delivered to a student is a highly individualized, case-by-case analysis that often involves examining whether an LEA followed the law and its own processes for developing and implementing an IEP. FAPE must be delivered in non-academic and extra-curricular activities in the manner necessary to afford children with disabilities equal opportunity for participation in those activities. Another key discussion that often gets included in the analysis of FAPE is the Evaluation Process. For more information about FAPE, see the [Vermont Special Education Procedures and Practices Manual](#).

2.2 Child Find

As a critical component of FAPE, IDEA requires that LEAs locate, identify, and evaluate all students with disabilities who may need services. This requirement is known as Child Find.³ An LEA's responsibility for Child Find applies to all children from birth to 21 and includes children enrolled in public, private, or home study settings, as well as students who are experiencing homelessness, in state custody, and others. Child Find applies to students with an identified

² Individuals with Disabilities Education Act, 20 U.S.C. § 1414 (2004).

³ 34 C.F.R. § 300.111.

disability or developmental delay *and* students suspected of having a disability or developmental delay.

LEAs are responsible for establishing and implementing a comprehensive Child Find system including identifying students among their own student population who may not be making academic, behavioral, or social-emotional progress in the school setting due to a possible disability. The Child Find system must also account for identifying eligible students with disabilities who are passing from grade to grade, but still require Special Education services to make progress.

Examples of metrics for locating students with potential disabilities include:

- A pattern of declining grades.
- A pattern of declining progress on standardized assessments.
- A lack of adequate progress following intervention.
- A lack of adequate progress from accommodations provided in a Section 504 Plan.
- An increase in behavioral or disciplinary referrals.
- Signs of depression, withdrawal, inattention.
- An increase in absences (school or class-specific).
- A history of hospitalization and/or illness.
- A record of a psychiatric diagnosis.

LEAs have implemented differing processes (such as Child Find training for staff, strategic implementation of Universal Screeners, posting information for parents, holding workshops to inform parents about their rights) to ensure their Child Find obligations are met, but the bottom line is that if a school employee knows or suspects that a child has a disability, they have an affirmative duty to act on the child's behalf.

2.3 Least Restrictive Environment

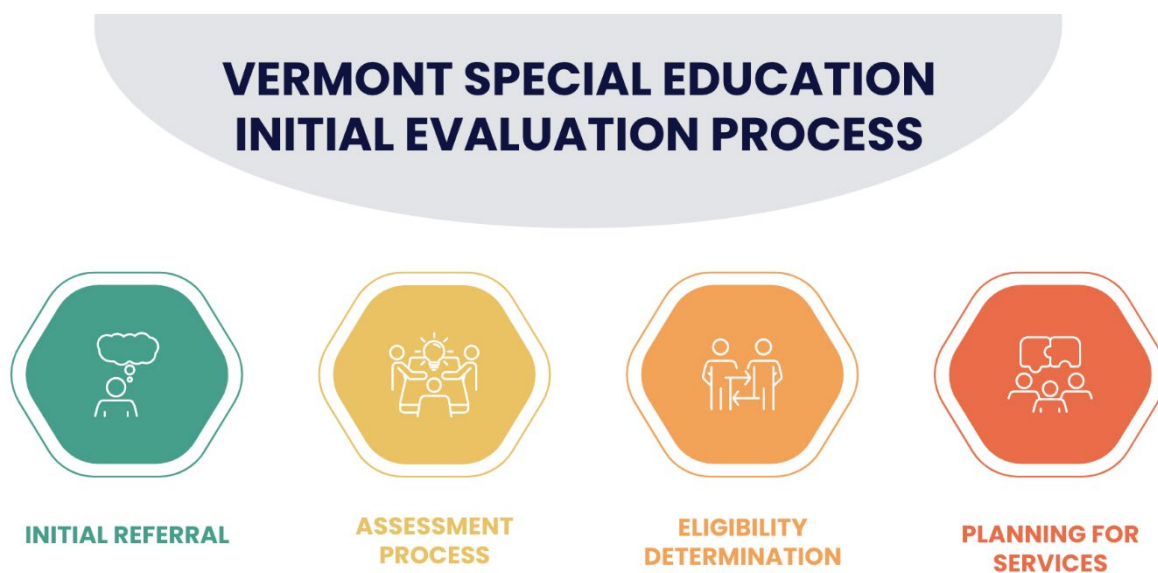
Per IDEA, LEAs must ensure that, to the maximum extent appropriate to meet a student's needs, children with disabilities are educated with their general education peers in the school the student would attend if the student did not have a disability. This concept is called Least Restrictive Environment (LRE).⁴

This responsibility applies to students in public or private institutions or other care facilities. A student's IEP will specify the extent to which this is possible based on the student's program,

⁴ 34 C.F.R. § 300.114.

supplementary aids and services, or other related services. A student with a disability should not be removed from the general education environment unless the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily. In that case, the IEP Team may determine that placement in a more restrictive setting (e.g., special class, special school, etc.) is appropriate.

2.4 The Special Education Initial Evaluation Process



It is important to set the context of the Evaluation Process amidst the other supports and services LEA's deliver to students. A System of supports ensures that all students are provided interventions and support throughout their educational experience. Ideally, students are proactively identified as needing moderate to more intensive support through the analysis of progress data captured in the classroom and through their participation in tiered support systems. Consequently, educators may be able to detect early signs and gather evidence to support the suspicion of a potential disability. These supports are available to all students as needed and are not a pathway to Special Education.

When it comes to Special Education, IDEA requires that LEAs use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, to assess (1) whether the student is a student with a disability and (2) the educational needs of the student – via the Evaluation Process.

When this process is completed for a school-aged student who is not already receiving Special Education services, it is referred to as the Initial Evaluation Process. The Initial Evaluation Process includes the following components briefly described below (and illustrated in the image above):

Initial Referral: Initial Referral is the formal Request for Evaluation by a parent, an educator, an administrator, or other community partner for a student to receive a comprehensive Special Education evaluation and the immediate next steps taken regarding that request. Educators should ensure that sufficient data exists to paint a meaningful picture of a student's needs to set up the rest of the Evaluation Process for success, but lack of access to that data or completion of any intervention prior to referral is not a rationale for delaying a student evaluation. Parental consent is typically required to move forward with the Evaluation Process.

Assessment Process: The Assessment Process includes the steps necessary to gather evidence that will be used to determine Special Education eligibility, and includes but is not limited to, psychological, educational, social history, and medical assessments. In addition, if an Evaluation Planning Team (EPT) believes a student is potentially in need of related services, assessments are performed in those areas as well. Assessments are administered and results analyzed by the appropriately trained clinician or service provider.

Eligibility Determination: Assessment reports, as well as data collected during the delivery of a System of supports, if appropriate, provide foundational evidence for the EPT to use to determine a student's eligibility for Special Education services. During this phase of the Evaluation Process, the EPT considers Special Education eligibility by looking at the following three criteria, whether:

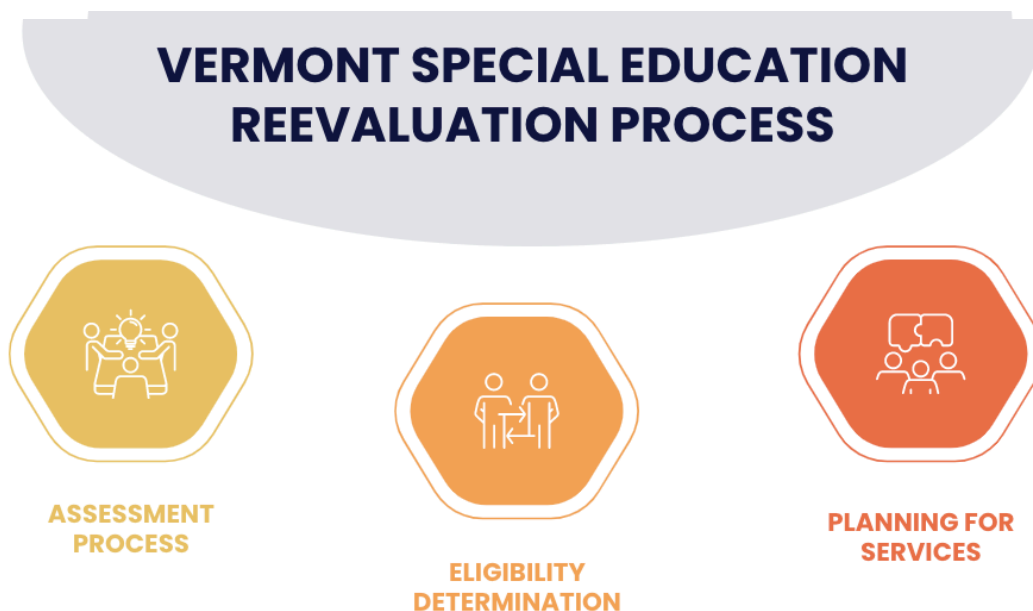
- The student has a disability according to the established criteria in the IDEA;⁵
- The student's disability has resulted in an Adverse Effect on the student's educational performance (except for SLD and Deaf-Blindness); and
- The student needs Special Education services to make progress in school.

Planning for Services: Planning for Services is the link between the Evaluation Process and the IEP creation process. During Planning for Services, the EPT designates the type of services the

⁵ While students who are aged six through eight may enter school with an IEP containing the disability category of Developmental Delay, school-aged students going through the Initial Evaluation Process are not able to qualify for eligibility for Special Education with this disability. Therefore, practitioners and administrators in school-aged settings should be aware of and knowledgeable about this disability but will not be required to assess for it in the Initial Evaluation Process.

student would benefit from and sends this information to the IEP Team in its final report. The IEP Team then specifies the student's program and services in the IEP.

2.5 The Reevaluation Process



Because the Reevaluation Process is similar to the Initial Evaluation Process, the Guide focuses on explaining where these two processes are different rather than repeating the content. For example, during the Reevaluation process the student is already receiving Special Education services so the Reevaluation may be limited to a file review and an Initial Referral is not necessary.

It is the responsibility of each LEA to ensure that a Reevaluation of each student with an IEP is conducted on a regular basis. A Reevaluation must occur *at least* once every three years (referred to as the Mandated Three-Year Reevaluation Process), unless the parent and the LEA agree that a Reevaluation is unwarranted (Form 8). A Reevaluation can be requested prior to the three-year requirement but should not be requested more than once annually absent extenuating circumstances.

2.6 The Role of Parents

Family participation in a child's education is critically important. Engaging a student's family in their learning process can help strengthen the effectiveness and quality of the supports they receive – whether in a System of supports or through Special Education services. EPTs and IEP teams are tasked with making educational decisions for students throughout the Evaluation Process and families offer several meaningful insights and supports including:

- A unique perspective on their child and additional insights on student strengths, weaknesses, preferences, and history beyond school.
- Help to make connections between learning environments outside of school and observations and data from the school setting.
- Reinforcing strategies implemented in school at home to support continued success.

Family partnership provides connection and continuity throughout a child's educational career and often can be the consistent point of reference to support the many transitions a student can make in their education including across school settings, between districts and into post-secondary programs.

Further information in how LEAs can support and include family and parental voice can be found in the [Ensuring Meaningful Participation](#) resource.

Note about Parents: Vermont Special Education rules provide a detailed definition for a parent for Special Education processes and procedures. According to state regulations, a parent is:

- A biological or adoptive parent of a student (when attempting to act as the parent and when more than one party is qualified to act as a parent, the LEA must presume that individual to be a parent unless the biological or adoptive parent does not have legal authority to make educational services decisions for the student);
- A foster parent or developmental home provider who has been appointed the educational surrogate parent by the Vermont Educational Surrogate Parent Program;
- A guardian generally authorized to act as the student's parent or authorized to make educational decisions for the student (but not the State if the student is a ward of the State);
- An individual acting in the place of a biological or adoptive parent with whom the student lives (e.g., grandparent, stepparent, etc.), or an individual who is legally responsible for the student's welfare;
- As educational surrogate parent who has been appointed by the AOE; or
- If a judicial decree or order identifies a specific individual to act as the parent or to make educational decisions on behalf of a student (the LEA that provides education or care for a student may not act as the parent).

All references to families and/or parents throughout the Guide are made in accordance with this definition. For more information, see 20 U.S.C. § 1401(23); 34 C.F.R. § 300.30.

2.7 Rule Changes Explained

Rule Change Reference



The rule change process brought about by the passing of Act 173 updated Vermont's Special Education regulations to help streamline and strengthen support and services for students across the state. There are several rule changes with direct implications for the Evaluation Process.

Those changes are addressed in context throughout the Guide and an overview is provided in Table 2-1.

Table 2-1: Overview of Evaluation-Related Rule Changes

Rule Change	Evaluation Components Impacted	Brief Description of Impact
Definition of Special Education	Planning for Supports	This rule change further specifies the settings in which Special Education services can be provided which expands the possible continuum of services options that are considered for the student.
Adverse Effect	Pre-Referral Support Eligibility Determination Assessment Process	This rule change outlines updated guidelines for determining if a student has a disability (except in the case of SLD or Deaf-Blindness) including reviewing data in Basic Skill areas and evidence of prior intervention support.
Definition of Basic Skills	Assessment Process	This rule change added functional skills to the list of Basic Skill areas to be assessed when determining if a student is eligible for Special Education services.
SLD Classification	Pre-Referral Support Assessment Process Eligibility Determination	This rule change outlines updated requirements for determining if a student has a Specific Learning Disability using scientific, research-based interventions or other research-based models.

2.8 Conclusion

Before diving into each part of the Initial Evaluation Process, it is helpful to look at the process as a whole - and how the Initial Evaluation Process fits into the broader education landscape in Vermont. Evaluation is a critical component of ensuring that legal requirements of Child Find and FAPE are met by each LEA, as well as essential to setting a foundation for a sound, evidence-based Special Education program that supports eligible students.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ Do we have a process in writing for Child Find that addresses students entering the LEA, as well as those who are already enrolled and students who are not yet of school age?
- ☐ Are all LEA leaders aware of the state regulations, both in terms of their obligations regarding FAPE and Special Education and in particular the specific rule changes resulting from the rule making session following the passage of Act 173?

SECTION 3: Providing a System of Supports for All Students

3.1 Introduction

LEAs have a responsibility to ensure that all students are receiving quality instruction and, when necessary, interventions to help them progress in the general education classroom. The model most often used to describe this effective educational system is a layered or multi-tiered system of supports, typically referred to as MTSS. All layered or multi-tiered systems of support models rely on a fundamental understanding that there is a universal or tier one level of instruction and intervention that includes all students. In other words, all students are served within the system of supports.



The [VTmtss Field Guide](#) provides a comprehensive overview of layered, tiered supports and provides a framework for schools and districts that can be used to design and improve their systems.

The referral process for special education should be integrated within the overall educational system. There is a systemic responsibility to ensure that all students are receiving high quality instruction and intervention that is differentiated to support each student's inclusion and growth in general education settings. This instruction and intervention rely on a comprehensive, well understood assessment system. The many varieties of expertise that reside in the system are made available to meet student needs in a flexible, responsive, and highly collaborative process. None of this occurs by chance but is intentionally and transparently managed systemically, and comprehensively. The extent to which this can be realized will affect the likelihood that any referral for special education evaluation will be appropriate, timely, and that all students needing evaluation will be identified.

This Guide focuses on the use of student supports in the context of their role in the special education evaluation process. Sometimes, students are receiving intervention prior to being referred for an Initial Evaluation. However, not all students who are receiving intervention will be referred to Special Education and not all students who are referred to Special Education will have received comprehensive pre-referral support (e.g., students who are referred by Requests for Evaluation from parents). Further, it is possible for students who have been through the Evaluation Process – both those who have been found eligible and those who have not – to receive additional intervention and supports.

3.2 Using Data to Identify Students in Need of Support

A comprehensive and balanced assessment system is essential for identifying students who need additional support and to gauge the effectiveness of the supports provided. An effective assessment system allows informed decision-making and promotes equitable access to the resources students may need, including special education. There are a variety of assessment types that are particularly important when considering interventions for individual students.

- [Universal screeners](#) may be used when there are no other assessments in place to provide standardized information about students' learning. This is most useful for academic skills assessment at transition times from one grade band to another, or for students who are new to a school system. Universal screeners are also used to measure [non-academic skills](#). Universal screeners are sometimes used at intervals throughout a school year as a form of progress monitoring.
- Formative assessments are ongoing assessments incorporated into the instruction process. The primary purpose of these high-frequency measurements is to inform instruction for a class as a whole and to identify the immediate learning needs of individual students.
- Benchmark assessments are administered periodically through the school year to measure student progress toward established goals. The frequency of benchmark assessment tends to be highest in early grades as basic skills are acquired and less frequent in upper grades when there is more emphasis on the application and generalization of skills.
- Diagnostic assessments are used for selected students when there is concern about learning difficulties. These may involve a more detailed examination of formative or benchmark assessments, or they may be additional evaluations intended to accurately probe areas of need. Diagnostic teaching is also a type of diagnostic assessment.

The first use of any of the assessment types listed above would be to inform instruction for groups of students or individuals. The different assessment types have varying degrees of sensitivity and accuracy in identifying student needs. In most cases there will be an accumulated body of evidence- from several types of assessments prior to a referral for an evaluation for special education.

3.3 Providing Supports

An effective educational system will have well-supported practices to identify student needs and to provide differentiated approaches that anticipate a variety of learning styles. It will also have a comprehensive and balanced assessment system that ensures timely and accurate data to inform instruction as well as measuring individual student progress to ensure that students are receiving and benefitting from the supports they need.

The [Educational Support Team](#) (EST) is a school-based team of experts and educators that meets regularly to discuss student needs that are not adequately addressed through universally available supports. The goal of team meetings is to review data and develop specific, time-bound plans for students who need support through targeted or intensive interventions. The EST monitors the progress of plans, adjusting them as needed. All Vermont schools maintain an EST which is intended to ensure that all the expertise and resources available in the general education system are directed to meet the academic, social-emotional, and behavioral needs of every student. It is highly recommended that the data collected by the EST about individual students is shared with the EPT when a referral for a special education evaluation is initiated.

Statute and typical current practice locate the Educational Support Team (EST) at the individual school level. However, the statute also states that school boards “shall assign responsibility “to either the superintendent or the principal to develop and maintain the EST. So, the EST itself operates at the school level but is overseen at the district level.

The AOE has identified several critical responsibilities that the SU/SD assume, as a part of their support of school-level EST work. These responsibilities can be assumed by a new team, or by an existing team of district staff and school administrators ([District-level EST Oversight guidance](#)). For the purposes of the oversight guidance, which describes the roles and responsibilities of the LEA team, the AOE refers to this team as the “District EST Oversight Team”.

In addition to the EST, the following are key components that will support students and are important for an appropriate referral for evaluation.

- **Quality Classroom Instruction:** Sometimes referred to as Tier I or Universal Supports, there are many ways to make classroom instruction differentiated and supportive for all students. Some LEAs use a [Universal Design for Learning](#) approach to making lessons accessible for learners with differing needs which includes offering multiple means of representation, engagement, and expression to remove barriers and increase access to grade-level content (CAST, 2022).

- **Use of Research-Based Interventions:** It's important for LEAs to implement interventions that have been studied and proven to work at addressing student challenges and needs. The [What Works Clearinghouse](#) is frequently cited as a helpful repository, but there are now many resources that list and rate interventions. Other resources include [Ed Reports](#), the [Title IV-E Prevention Services Clearinghouse](#), and the [National Center for Intensive Intervention](#).
- **Increased Intensity/Frequency of Interventions:** If a student does not make adequate progress with differentiated classroom supports, a layered, tiered approach offers interventions that may increase in intensity and/or frequency. For example, an intervention may start out being offered 30 minutes once per week and if a student does not make progress, the intervention may be offered more frequently, such as three times per week.
- **Progress Monitoring:** It is important to keep relevant data to document how a student is or is not responding to different interventions over time. Progress monitoring is essential to being able to determine next steps at the end of an intervention cycle (often 4-6 weeks). A team will decide whether to continue the intervention, modify it for integration in the classroom, offer a higher intensity/ frequency intervention, or discontinue the intervention if goals have been met.
- **Family Involvement:** Schools need to engage families actively and authentically at all stages of students' education. Keeping families involved throughout the educational process is one way to build a collaborative relationship and ensure that all parties are on the same page about student needs and progress. This includes involvement in EST and other interventions. The [Family Engagement Toolkit and Self-Assessment](#) offers many resources and promising practices for working with families.

3.4 Early and Accurate Identification of a Possible Disability

An LEA's system of supports may initiate an LEA's Child Find responsibilities, which require the identification of students with disabilities in need of Special Education. Suspected Disability occurs when a student exhibits behaviors or learning patterns that are frequently connected to a particular disability.

One challenge is ensuring that early signals do not lead to over- or misidentification of students who may not actually need Special Education to address deficits or challenges. In some cases,

students may simply be developing at a slower rate than their peers or potentially need a different approach to teaching certain content that is unrelated to any disability.

To increase the likelihood of making an accurate referral while recognizing the dangers of over-identification it is helpful to gain a greater understanding and awareness of signs and symptoms that may indicate a Suspected Disability. Sample signs and symptoms by age group can be found in [Appendix B](#).

Note about Equity: While identification of Suspected Disability is a crucial step to ensuring schools are providing all students with access to FAPE, it is also important that LEAs establish clear metrics for Suspected Disability and provide training for staff members to control for potential biases.

Without that training and reflection, bias about what constitutes “acceptable” and “unacceptable” performance may lead to differences in how educators identify students to refer. For example, national data may indicate a greater likelihood that students of color are more frequently identified as having a disability (National Center for Learning Disabilities, 2020). The balance between having a clear system and leaving room for an individualized approach is a key component for LEAs.


3.5 Determining When to Make a Referral

Educators and administrators should use judgement and review a wide array of available data to make these decisions. When a student exhibits early signs of a Suspected Disability and/or has not responded to higher-intensity interventions, educators should review evidence from multiple sources to determine if it is appropriate to make an Initial Referral for Special Education. When possible, data used to determine that an Initial Referral is appropriate should be submitted with the Request for Evaluation.

It is important to remember that an Initial Evaluation can also be initiated by a direct Request for Evaluation submitted by a parent, staff member, or other community partner (see SECTION 4 for more information on Initial Referrals including timelines and required processes).

A student may be referred before, during, and after supports and an LEA cannot delay an evaluation based on a student having not received interventions.

Educators can reflect on the questions below as a guide to determining whether to refer a student for an Initial Evaluation:

- 
- ☐ Does the student demonstrate consistent or repeated struggle or underperformance compared to peers in classroom assessments?
 - ☐ Does the student consistently underperform on Universal Screeners?
 - ☐ Does the student demonstrate consistent or repeated struggle or underperformance (compared to peers) in district-wide assessments?
 - ☐ Is the student showing little or no progress on (universal) general education classroom-based interventions?
 - ☐ Is the student showing little or no progress with the consistent implementation of more intensive interventions or supports?
 - ☐ Does the student have a concerning number of office referrals?
 - ☐ Does the student have behavioral patterns or behavioral needs that could potentially be a manifestation of a disability?
 - ☐ Does the student have medical reports or data that could suggest a disability?
 - ☐ Do observations inside or outside of the classroom suggest needs for Special Education services?
 - ☐ Is there a clear, Suspected Disability and corresponding signs and symptoms?

3.6 Conclusion

The most effective method of meeting student needs is a highly effective school system. All students are general education students, and all staff shares responsibility for all students. There is a systemic responsibility to create and sustain structures that enhance collaboration, develop, and share expertise, and support data systems that are responsive and accessible. In summary:

- A comprehensive and balanced assessment system is necessary to identify student supports in any eventual referral for Special Education.
- The Educational Support Team (EST) provides a structured process to use data to identify student concerns and develop a plan to address those concerns. The data from an EST can be invaluable if a student is referred for Special Education.

- The earlier a student with a possible disability is identified for further supports, the more effective those supports will be. It is vital to use data and have clear processes in place to avoid over-identification for Special Education.
- Beginning with high-quality universal instruction, all students should access differentiated supports and interventions as needed. Families must be engaged as equal partners in a student's education.
- Families may request a referral for Special Education at any time, which must be addressed immediately by the LEA. When staff suspect a disability, there should be a clear process in place at the LEA to move forward collaboratively.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ Have we established clear benchmarks to support identification of any students in need of additional support (e.g., Universal Screener data, behavioral data, etc.)?
- ☐ Are our staff members well-versed in the early signs of suspected disabilities and clear on next steps for recommending a student for additional support?
- ☐ Do we have our processes and procedures for tiered support, including progression to referral for Special Education services (when applicable) clearly documented?
- ☐ Does our staff understand the process for submitting an Initial Referral and how it differs from students in need of additional support via our System of supports?
- ☐ Do we have a process for authentically engaging our families in our System of supports?



INITIAL REFERRAL

SECTION 4: THE INITIAL REFERRAL

4.1 Introduction to Initial Referral

Initial Referral is the first step in a Special Education evaluation process for a student who was not previously receiving Special Education services. This step is taken for students who either previously had an IEP and services were discontinued, students changing LEAs, or students who are being referred for Special Education evaluation for the first time.

The steps of Initial Referral are:

1. **Request for Evaluation:** The individual (e.g., parent, staff member, community partner) seeking the evaluation on behalf of the student can submit a request verbally or in writing.
2. **Determining Next Steps:** Once an LEA receives a Request for Evaluation for Special Education, they will decide to move forward with the Evaluation Process with the existing information, convene an Evaluation Planning Team (EPT) to discuss the request, or deny the Request for Evaluation in writing.

4.2 Request for Evaluation

The Initial Evaluation Process begins when a verbal or written Request for Evaluation for Special Education is made. The Request for Evaluation can be made by a parent, as well as school administrators, teachers, LEA, or other key community partners (e.g., agency staff, external providers) on behalf of a student who is suspected of having a disability requiring Special Education services. The process and guidelines outlined below are broadly applicable to all Requests for Evaluation, irrespective of who makes it. Any variance in process for different requestors should be defined by the LEA.⁶

⁶ While the law and regulations do not mandate different steps for Requests for Evaluation made by a student's parent, many LEAs have policies or processes that immediately move those Requests for Evaluation straight to the EPT or Assessment Process.

A Note about Requests for Evaluation: Because Requests for Evaluation can be made verbally or in writing, it is important for LEAs to have policies in place regarding how to follow up on all inquiries. It is possible that a general inquiry from a parent, upon further discussion, may not actually constitute a Request for Evaluation. These inquiries still need to be responded to, but an immediate evaluation may not be required. In all cases, discussions about the possible provision of Special Education services should be taken seriously, documented, and forwarded to the appropriate person to follow up appropriately.

A Request can be made verbally or in writing. However, it's important for the individual receiving the request to understand that all inquiries about student needs do not constitute a request to begin the special education evaluation process.

Procedures established by the LEA should identify the person responsible for receiving all requests for initial referral and deciding on next steps for the request. All staff should be informed about what to do with any Request they receive for special education evaluation including where to log the request and next steps for informing the responsible party that a request has been made. The designated individual responsible for deciding next steps should establish a process for responding to any preliminary inquiries within the 15 day timeline described below. Responses should provide further explanation of the purpose and procedures of an evaluation and any more appropriate alternatives to the concerns being raised. All responses to requests or inquiries should be documented. Regardless of the outcome of the discussion, any parent making any inquiry about an initial referral should receive a copy of parental rights in special education, also referred to as [Procedural Safeguards](#).

4.3 Determining Next Steps

Within *15 calendar days* of receipt of the Request for Evaluation, the LEA must either:

1. Request that the parent consent to initiate the evaluation.
2. Convene an EPT meeting; or
3. Provide written reasons for denial of this request.

An EPT is a group of individuals, including the parent, that is responsible for developing an evaluation plan and reviewing the results to determine if a student is or continues to be eligible for Special Education and related services. The following members of the EPT must be present, and some individuals on the EPT may serve multiple roles:

- ☐ An LEA representative who is qualified to provide or supervise Special Education services, knowledgeable about general education, and knowledgeable about available LEA resources.
- ☐ At least one special educator of the child and if appropriate, one Special Education service provider for the child.
- ☐ At least one general education teacher of the child (if the child may participate in the general education environment).
- ☐ An individual who can interpret the instructional implication of evaluation results.
- ☐ The parent(s).
- ☐ The child, if appropriate.
- ☐ Other individuals who have knowledge or expertise regarding the child, at the discretion of the parent and LEA.

For a child who may be suspected of having a Specific Learning Disability, the EPT must also include:

- ☐ The child's general education teacher or a general education teacher qualified to teach a child of that age.
- ☐ At least one person qualified to conduct individual diagnostic examinations of children (e.g., school psychologist, speech, and language pathologist).

**Schoolwide
Planning Tip**



According to state regulations, one member of the EPT can serve in multiple roles. For example, if the Special Education teacher is knowledgeable about general education and available LEA resources, it is possible that this individual can also play the role of the LEA representative during the meeting.

Note about this Decision: It is important for LEAs to have clear processes for determining how to proceed. For example, many LEAs default to holding an EPT meeting in all cases unless extraordinary circumstances exist that make it clear that either (A) no evaluation is necessary or (B) the Suspected Disability and all relevant assessments are unequivocally agreed upon by all prospective members of the EPT such that an actual meeting is not necessary. LEAs should use the EPT meeting as an opportunity to convene all relevant adults to make a thorough plan for the student, and therefore should not be quick to skip this step.

4.3.1 Requesting Consent

If the LEA proceeds with initiating the evaluation without convening the EPT, the following should be sent to parents *within 15 calendar days* of receiving the Request for Evaluation:

- ☐ Notice of A Special Education Evaluation ([Form 3](#));
- ☐ Consent for Initial Evaluation ([Form 3a](#));
- ☐ Notice of Local Educational Agency Decision ([Form 7](#)); and
- ☐ [Notice of Procedural Safeguards](#).

4.3.2 Convening the EPT

If the LEA convenes the EPT to plan for the evaluation, the following should be sent to parents with sufficient notice to schedule and hold the meeting *within 15 school days* of receiving the Request for Evaluation:

- ☐ Notice of Meeting ([Form 1](#));
- ☐ Evaluation Plan and Report ([Form 2](#));
- ☐ Notice of Local Educational Agency Decision ([Form 7](#)); and
- ☐ [Notice of Procedural Safeguards](#).

4.3.3 Denying the Request for Evaluation

If an LEA denies a Request for Evaluation for Special Education, it is recommended that they use the Notice of Local Educational Agency Decision ([Form 7](#)) to inform the parent, in writing, of the denial and the rationale for such a decision. It is a promising practice to have an EPT make that determination, but it could also be made by the LEA's Special Education administrator.

Note about Procedural Safeguards and Parental Rights: The purpose of the Procedural Safeguards notice is to inform parents about their rights under IDEA. This document sets forth a complete representation of their rights as parents and the protections they (and their child) have under the law. Topics covered include, but are not limited to:

- Parental consent
- Access to student records
- Due process and/or State complaints
- Discipline processes

LEAs and schools must send the Procedural Safeguards notice to parents at least once each school year and at other important milestones, such as when an Initial Evaluation is being planned. Further, the notice must be sent in the parent's preferred language, or the LEA can provide a trained translator to help the parent understand their rights.

4.4 Consent, Timelines, and Documentation

4.4.1 Parental Consent

According to state regulations, Parental Consent means that the parent understands and agrees in writing to the carrying out of the activity for which consent is sought. This can only be done after the parent has been fully informed of all information relevant to the activity (via an Evaluation Plan, Procedural Safeguards, Prior Written Notice), in the parent's preferred language, or the LEA can provide a trained translator to help the parent understand their rights. The parent must also understand that consent is voluntary and may be revoked at any time – and that if the parent does revoke consent, that revocation does not negate any action that took place between the time when consent was initially given and when it was revoked (e.g., revocation is not retroactive).

Consent must be obtained before individual tests can be administered except in the case of classroom, LEA, or statewide assessments. Parental Consent during an Initial Evaluation is discussed in more detail in later sections of the Guide, but it is important to establish a clear understanding of it from the outset of the Initial Evaluation Process. As an essential part of the EPT, parents should be informed and understand the procedures throughout.

4.4.2 Timelines

While it is discussed above, it is worth noting again that the timeline for responding to a Request for Evaluation is *15 calendar days*. The Evaluation Process (including sending all reports and documentation to the parents) must be completed within *60 calendar days* of obtaining Parental Consent for assessments. There are some exceptions to this timeline which will be discussed in later sections. Figure 4-1 provides an example of this timeline if an EPT meeting is held.

Figure 4-1: Sample Initial Referral and Evaluation Timeline



If the LEA decides to move forward and an EPT meeting is not held, the process may look slightly different. Figure 4-2 shows the alternative steps (Note that the timeline is the same, but the process varies).

Figure 4-2: Alternative Initial Referral and Evaluation Timeline



4.4.3 Documentation

The timelines described above are important, and therefore, it is critical that LEAs have clear procedures for documenting each step in the Initial Evaluation Process, especially when a Request for Evaluation is made to ensure compliance is met. Request received dates should be tracked and appropriate next steps should be taken in a timely manner to prevent the timeline from continuing without action.

**Schoolwide
Planning Tip**



It is also helpful for LEAs to have training or guidance for all staff and families describing what constitutes an appropriate Request for Evaluation. The more robust the Request for Evaluation is, the easier it will be to determine next steps.

That's not to say that a well-documented Request for Evaluation will obviate a need for an EPT meeting, but the EPT will be more informed and well-positioned to move ahead with the appropriate assessments, etc. with solid evidence supporting those decisions. On the other hand, the LEA must proceed with next steps, even if a Request for Evaluation comes in with no or very little documentation.

4.5 Conclusion

Initial Referral represents the first step in the Initial Evaluation Process and has two component parts: Request for Evaluation and Determining Next Steps. Requests for Evaluation can be made from a variety of sources and can be made verbally or in writing. Following the determination that a Request for Evaluation has been made, the LEA will either proceed by requesting consent for evaluation from parents, convening an EPT, or denying the Request in writing. There is some discretion in how LEAs set up policies and procedures regarding managing Initial Referral processes, but it is important to ensure that timelines and parent rights are always met.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ Do we have a process for ensuring referrals for an initial Special Education evaluation can be made by a variety of sources including school staff, administrators, parents, members of the EPT and other relevant organizations?
- ☐ Have we developed resources to help community partners understand how to submit a high-quality referral (e.g., who to make the request to, what information might be helpful to include)? Have we trained all relevant staff members on the EPT procedures, including how to decide if Initial Evaluation is necessary?
- ☐ Do we have processes to ensure the right documentation is sent to parents within 15 calendar days of receiving a referral?



ASSESSMENT PROCESS

SECTION 5: THE ASSESSMENT PROCESS

5.1 Introduction to Assessment Process

The Assessment Process refers to the stage of a Special Education Evaluation Process when the EPT plans for and gathers evidence to inform decisions about a student's eligibility and potential next steps. A variety of methods are used to gather assessment information, including observations of the student, interviews with the family, informal tests, and standardized, formal tests. Assessment information not only helps identify a child as eligible for Special Education services, but it also allows educators to more strategically develop educational programs that are most suitable for the needs of the individual student.



According to Gearheart and Gearheart, assessment is “a process that involves the systematic collection and interpretation of a wide variety of information on which to base instructional/intervention decisions and, when appropriate, classification and placement decisions. Assessment is primarily a problem-solving process.” (Gearheart, 1990)

The data collected during the Assessment Process serves three main purposes in the Initial Evaluation Process:

1. **Disability Determination:** Assessment data (including analysis by trained assessment administrators) provides the EPT with information to clarify the specific nature of the student's needs and determine whether a student has a disability (See [Section 6](#) for more information about determining disability).
2. **Eligibility Determination:** If a disability is determined, assessment data is also used to determine whether that disability is causing in an Adverse Effect on the student's educational performance⁷ and if the student requires Special Education services to make progress in school (See [Section 6](#) for more information about eligibility).

⁷ Due to the recent rule changes, the criteria for determining SLD and Deaf-Blindness have changed slightly to no longer explicitly include a separate Adverse Effect consideration. Instead, the determination of these disability categories inherently include evidence that the student's educational performance has been impacted.

3. **Instructional Planning:** Finally, data collected during the Assessment Process is also used to develop a program for appropriate instruction and support to meet the child's needs (See [Section 7](#) for more information about planning for services).

5.2 Evaluation Planning Team

The Assessment Process typically begins at the first EPT meeting, convened during an Initial Referral. As described in [Section 4.3](#), the EPT is the body responsible for the arranging and conducting evaluations. It is comprised of key members of the school community, including the parent and student, when appropriate.

While many members of the EPT may have worked together for some time, it is always important to use quality meeting norms to orient each member to both the goals for the meeting and the goals for the whole Evaluation Process. Effective EPT meetings have some or all of the



following components:

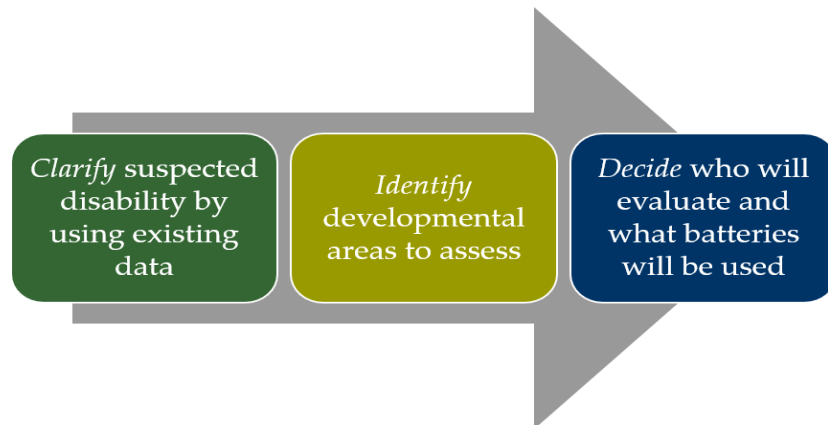
- ☐ Introductions of all members and their role on the team.
- ☐ Recap of what has come before/ led up to the meeting.
- ☐ Clear goals stated at the beginning of the meeting.
- ☐ Opportunities for all members to be heard, especially the parent and student.
- ☐ Shared understanding of terms, including avoiding the use of jargon and defining acronyms.
- ☐ Use of respectful, strengths-based language, tone, and attention.
- ☐ Assigning a notetaker to record meeting highlights and summarizing takeaways at the conclusion of the meeting.

The [Vermont Family Engagement Toolkit and Self-Assessment](#) has a number of resources including a [Family Engagement for IEP Team Members](#) document. While the latter resource is designated for IEP meetings, it contains many strategies to support effective meetings with families and a comprehensive approach to family engagement more generally.

5.3 Assessment Planning

Assessment Planning, the first stage of the Assessment Process, is when the EPT determines what assessments are necessary to better understand the student being referred for an evaluation. The EPT may decide to use the Evaluation Plan and Report ([Form 2](#)) as they complete this stage. Figure 5-1 breaks down Assessment Planning into steps and each step is explained in the sections that follow.

Figure 5-1: Components of Assessment Planning



5.3.1 Clarify the Suspected Disability

Clarifying the Suspected Disability is the first step of Assessment Planning. During this conversation, the EPT should consider all available, relevant data (including information from the Request for Evaluation) about the student.

Some examples of relevant data include:

- ☐ Universal Screener results
- ☐ Progress monitoring data collected from prior interventions
- ☐ Student work samples
- ☐ Student observations
- ☐ Informal interviews with parents
- ☐ Developmental history
- ☐ Medical notes and reports
- ☐ Informal criterion-referenced tests
- ☐ Informal checklists or rating scales

Table 6-1 in [Section 6.3](#) provides a checklist for determining whether a student has a disability that the EPT can also use to determine the Suspected Disability category – which is the same information used during the Eligibility Determination. A printable version can also be found in [Appendix C](#).

5.3.2 Identify Areas to Assess

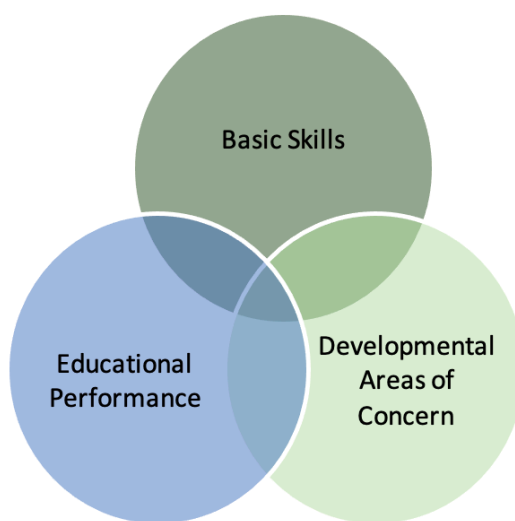
Once the EPT has clarified the student's Suspected Disability category, the Team should discuss what assessments must be conducted. A variety of assessments should be planned to gather the most relevant information about the student and ensure that no single measure will be the sole criterion of disability or need.

Assessments should focus on three areas of student functioning, as seen in Figure 5-2. The EPT must ultimately assess all student characteristics and other factors that may have a significant influence on eligibility, services to be offered, and accommodations to be made.

Basic Skills: State regulations define Basic Skills as the skills necessary for academic performance including a focus on communication, intellectual, or cognitive capacities and learning styles as seen in the list below:

- A. Oral expression
- B. Listening comprehension
- C. Written expression
- D. Basic reading skills
- E. Reading comprehension
- F. Mathematics calculation
- G. Mathematics reasoning
- H. Motor skills
- I. Functional Skills

Figure 5-2: Three Areas of Student Functioning



**Rule Change
Reference**



The new regulations add Functional Skills to the list of Basic Skills. Functional Performance is the acquisition of essential and critical skills needed for children with disabilities to learn specific daily living, personal, social, and employment skills, or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other life-long learning opportunities. For more information about Functional Skills, see the [Guidance to the Rule Change Functional Skills/Functional Performance](#).

Developmental Areas of Concern: Developmental Areas include other, broader areas of development that should be considered for assessment including:

1. Physical characteristics
 - Vision
 - Hearing
 - Health
 - Medical
 - Nutrition
 - Environmental factors
2. Social, behavioral, or emotional characteristics
 - Self-esteem
 - Self-control
 - Interaction with peers and adults
3. Adaptive behavior across settings
 - Independence skills
 - Coping skills
 - Self-care skills
4. Relevant life circumstances
 - Family
 - Community
5. Speech characteristics
 - Articulation
 - Fluency
 - Voice
6. Language and communication skills
7. Intellectual or cognitive characteristics
 - Learning abilities
 - Learning styles
 - Reasoning
8. Vocational needs
9. Skills in the learning environment
10. Assistive technology needs related to devices and service.

Educational Performance: Educational Performance is a combination of the academic and functional behavioral skills necessary for a student to successfully perform within the general education classroom at a level equivalent to their grade-level peers. Indicators of Educational Performance can include present and past grades, report cards and reports of progress (social-emotional and/or academic), achievement test scores and measures of ongoing classroom performance such as curriculum-based assessment (formative and summative assessments), work samples, and data relative to responses to interventions.

After careful consideration of existing documentation and data, and a determination of the Suspected Disability, the EPT must:

- ☐ Determine how it will assess the student's current level of performance in all curriculum areas where Special Education may be required;
- ☐ Consider assessment in all Basic Skills and Developmental Areas of concern aligned to that Suspected Disability; and

- Determine if additional assessment in other areas is necessary to gather information that may influence eligibility, services, and accommodations.



A fifth-grade student has been referred to the EPT as part of the Initial Evaluation Process. The student's doctor recently diagnosed him with Attention Hyperactivity Deficit Disorder (ADHD) and the parent believes this is impacting the student's school experience, specifically his ability to form relationships with peers and make progress in his classes. At the Assessment Planning meeting, the EPT reviews the information the parent submitted with their Request for Evaluation (parent narrative and the Doctor's medical report) along with input from the student's teachers, student work samples, grades, and progress reports from this year. The parent's narrative describes the student's continued challenges with independently completing tasks at home such as requiring multiple reminders to finish getting dressed, brushing his teeth, completing his homework, and packing his backpack. At the meeting, the parent further explains that she is seeing increasingly more reactive behavior from her son including verbal outbursts when he's frustrated and physical fights with his siblings. Input from teachers corroborates these areas of challenge with teachers noting the student often doesn't complete tasks but describing the behavior as work avoidant and occasionally disruptive. The teacher notes that the student will often get into verbal altercations with classmates when asked to complete tasks.

The EPT determines that, based on this information, the Suspected Disability category is Other Health Impairment with an ADHD diagnosis. Based on the student's Educational Performance they decide to assess the student's Basic Skills in reading, reading comprehension, and written expression. Additionally, upon reflection about the parent's concerns and input from teachers, the EPT decides to assess the student's Functional Skills in the areas of social-emotional and communication. While the student does have a diagnosis of ADHD, the Team aims to gather as much information as possible to ensure they have a clear understanding of the student's current performance and potential program needs.

Nationwide, there is an overrepresentation of linguistically diverse students in Special Education, frequently due to a lack of knowledge by school teams about how to differentiate between language acquisition needs for a student who has limited English proficiency and a student who has language acquisition needs because of a language-based disability (Mid-Atlantic Equity Consortium, Inc., 2016). Thus, it is important to understand this distinction and select assessments, including the method of administration, accordingly.

**Schoolwide
Planning Tip**



EPTs may want to take the following steps to ensure selection of appropriate assessments and method of administration:

- ☐ Consider the student's dominant language when selecting assessment materials (Assess students who are non-English dominant in their native language, and assess English dominant students in English, and if appropriate, in native language).
- ☐ Use assessments that minimize cultural bias.
- ☐ Communicate any departures from standard testing procedures and the possible effects on the interpretation of results.
- ☐ Ascertain whether errors are typical of other students with similar backgrounds or level of English proficiency (typical errors may be indication that the student's learning difficulties are primarily due to cultural factors or English language acquisition rather than a disability).
- ☐ Review test results with family members or other persons from student's background to gain additional insight as to the student's performance (provide an interpreter, as appropriate, to ensure understanding and engage family members).

(Colorado Department of Education, 2017).

The areas for assessment are highly individualized decisions and it is important that all relevant evidence is reviewed in order to make the best possible plan for the student.

**Rule Change
Reference**



Although the new regulation no longer requires the documentation of three measures of Adverse Effect for a Basic Skill area, LEAs are still required to document Adverse Effect in one area. Promising practice demonstrates that additional factors, while not required to be documented should continue to be used to substantiate an Adverse Effect. This approach will impact an EPT's Assessment Planning.

An EPT should still consider how it will use evidence such as grades, performance on individual and group assessments, continuous progress monitoring, attendance, observations, clinical judgment from qualified experts, and samples of student work throughout the Assessment Process. For more information about the rule changes related to Adverse Effect, see [Section 6.4](#) and the Resource Table in the [Appendix](#).

5.3.3 Decide Who Will Assess and What Batteries Will be Used

The final part of Assessment Planning focuses on using the information about which areas need to be assessed to identify what assessments will be administered and who will be responsible for conducting them and analyzing the results.

Decisions about what batteries of assessments to use should be systematic, strategic, and discussion should be tailored to individual student needs. EPTs should consider using a planning tool that supports decision making specifically related to the Basic Skills and Developmental Areas of Concern.

Teams should document their decisions in writing, for example using the Evaluation Plan and Report Form ([Form 2](#)) which was introduced at the beginning of [Section 5.3](#). Beyond what is asked in the Evaluation Plan, the EPT may also want to discuss timelines, settings, accommodations, or other considerations that might be relevant during the Assessment Process.

Note on Assessment Administration: While there may be EPT members who are trained in administering a given assessment, it is important that the EPT consider who on the Team is able to analyze the results of each assessment so that they can be reviewed by the Team during the eligibility discussion. Additionally, when selecting assessments, there are considerations the EPT should make to ensure assessments are administered in an effective way. See [Assessment Consideration Checklist](#) for a checklist of considerations.

5.3.4 Assessment Planning for Students Suspected of Having SLD

While the Assessment Process likely will not vary significantly for students suspected of having a Specific Learning Disability (SLD), there are some specific considerations to be made about which assessments to conduct and who must assess. For example, at least one member of the EPT, other than the student's current teacher, who is trained in observation, shall observe the student and the learning environment, including the general education setting to document academic performance and behavior in areas of difficulty.

Additionally, the rule changes require LEAs to use either a model based on whether a student responds to scientific, research-based intervention or one based on other alternative research-based procedures to determine if a student has a Specific Learning Disability.

**Schoolwide
Planning Tip**



While not an exclusive list, there are two common methods for collecting data in a SLD Evaluation Process:

- Patterns of Strengths and Weaknesses (PSW); and
- Response to Intervention (RTI).

The PSW Assessment Process answers the question of “why” a student is not responding to intervention. It assists teams in ruling out additional causes of low achievement. If using this method, the general process is as follows:

1. General classroom instruction and targeted interventions are delivered to the student and progress monitoring data is collected – student does not make progress.
2. At the EPT Assessment Planning meeting, after reviewing existing data, a hypothesis is made as to the psychological strengths and weaknesses of the student and an Evaluation Plan is created to test that theory.
3. The EPT determines which assessments to use to test that hypothesis. Example of assessments to conduct may include:
 - Cross-Battery Assessment (“XBA”)
 - Milton Dehn’s Processing Model
 - Discrepancy/Consistency Method (DCM)
 - Concordance-Discordance
 - Core-Selective Evaluation Process (C-SEP).
4. The EPT uses assessment results, classroom observation, grades, and work samples to determine the validity of its hypothesis, using factors such as:
 - Academic achievement deficits
 - Processing strengths to ensure otherwise normal learning profile
 - Processing weakness.

(Chino Valley Unified School District, 2019)

RTI is a multi-tiered approach to identifying and providing support for students with learning and behavior needs. It is a proactive approach that involves closely monitoring student progress to measures students’ skills and uses this data to decide which interventions to use

When using RTI, or other tiered systems of support, the LEA should account for data collection at all tiers through progress monitoring systems and, when planning for assessments, data collected as part of this system would be considered (Learning Disabilities Association of America, n.d.). See [Section 3](#) for more information on System of supports.



A student is referred to the EPT for a suspected SLD. The student has already received several interventions through the EST, but there is no clear progress data for the student. The LEA has decided to implement the PSW approach for determining SLD. Given this, the EPT determines that the School Psychologist should administer the Cross Battery Assessment. The team also decides to review the student's classroom grades and State assessment data. The EPT identifies a Special Education teacher to conduct a classroom observation of the student and collect additional data on response to interventions and overall performance in class. The student's parent noted a concern with a change in their affect and personality at home, with further confirmation provided by the student's classroom teacher. As a result, the Team decided to also have the student's social-emotional behaviors assessed by the School Psychologist and the Special Education teacher.

5.4 Conducting and Reviewing Assessments

Once a clear plan for assessment has been completed by the EPT, the LEA must obtain Parental Consent to begin acting on that plan. If they have not yet been sent to the parent(s), the Team should send the following:



- ☐ Notice of A Special Education Evaluation ([Form 3](#));
- ☐ Consent for Initial Evaluation ([Form 3a](#));
- ☐ Evaluation Plan and Report ([Form 2](#));
- ☐ Notice of Local Educational Agency Decision ([Form 7](#)); and
- ☐ [Notice of Procedural Safeguards](#).

The considerations in the checklist below 1 should be used to ensure that assessments are quality and planned for administration in an effective way.



Assessment Consideration Checklist

Ensure that assessment instruments used are...

- ☐ Selected and administered so as not to be discriminatory on a racial or cultural basis.
- ☐ Provided and administered in the child's native language or other mode of communication.

- ☐ Provided and administered in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer.
- ☐ Used for the purposes for which the assessments or measures are valid and reliable.
- ☐ Administered by trained and knowledgeable personnel.
- ☐ Administered in accordance with any instructions provided by the producer of the assessments.
- ☐ Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient.
- ☐ Selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure (rather than reflecting the impaired skills, unless that is what the test is designed for).



The bottom line when conducting assessments is that each assessment or the series of assessments together should be sufficiently comprehensive to identify the child's Special Education and related service needs, whether commonly linked to the Suspected Disability category. The tools and strategies used will provide relevant information that, if the child is found eligible, will be used by the IEP Team in determining the necessary programs and services to meet the child's educational needs.

Note about Students Transferring Between LEAs: If a student who is in the Assessment Process transfers from one LEA to another in the same academic year, it is important for both LEAs to coordinate as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations. See Section 5.5 for more information about the timeline for completion in these cases.

Following the completion of each assessment, a report should be drafted by the individual who administered it.⁸ This report may include information such as:

- Whether the student requires specialized education and related services to access and progress in general education core curriculum.
- The relevant behavior noted during the observation of the student in an appropriate setting(s) and the relationship of that behavior to the pupil's academic and social functioning.
- The educationally relevant health, development, and medical findings, if any.
- Whether there is such a discrepancy between achievement and ability that cannot be corrected without Special Education and related services for students with learning disabilities.
- A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
- The need for specialized services, materials, and equipment for students with low incidence disabilities.

(Sweetwater Union High School District, n.d.)

It is also promising practice for the assessor to include a statement in the assessment report indicating whether they believe the test results are valid for the specific student being tested. If they believe that the test results are not valid, the following should be noted:

1. A statement explaining why and a description, if any, to which the assessment varied from standard conditions.
2. Methods, procedures, and tests used to assess the student.
3. Instructional implications of assessment results.
4. Language in which the testing was completed and test results.
5. Consideration of any independent assessments that parent requested to be part of the assessment process.
6. The basis for making determination of eligibility recommendation.

⁸ There is a distinction to be made here between each assessment report and the final EPT report that comes at the end of the Evaluation Process. While each assessor should write their own assessment report to provide to the parent and the EPT, the final EPT report will reflect only the portions of the assessment reports that the Team felt were vital in their Eligibility Determination.

5.5 Timelines, Consent, and Documentation

As illustrated in [Figures 4-1 and 4-2](#), once parents have signed and returned the Consent for evaluation, the Assessment Process begins. It is important that the EPT documents and records when Parental Consent was received, as this begins the 60-calendar day evaluation timeline. (See [Section 4](#) for more information about what constitutes Parental Consent). To increase the likelihood of obtaining Parental Consent, LEAs may want to ensure that the processes and expectations more generally for parent engagement are clear to all staff. Further, the purpose of the Notice of Local Education Agency Decision ([Form 7](#)) and [Procedural Safeguards](#) is to make sure parents understand the actions proposed by the LEA. In many cases, LEAs may want to follow up with parents in person or over the phone to walk parents through their contents and answer any questions they may have.

Evaluations cannot proceed without the parent signing off. Remember, there are at least two main touchpoints for Consent during the Initial Evaluation Process: Prior to conducting new assessments and prior to providing Special Education and related services. In both instances, the LEA should use reasonable efforts to obtain Parental Consent and documentation of these efforts should be made at all steps, including:

- ☐ Detailed records of telephone calls made or attempted and the results of those calls.
- ☐ Copies of correspondence sent to parents and any responses received.
- ☐ Detailed records of visits made to the parent's home or place of employment and the results of those visits.

For more information on Parental Consent see the Vermont [Notice of Procedural Safeguards](#).

Note about the Failure to Obtain Consent: If the parent refuses to consent to the entire evaluation, the LEA may seek consent through mediation, due process, or by reviewing existing data. (The Guide does not cover due process or mediation. For more information about those processes, see the Vermont Agency of Education [website](#) or connect with the AOE's technical assistance line at aoe.specialed@vermont.gov or (802) 828-1256).

Alternatively, the LEA may also decide not to pursue the evaluation and will document the justification for doing so in the student's record. There will be no Child Find violation if the LEA decides not to move forward in the absence of Parental Consent if all other conditions have been met.

If the parent refuses to consent to one part of the Evaluation Plan, the LEA must still proceed with the other assessments.

If the evaluation will exceed 60 calendar days, the LEA must inform the parent(s) in writing prior to the end of the timeline for completion that the evaluation will not be completed within the designated timeframe. Notice of an Evaluation Delay ([Form 4](#)) provides a template for this communication. The LEA must explain the reason (an exceptional circumstance) for the delay, list the schedule for pending evaluations, and identify the expected date for completion of the Evaluation Plan and Report. Permissible reasons for delay are almost exclusively child or family-centered reasons.

If the Evaluation Plan and Report is delayed for some factor other than the ones described above, it is recommended that a formal meeting of the EPT be held anyway, and a determination be made on whatever existing information is available within the timeframe. If the EPT is unable to come to a decision because of the lack of information, the reasons for delay and timelines for completion should be documented. Notice of Evaluation Delay ([Form 4](#)) is also a template for this communication. In these cases, the LEA will be out of compliance with statutory timeline regulations.

The 60-day timeline will not apply to an LEA if:

- ☐ The parent repeatedly fails or refuses to make a student available for the evaluation;
- ☐ A student moves to a new LEA before the eligibility evaluation in the old LEA has been completed; and
 - The new LEA is making sufficient progress to ensure a prompt completion of the evaluation; and
 - The parent and new LEA have agreed to the specific time when the evaluations will be completed.

5.6 Conclusion

The Assessment Process can sometimes be an area of the Evaluation Process where Teams spend most of their time and resources – getting the right plan in place to ensure evidence is collected in all necessary areas, by qualified professionals, within the designated timelines involves many moving parts. However, it is important to note that this is also a critical moment to get all adults on the same page about the best way to move forward to better meet the needs for a student who needs additional or different support, whether they are ultimately found eligible for Special Education.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ Has the LEA set forth policies and procedures for identifying and assembling an appropriate EPT when a new Initial Referral is made?
- ☐ Does the LEA have access to a well-rounded set of assessment and tools for gathering and interpreting evidence about a student's area of Suspected Disability (including trained EPT members who can administer assessments/interpret results)?
- ☐ Do members of an EPT have access to systems for maintaining relevant documentation about students (e.g., progress monitoring data systems, student information systems, etc.) and/or ways of obtaining that information if not through direct access?
- ☐ Do all members of an EPT understand what is required to be completed during the Assessment process, including how to obtain and document informed parental Consent?



ELIGIBILITY DETERMINATION

SECTION 6: ELIGIBILITY DETERMINATION

6.1 Introduction to Eligibility Determination

Once an EPT has collected all relevant information through the Assessment Process, sufficient evidence should exist for the Team to be able to determine whether a student meets the criteria for Special Education. This is called Eligibility Determination.

There are three main criteria addressed as part of Eligibility Determination. While this was formerly referred to as the “3 Gates Framework,” the Guide will use the term Eligibility Criteria when discussing these considerations.

Note about Language: The AOE is moving away from the use of the term “gates” in Eligibility Determination after receiving feedback from educators that the term may create the impression that there are obstacles that must be passed through to obtain Special Education services. While not the intention behind this term, the AOE recognizes that language is important. By moving to a new term, the AOE intends to align practice statewide with the goal of the new regulations to streamline and improve processes.

Generally, a school-aged child is eligible for Special Education if:

- The student has a disability according to the established criteria in the IDEA; and
- The student’s disability results in an Adverse Effect on the student’s educational performance;⁹ and
- The student needs Special Education to make progress in school.

The Special Education rule changes have updated the Eligibility Criteria for students with a Specific Learning Disability and Deaf-Blindness. This rule change is explained in greater detail in [Section 5.3.4](#) and an overview of eligibility for SLD is outlined below.

There are different elements that must be determined depending on which disability category is being considered. They are depicted in the Figures below.

⁹ The criterion related to showing Adverse Effect does not apply for SLD or Deaf-Blindness. See Section 6.3 for more information.

Figure 6-1: Eligibility Criteria for All Disability Categories Except SLD and Deaf-Blindness

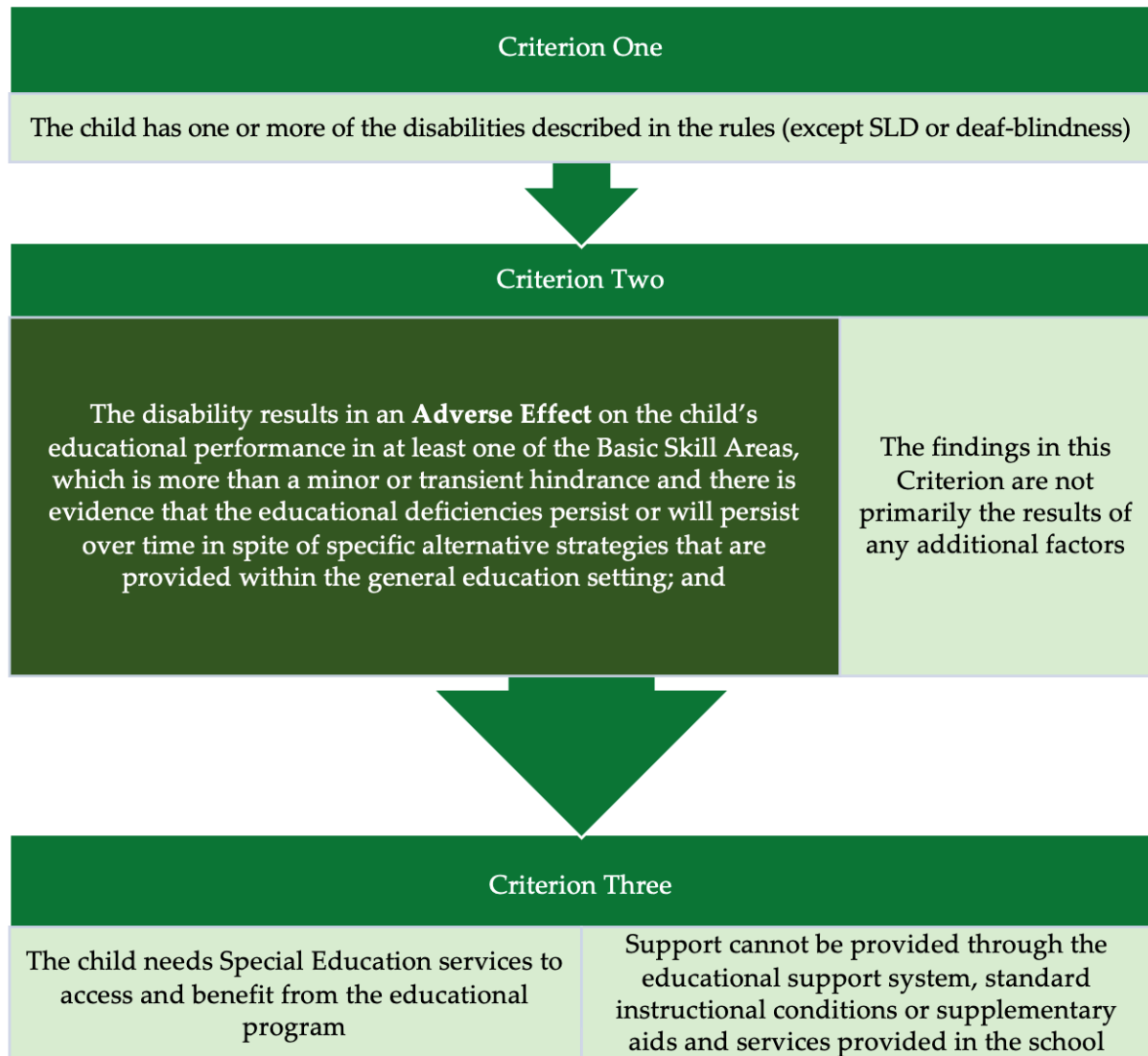


Figure 6-2: Eligibility Criteria for Specific Learning Disability

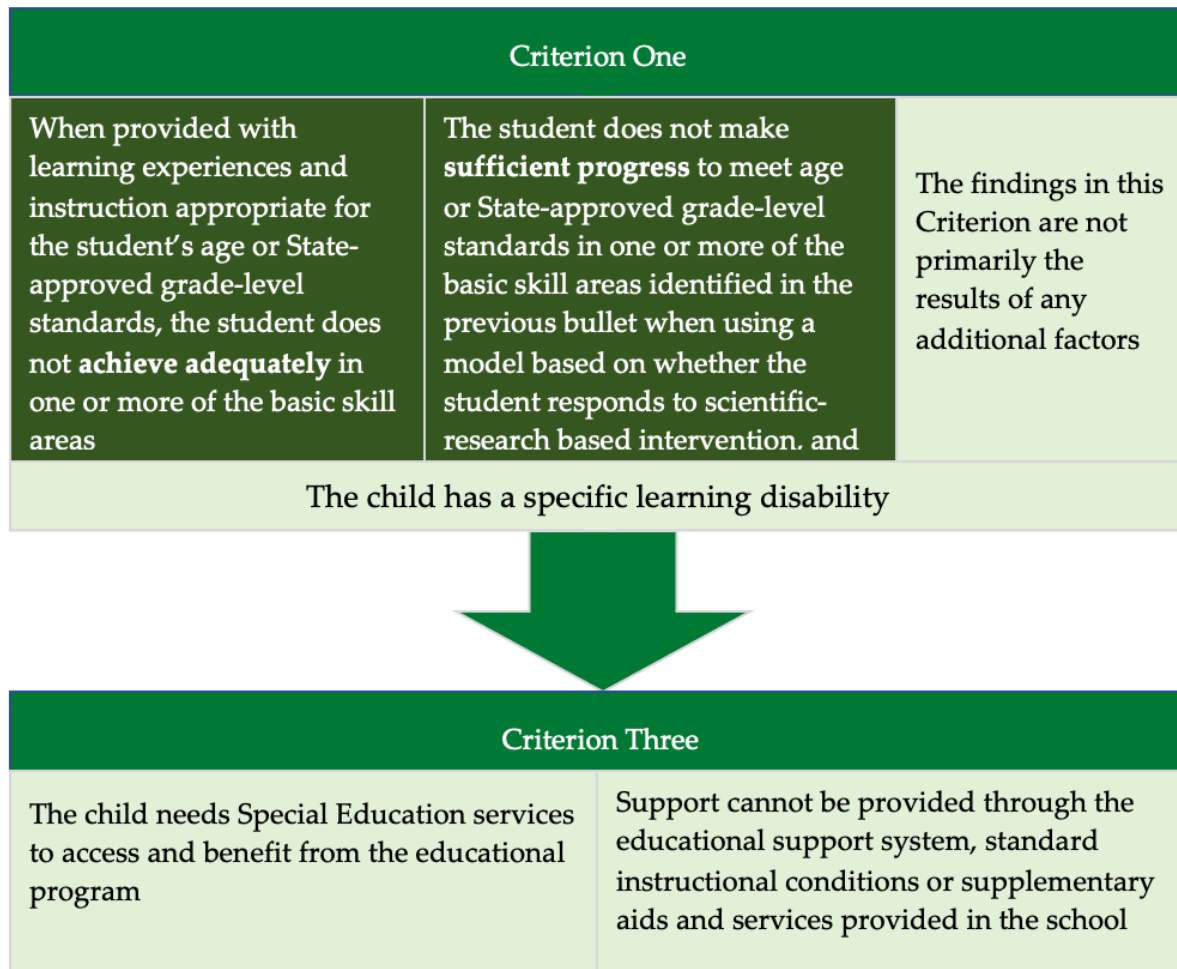
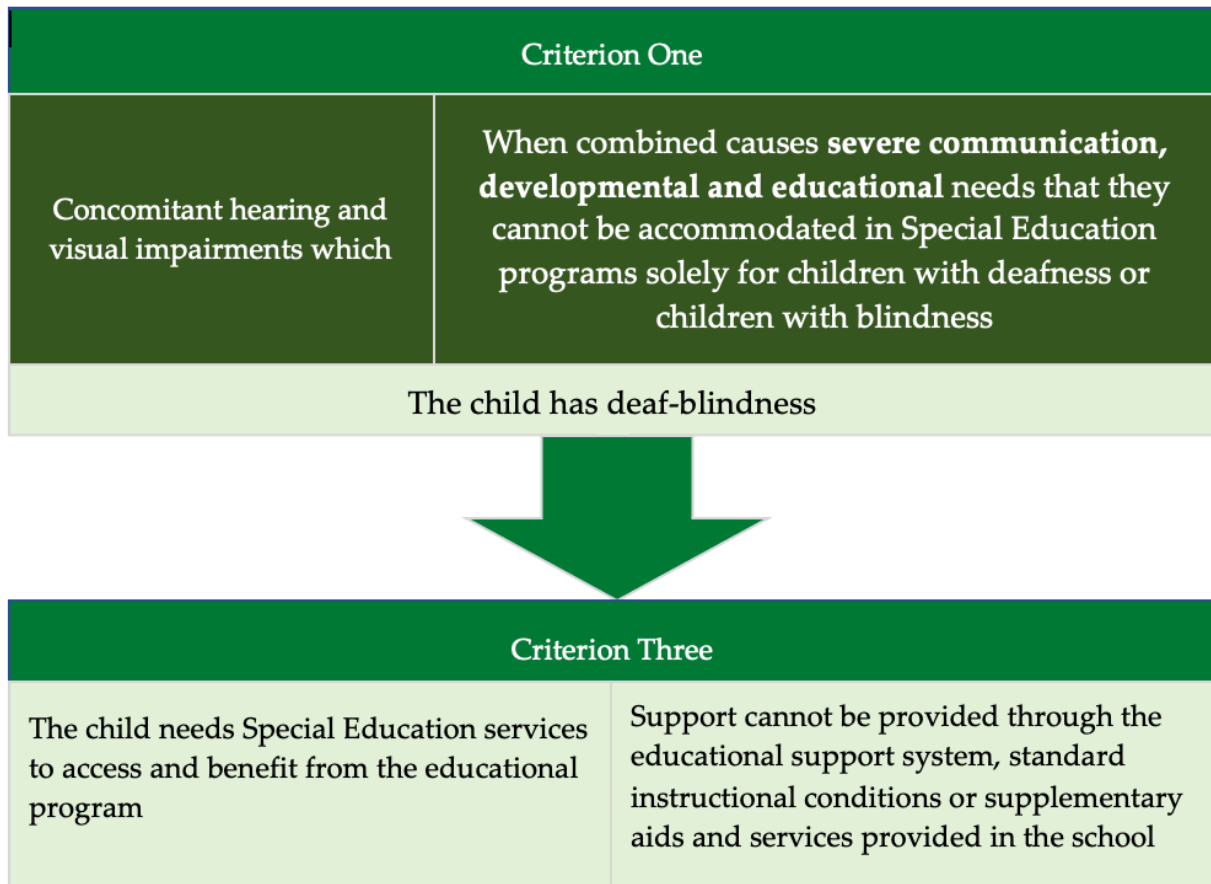


Figure 6-3: Eligibility Criteria for Deaf-Blindness



6.2 Reconvening the EPT

It is the responsibility of the EPT to make the Eligibility Determination, and consequently, the EPT should be reconvened following the Assessment Process. As a reminder, the following members of the EPT must be present:

- ☐ An LEA representative who is qualified to provide or supervise Special Education services, knowledgeable about general education, and knowledgeable about available LEA resources.
- ☐ At least one special educator of the child and if appropriate, one Special Education service provider for the child.
- ☐ At least one general education teacher of the child (if the child may participate in the general education environment).
- ☐ An individual who can interpret the instructional implication of evaluation results.

- ☐ The parent(s).
- ☐ The child, when appropriate.
- ☐ Other individuals who have knowledge or expertise regarding the child, at the discretion of the parent and LEA.

For a child suspected of having a SLD, the EPT must also include:

- ☐ The child's general education teacher or a general education teacher qualified to teach a child of that age.
- ☐ At least one person qualified to conduct individual diagnostic examinations of children (e.g., school psychologist, speech, and language pathologist).

As this meeting, the EPT works through each of the Eligibility Criteria, attempting to reach a decision by consensus. However, if the EPT cannot reach consensus, the LEA representative shall make the final decision. The EPT may decide to use the Evaluation Plan and Report ([Form 2](#)) that was introduced in [Section 5.3](#) to document their decisions throughout the Eligibility Determination process.

6.3 Eligibility Criterion One: Disability Determination

The first step in Eligibility Determination is to determine whether the child has a disability, called the Disability Determination. The EPT will review assessment results conducted as part of the Assessment Process, other assessments such as classroom or State tests, information provided by the parent, observation notes, and other relevant documentation. Starting from the Suspected Disability determined during Assessment Planning, the EPT will discuss whether the student has the disability suspected or whether a different disability is present based on the results of the available data.

There are 13 different disability categories under which school-aged students may be eligible for Special Education services:

1. Autism Spectrum Disorder
2. Deaf-Blindness
3. Emotional Disturbance
4. Hearing Impairment
5. Intellectual Disability
6. Multiple Disabilities
7. Orthopedic Impairment
8. Other Health Impairment (ex: ADHD, Epilepsy, etc.)

9. Specific Learning Disability (such as dyslexia, dyscalculia, dysgraphia, and other learning issues)
10. Speech or Language Impairment
11. Traumatic Brain Injury
12. Deafness
13. Visual Impairment, including Blindness

While more than one disability category may be listed on the IEP (if the student qualifies as eligible under more than one disability category), the EPT should identify what category best fits when reviewing the relevant information about the child, listing that category first. The checklist below may serve as a guide for Teams making these decisions (a printable version of this checklist is available in [Appendix C](#)).



Disability Characteristics Checklist

Use this chart to identify whether a student has a disability under one of the categories outlined by IDEA.

Autism Spectrum Disorder

- ☐ Significantly affects verbal and non-verbal communication and social interaction
- ☐ Generally evident before age three
- ☐ Engagement in repetitive activities and stereotyped movements
- ☐ Resistance to environmental change or change in daily routines
- ☐ Unusual responses to sensory experiences
- ☐ May be diagnosed as autism, pervasive developmental disorder – not otherwise specified, Rett’s Disorder, Asperger’s Disorder, childhood disintegrative disorder
- ☐ Characteristics vary from mild to severe and in the number of symptoms present
- ☐ Usually needs an opinion of a licensed psychologist or doctor with expertise as to the existence of this disability

Deaf-Blindness

- ☐ Concomitant hearing and visual impairments, which when combined causes severe communication, developmental and educational needs that they cannot be accommodated in Special Education programs solely for children with deafness or children with blindness

Emotional Disturbance

- ☐ Exhibits one or more of the following characteristics over a long period of time and to a marked degree
- ☐ Inability to learn that cannot be explained by intellectual, sensory, or health factors
- ☐ Inability to build or maintain satisfactory interpersonal relationships with peers and teachers
- ☐ Inappropriate types of behaviors or feelings under normal circumstances
- ☐ General pervasive mood of unhappiness or depression
- ☐ Tendency to develop physical symptoms or fears associated with personal or school problems
- ☐ Usually needs an opinion of a licensed psychologist or psychiatrist as to the existence of this disability¹⁰

¹⁰ Upon determination of the existence of an emotional disturbance, the LEA must inform the parent of the availability of interagency coordination of services.

Note about Social Maladjustment: A student who is socially maladjusted without one or more of the criteria listed above should not be considered to have an emotional disturbance. Social maladjustment is a persistent pattern of violating social norms and is marked by struggle with authority, low frustration threshold, impulsivity, or manipulative behaviors.

To qualify for the emotional disturbance disability category for Special Education, children with social maladjustment often have some of the following:

- ☐ Unhappiness or depression that is not pervasive;
- ☐ Problem behaviors that are goal-directed, self-serving, and manipulative;
- ☐ Actions that are based on perceived self-interest even though others may consider the behavior to be self-defeating;
- ☐ General social conventions and behavioral standards are understood but not accepted;
- ☐ Negative counter-cultural standards or peers are accepted and followed;
- ☐ Problem behaviors have escalated during pre-adolescence or adolescence;
- ☐ Inappropriate behaviors are displayed in selected settings or situations (e.g., only at home, in school, or in selected classes), while other behavior is appropriately controlled; and/or
- ☐ Problem behaviors are frequently the result of encouragement by a peer group, are intentional, and the student understands the consequences of such behaviors.

Hearing Loss

- ☐ Deafness or hard of hearing in one or both ears, with or without amplification
- ☐ Demonstrated by a 25 decibel HL threshold (ANSI, 69) or worse for one or more of the frequencies 250-8000HZ
- ☐ Determined by an audiologist, otologist, or otolaryngologist

Intellectual Disability

- ☐ Delay in learning of sufficient magnitude to cause a student's performance to fall at or below -1.5 standard deviations from the mean of a test of intellectual ability, existing concurrently with deficits in adaptive behavior

Multiple Disabilities

- ☐ Concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) the combination of which causes such severe educational needs that they cannot be accommodated in Special Education programs solely for one of the impairments
- ☐ Does not include Deaf-Blindness

Orthopedic Impairment

- ☐ Includes impairments caused by a congenital anomaly, disease (e.g., poliomyelitis, bone tuberculosis), or other causes (e.g., cerebral palsy, amputation, fractures or burns that cause contractures)
- ☐ Determined by a licensed physician

Other Health Impairment

- ☐ Limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness in the educational environment
- ☐ Due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, non-verbal learning disability, Tourette syndrome
- ☐ Determined by a person whose professional licensure authorizes the offering of an opinion on the existence of the specific condition and who has specific training and experience in diagnosing and recommending treatment for the specific condition suspected

Specific Learning Disability

- ☐ Disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken, or written
- ☐ May manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations
- ☐ Includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia

- ❑ Does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage

Speech and Language Impairment

- ❑ Communication disorder, such as stuttering, impaired articulation, a language or voice impairment, that adversely effects a student's educational performance
- ❑ Demonstrated by significant deficits in listening comprehension or oral expression
- ❑ Determined by a licensed speech-language pathologist

Note about determining Speech and Language Impairment: VT regulations set forth additional specific criteria for identifying SLI:

Listening Comprehension - At least 2.0 standard deviations below the mean on at least one composite score and other measures of auditory processing or comprehension of connected speech, including phonology, morphology, syntax, semantics, and pragmatics.

Oral Expression - Child demonstrates one or more of the following conditions:

- A significant deficit in *voice* when (a) an otolaryngologist has documented that treatment is indicated for a vocal pathology or speech related medical condition; and (b) abnormal vocal characteristics in pitch, quality, nasality, volume, or breath support for more than one month.
- A significant deficit in *fluency* when (a) part word repetitions or sound prolongations occur on at least 5% of the words spoken in two or more speech samples; (b) sound or silent prolongations exceed one second in two or more speech samples; or (c) secondary symptoms or signs of tension or struggle during speech which are so severe as to interfere with the flow of communication.
- A significant deficit in *articulation* attributed to an organic or functional disorder when (a) the student is unable to articulate two or more of the unrelated phonemes in connected speech (see Chart in Vt. Rule 2362.2(j) for phonemes); and (b) it is not attributed to dialect or second language difficulties.
- A significant deficit in oral discourse exists when a student demonstrates a deficit of at least 2.0 standard deviations below the mean on at least one composite score and other measures of oral discourse, including phonology, morphology, syntax, semantics, and pragmatics.

Traumatic Brain Injury

- ☐ Injury to the brain caused by an external physical force or by an internal occurrence such as a stroke or aneurysm, resulting in total or partial functional disability or psychosocial impairment, or both
- ☐ Includes open or closed head injuries resulting in impairments in one or more areas including:
 - Cognition
 - Language
 - Memory
 - Attention
 - Reasoning
 - Abstract thinking
 - Judgment
 - Problem solving
 - Sensory, perceptual, and motor abilities
 - Psychosocial behavior
 - Physical functions
 - Information processing
 - Speech
- ☐ Does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma
- ☐ Determined by a licensed physician

Visual Impairment

- ☐ An impairment in vision, including:
 - Blindness and partial sight
 - A visual acuity of 20/70 or less in the better eye
 - Reduced visual field to 20 degrees
 - A diagnosis of cortical visual impairment
 - A diagnosis of a degenerative condition that is likely to result in a significant loss of vision
 - Other vision condition such as convergence insufficiency disorder
- ☐ Determined by an optometrist or ophthalmologist

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**Schoolwide
Planning Tip**



should be met to classify for each disability category.

While the IDEA classifications provide some detail about what characteristics need to be present in a student to qualify for a disability, the information listed is still very qualitative and does not provide concrete eligibility benchmarks or “cutoff scores.” LEAs or schools should be very clear about what benchmarks

6.3.1 Specific Learning Disability

**Rule Change
Reference**



Due to the recent rule changes, the criteria for SLD determination have changed slightly to no longer include a separate Adverse Effect consideration. Instead, the determination of an SLD inherently includes evidence that the student’s educational performance has been impacted. The LEA must decide whether to use a model based on whether the student responds to scientific, research-based intervention or use a model based on alternative research-based procedures for determining whether a student has an SLD.

Five Key Elements

Regardless of the strategy and LEA is using to determine eligibility for SLD, the elements for making the determination that a student with SLD’s performance is adversely impacting their learning are the same:

- Element 1:** The student **demonstrates a lack of adequate achievement** in one of the Basic Skill areas when provided with learning experiences and instruction appropriate for the student’s age or State-approved grade-level standards.
- Element 2:** The student **demonstrates a lack of progress** when provided with scientific, research-based instruction and interventions.
- Element 3:** Underachievement is not the result of **exclusionary factors**, including visual, hearing or motor disability, intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantage, limited English Proficiency, or lack of instruction in reading or math.
- Element 4:** **Observational data** of academic and behavioral performance within the classroom reflects area(s) of concern.
- Element 5:** Documented **parental notifications** and participation throughout the process.



The Five Key Elements are broken down further in the State regulations, and explained more comprehensively in the document, [Specific Learning Disabilities: Guidelines for Determining Eligibility](#). The Checklist below operationalizes the Five Key Elements to support the EPT with making an SLD determination.

SLD Eligibility Checklist

The following areas and criteria must be documented before or during the Assessment Process to determine the existence of SLD:

Lack of Adequate Achievement in a Basic Skill Area

When provided with learning experiences and instruction appropriate for the students age or VT grade-level standards, the student does not achieve adequately in **one or more** of the following areas:

- ☐ Oral expression
- ☐ Listening comprehension
- ☐ Written expression
- ☐ Basic reading skills
- ☐ Reading fluency skills
- ☐ Reading comprehension
- ☐ Mathematics calculation
- ☐ Mathematics problem solving.

Lack of Progress Following Intervention

- ☐ The student does not make sufficient progress to meet age or VT grade-level standards in one of the areas listed above when using a model based on whether the student responds to scientific, research-based intervention.

Documented Areas of Difficulty in Classroom

- ☐ A member of the EPT (other than the student's current teacher), who is trained in observation has observes the student and the learning environment (including the

general classroom setting) and has documented academic performance and behavior challenges in the areas of difficulty.¹¹

Performance Not Due to Exclusionary Factors

The EPT has determined that the student's performance is not primarily the result of:

- ☐ A visual, hearing or motor disability
- ☐ Intellectual disability
- ☐ Emotional disturbance
- ☐ Cultural factors
- ☐ Environmental or economic disadvantage
- ☐ Limited English proficiency
- ☐ A lack of appropriate instruction/intervention (delivered in a manner that is highly consistent with the design, closely aligned to student need, culturally appropriate, and includes the essential components of core instruction).¹²

Note about Determining Lack of Appropriate Instruction and Intervention: To make this determination, the EPT should consider:

- Data that demonstrate that, prior to or as part of the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
- Data-based documentation of repeated assessment of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction (which was provided to the student's parents).

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¹¹ One form that can be used to document the classroom observation is the AOE's [Systematic Observation of Learner – Core Instruction](#).

¹² Recall that for these factors, the emphasis is on singularity. There may be instances where some of these factors do adversely affect student performance without being the primary factor of the student's challenges. In these cases, the EPT should consider the degree to which each factor may adversely affect the student's achievement.



Similar to how it manifests in Assessment Planning, the EPT should be cognizant of the added implications of determining eligibility for linguistically diverse students. Table 6-4 provides several considerations for EPTs to use when considering eligibility for these students.

Eligibility Determination Considerations

EPTs may want to take the following steps to ensure careful consideration:

- ☐ Review progress monitoring data collected over time to gauge the student's response to appropriate, targeted, or intensive intervention and compare the results with those of a comparable group of learners. Consider whether the growth realized by the student is sufficient to close the achievement gap within a reasonable length of time through general education alone.
- ☐ Use informal measures to supplement standardized test scores, including dynamic assessment strategies.
- ☐ Interpret evaluation data within a team setting that includes the parent(s)/family.
- ☐ Consider students' skills in English and their native languages and create classrooms that value their cultural and linguistic backgrounds.

(Colorado Department of Education, 2017)

6.3.2 Deaf-Blindness



Due to the upcoming rule changes, the criteria for identifying students with Deaf-Blindness no longer explicitly include Adverse Effect (similar to SLD). Instead, the determination of Deaf-Blindness inherently includes evidence that the student's educational performance has been impacted. To be eligible, the LEA must demonstrate that the student's disability causes severe communication, developmental, and educational needs that cannot be accommodated in Special Education programs solely for children with deafness or children with blindness.

6.4 Eligibility Criterion Two: Adverse Effect Determination

Determining Adverse Effect is an important step in determining eligibility, as the EPT now consolidates all of the assessment evidence and decides whether certain benchmarks are met to demonstrate that the student's disability has caused an Adverse Effect on the student's educational performance. For more information about the rule changes related to Adverse Effect, see the [Adverse Effect Memorandum](#) and the [Three Gate Eligibility Determination – A Vermont Agency of Education Guidance Document](#), and the [Eligibility Determination Form](#).

Adverse Effect means to have a negative impact on the Basic Skills areas. The impact does not need to be substantial, significant, or marked. It is more than a minor or transient hindrance, evidenced by findings and observations based on data sources and objective assessments with replicable results. An Adverse Effect on educational performance does not include a developmentally appropriate characteristic of age/grade peers in the general population.

Note about Basic Skills: As defined in [Section 5](#), Basic Skills areas are:

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skills
- Reading comprehension
- Mathematics calculation
- Mathematics reasoning
- Motor skills
- Functional skills²

To determine Adverse Effect is present, the EPT must:

- ☐ Identify areas of Adverse Effect due to disability in the Basic Skills areas using a range of diagnostic and performance data appropriate to the student.
- ☐ Consider academic and non-academic aspects of the student's functioning in making the determination.
- ☐ Document the impact of the Adverse Effect on educational performance to substantiate that the educational deficiencies persist or will persist over time despite specific alternative strategies that are provided within the general education setting.

- ☐ Consider the impact of scientific, research-based interventions and document that these strategies have been implemented with fidelity.

An Adverse Effect is not present if:

- ☐ The determinant factor for the decision is the lack of instruction in (a) reading; (b) math; or (c) limited English proficiency.
- ☐ The child does not otherwise meet Eligibility Criteria.

For determination of Adverse Effect, while State regulations do not indicate a required number of measures, an EPT should use multiple pieces of evidence in order to get a full picture of the student's educational performance.

There are many sources of data that may be used to make the Adverse Effect decision. The Adverse Effect Evidence Source Checklist represents a checklist of the types of evidence that may be helpful for school-aged children, many of which will be collected as part of the

Assessment Process.



Adverse Effect Evidence Source Checklist

- ☐ Nationally normed, individually administered achievement test(s)
- ☐ Nationally normed, group-administered achievement test(s), including nationally normed, curriculum-based measures
- ☐ Reports prepared by the LEA or presented by the parent
- ☐ Performance on comprehensive assessments based on a system of learning results, or the Common Core as of 2014
- ☐ Criterion-referenced assessments
- ☐ Student's work products, language samples, or portfolios
- ☐ Disciplinary evidence
- ☐ Student's attendance
- ☐ Social, behavioral, or emotional deficits (if any)

Rule Change
Reference



LEAs may use the [Eligibility Determination Form](#) to help them work through these considerations. Additionally, this [Memorandum about Adverse Effect](#) may provide additional support regarding the rule changes and the impact on LEA practice.

6.5 Eligibility Criterion Three: Special Education Determination

For the final step of the Eligibility Determination, the EPT must determine whether a student requires Special Education. Figure 6-4 breaks down this decision into its components.

Figure 6-4: Criterion Three in Eligibility Determination

ELIGIBLE FOR SPECIAL EDUCATION	OR	INELIGIBLE FOR SPECIAL EDUCATION
<ul style="list-style-type: none">•The student needs Special Education services to benefit from the educational program; and•That this support cannot be provided through the educational support system, standard instructional conditions, or supplementary aids and services provided in the school		<ul style="list-style-type: none">•The student’s educational challenges can be addressed through the educational support system, standard instructional conditions, or supplementary aids and services provided in the school

Rule Change
Reference



In order to make this decision, its essential to understand the definition of Special Education (especially because this definition has changed with the 2022 rule changes). Special Education means Specially Designed Instruction, provided at no cost to the parents, to meet the unique needs of a child with a disability, including:

- ☐ Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
- ☐ Instruction in physical education.

Specially Designed Instruction (SDI) means adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child’s disability, and to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the State that apply to

all children. For more information, see the AOE's [Specially Designed Instruction Handout](#) and [Specially Designed Instruction Handout: Part II](#).



The following chart briefly describes example student profiles and a possible outcome for Eligibility Criterion Three. Note that EPTs will have more information to consider when making these decisions, but this visual represents an abbreviated version to illustrate how the Special Education requirement might be determined.

Table 6-1: Example Special Education Eligibility Decisions


Student Profile	EPT Decision
A student with a medical diagnosis of ADHD who is struggling to make progress in class due to inattention and distractions during instruction.	This student does not require Special Education and instead could be supported with various attention 'fidgets' and frequent breaks to support continued focus.
A student with a Specific Learning Disability is not making progress in the general education classroom because of deficits in reading comprehension, as well as delays in speech and language.	This student would benefit from speech and language related services as well as push-in or pull-out Special Education targeted at improving their reading.
A student with a speech and language disability is making progress in the general education classroom, though with some difficulty; however, they require continued speech and language services to address the deficits in their language acquisition.	The student should receive an IEP with speech related Special Education. The EPT should share any academic data with the IEP Team to help inform programmatic decision and ensure consultation opportunities between the Speech/Language Pathologist and the student's teachers.

6.6 Timelines, Consent, and Documentation

With the determination decision, the EPT shall prepare a written final report that documents its reasoning. When a student is found eligible for Special Education, the report will be provided to the parent and made available for the IEP Team to use in program planning. LEAs can use the checklists below to ensure the report contains the required information. The Evaluation Plan and Report ([Form 2](#)) is a resource that ensures these requirements have been met. The EPT Evaluation Plan and Report Checklist (non-SLD) can be used for students suspected of having all disability categories except SLD.

EPT Evaluation Plan and Report Checklist (non-SLD)

Conclusion and Rationale

- ☐ A statement of the Team's conclusion as to whether the student is eligible for Special Education
- 
 - ☐ An explanation of the Team's rationale based on:
 - The presence or absence of a disability
 - (Not Deaf-Blindness) If there is a disability, whether it has an Adverse Effect on educational performance in one or more of the Basic Skill areas¹³
 - Whether the student needs Special Education services to benefit from the educational program and support cannot be provided through the educational support system, standard instructional conditions, or supplementary aids and services provided in the school


Evaluation Procedures

- ☐ A description of any modifications or changes made from the evaluation procedures specified in the evaluation plan
- ☐ Changes in test administration that were made to ensure that the assessment was:
 - Not discriminatory on a racial or cultural basis

¹³ Due to the upcoming rule changes, the criteria for identifying students with Deaf-Blindness no longer explicitly include Adverse Effect. Instead, the determination of Deaf-Blindness inherently includes evidence that the student's educational performance has been impacted.

- Administered in the student’s native language or to account for other mode of communication
- Administered in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally
- Used for the purpose for which the assessment is valid and reliable
- Administered by trained and knowledgeable personnel
- Administered in accordance with any instructions provided by the producer of the assessment
- ☐ Tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient

Summary of Factors Considered

- 

- ☐ Inclusion of all educationally relevant information collected during evaluation, including educational, medical, and psychological information
 - ☐ The written report of an observation of the student if an observation has been conducted
 - ☐ All other factors considered

Recommendations for IEP Team

- ☐ Recommendations as to the need for accommodations in curriculum, assessments, material, or programmatic adaptation, behavior management interventions, and supplemental aids and services

Members of the EPT

- ☐ The initials of all Team members indicating agreement or disagreement with the eligibility conclusion
- ☐ A Team member who does not agree with the conclusion will submit a separate statement presenting the member’s conclusion and this statement shall also become part of the report



For students with SLD, in addition to the Evaluation Plan and Report ([Form 2](#)), Teams have the option of using the [Determination of Eligibility: Specific Learning Disability](#) Form to document their decisions and cover each of the considerations listed below. The EPT Evaluation Plan and Report Checklist provides a double check for LEAs completing the final report for a student with an SLD.

EPT Evaluation Plan and Report Checklist (SLD)

Conclusion and Rationale

- ☐ Whether the student has a SLD
- ☐ The basis for making the determination, including assurances that the determination has been made in accordance with applicable law

Specific Findings

- ☐ The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning
- ☐ Any educationally relevant medical findings
- ☐ Whether the student does not achieve adequately for the student's age or to meet State grade-level standards in one or more of the Basic Skill areas, when provided with appropriate learning experiences and instruction
- ☐ Whether the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State grade-level standards and expectations, or intellectual development consistent with the characteristics of an SLD
- ☐ The determination of the EPT concerning the effects of visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level
- ☐ If the student participated in a process that assesses the student's response to scientific, research-based intervention:
 - The intervention strategies used, and the student-centered data collected; and
 - The documentation that the student's parents were notified about (a) the amount and nature of the student performance data that would be collected and the general education services that would be provided; (b) strategies for increasing the student's rate of learning; and (c) the parent's right to request an evaluation

6.7 Students Found Ineligible for Special Education Services

In some instances, an EPT may determine that a student is ineligible for Special Education services. A student may be found ineligible for Special Education services if:

- The student does not meet the criteria for one of the disabilities recognized within Special Education.
- The student has a disability but there is no documented Adverse Effect or educational impact.
- The Team determines the educational impact caused by the student's disability can be addressed within the education system and does not constitute the need for Special Education.

In the event that the EPT determines a student is ineligible for services, there are a number of pathways they can recommend to meet the needs of the student outside of Special Education services. Potential solutions for continued support include:

1. Identification of classroom accommodations that may support the student's learning style.
2. Continued supports through the LEA's System of supports (including behavior supports such as a Functional Behavior Assessment and Behavior Intervention Plan).
3. Provision of extra tutoring or other supports outside of school (e.g., connecting families with community organizations who can provide additional support).
4. Development of a Section 504 Plan.

6.7.1 Section 504 Plan

If a student is found to have a disability that does not require Special Education, a Section 504 Plan may provide them with the necessary accommodations to progress within the general education curriculum. As explained earlier, Section 504 protects any individual with disabilities from discriminatory practices including equitable access to participate in public programs and services - including school.

Schoolwide Planning Tip



In the school context, a 504 Plan is a document that outlines the accommodations a student will receive to help access the general education curriculum. The rules for creating and implementing those plans vary from IEPs and it is important for LEAs to have clear processes for ensuring students receive services as set forth on their 504 Plans.

While consistent use of screening data to proactively identify student need and the ongoing collection of data to track student progress is key to a system of supports provided to all students, it is especially important for students who do not meet eligibility for Special Education services but have clear and concrete needs that impact their learning. Recall that a

system of supports is implemented at the school level to ensure that students receive all the support they need – and this includes students found ineligible for Special Education services and students with 504 Plans, as well as students with IEPs who may need support or intervention outside of their Special Education services.

While a 504 Plan or even documented support through system of supports may not have the same implications for student's educational program as an IEP, the implementation of evidence-based interventions should be monitored to assess the need for changes or increases in support given to the student.

6.7.2 Parental Rights to Respond to Ineligibility Determination

If a parent disagrees with the EPT's determination that a student is ineligible for Special Education, they can pursue several next steps to respond to the Team's decision:

1. Discuss their concerns at the EPT meeting.
2. Request an Independent Educational Evaluation.
3. File a complaint if the additional data from the IEE still does not warrant eligibility and solve conflict through mediation.
4. File a Due Process lawsuit if necessary (only used in extreme cases).

6.7.3 Independent Educational Evaluation

Parents have the right to ask for an Independent Educational Evaluation (IEE) if they disagree with the evaluation that was conducted or obtained by an LEA. The IEE must be conducted by a qualified examiner who is not an employee of the LEA, and the LEA must either pay the full cost of the evaluation or ensure that the evaluation is administered at no cost to the parent. The parent may request one IEE for each evaluation completed by the LEA with which it disagrees. If the parent requests an IEE, the LEA may ask for the reason why the parent objects to the LEA's evaluation; however, the parent is not required to provide an explanation.

After the parent requests the IEE, the LEA must (without unnecessary delay):

- Initiate a hearing to show that the evaluation conducted by the LEA was appropriate.
- Ensure that the IEE is completed at no cost to the parent.

LEAs are required to provide parents with information about where they may obtain the IEE including the location of the evaluation and the qualification of the examiner. Any criteria for

the IEE must be the same as the criteria for the evaluations conducted by the LEA. An LEA may not establish any criteria or impose any timelines on this process that interfere with the parent's right to an IEE. For more information on [Independent Educational Evaluations](#), see the Vermont [Notice of Procedural Safeguards](#).

A Note about IEEs and Due Process: An LEA may pursue mediation or due process to demonstrate that an IEE obtained by a parent does not meet LEA criteria. If the final decision of that hearing is that the LEA's original evaluation is appropriate, the parent still has the right to the IEE, but not at the LEA's expense.

6.8 Conclusion

Once the EPT has completed the Assessment Process, it must get together to make an Eligibility Determination. There are Three Eligibility Criteria to consider when making this decision generally, whether:

1. The child has a disability;
2. The disability causes an Adverse Effect (except SLD and Deaf-Blindness); and
3. The child requires Special Education to benefit from the educational program.

While it may sometimes be challenging to differentiate the components of each part of this determination, Teams should engage in a deep conversation about the student's unique educational needs and how the LEA can best address those needs going forward.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ What will be our benchmarks for the disability categories that EPTs should use to determine a student's eligibility for Special Education services?
- ☐ What training or support do our EPT members need to effectively determine a student's eligibility in accordance with the new Special Education rules?
- ☐ How do we ensure the assessment results reviewed by the EPT consider linguistically diverse students?
- ☐ Does the LEA have a process for creating and implementing 504 Plans for students who need them? How can those resources be maximized to ensure possible alignment with resources dedicated to both a System of supports and Special Education services?



PLANNING FOR SERVICES

SECTION 7: PLANNING FOR SERVICES

7.1 Introduction to Planning for Services

Planning for Services is the connection between the Evaluation Process and the development of a student's Individualized Education Program (IEP) consisting of a series of activities that formalize the student's eligibility for Special Education services which are then documented in the IEP.

As mentioned in [Section 6.4](#), decisions made as part of Eligibility Criterion Three relate specifically to the question of a student's need for Special Education as a necessary service or intervention. The EPT will make recommendations about

possible services that the student may benefit from and document those along with its rationale in the final evaluation report. The report, once transferred to the IEP Team, then becomes the foundation for the IEP Team to draft a program for the student that is aligned to their needs.

7.2 Planning for Services in the IEP

Student needs are specifically addressed through the development of the IEP. The IEP Team should consider the program and placement options available for a student along the continuum of services their LEA provides. In addition, the assessment data that was considered during Eligibility Determination should inform the present levels of performance and discussion of services to ensure that program recommendations will sufficiently meet the student's needs.

Essential to the creation of an IEP document is the IEP Team's determination of the types of support and services that are likely to offer the student an Educational Benefit. Educational Benefit means that LEAs are responsible for ensuring that certain standards of IEP creation and service planning are upheld.

In developing a student's IEP, it is the responsibility of the IEP Team to recommend individualized goals and services that will enable the student to make progress in the general education curriculum. Members of the IEP Team will consider both the State's learning standards as well as the school-based instructional curriculum (which should be aligned to the State's learning standards). Key considerations for the development of an IEP that facilitates Educational Benefit include:

- ❑ Clear articulation of the student’s present levels of performance in all areas of need, including functional and academic skills that reflect the analysis in the evaluation assessment reports
- ❑ Development of clear and measurable goals that assume high-expectations and are aligned to grade-level standards and the student’s present levels of performance
- ❑ Identification of how Special Education will be provided in the context of supporting students in the LRE
- ❑ Clear alignment between present levels of performance, annual goals, and services
- ❑ If appropriate, identification of how students will be prepared for adult living

Each of these considerations will have been discussed by the EPT during the Evaluation Process, so it is helpful to develop procedures to ensure that IEP teams have access to this learning (e.g., frequently, the same people are part of both processes).

A Note about Educational Benefit Review: An LEA is responsible for ensuring all involved in creating an IEP have training in creating/reviewing IEPs that ensure they are “reasonably calculated” to create the likelihood of the student achieving educational benefit. The AOE offers training to LEAs upon request through the [Professional Development Request Form](#).

7.3 Key Tips for Planning of Support

Ensuring alignment between a student’s current performance and planned services is essential for the creation of a quality IEP and IEP Teams can call upon assessment data and other information to ensure this alignment. [Error! Reference source not found.](#) illustrates some examples of how this plays out in practice. This is also an opportunity for Teams to consider a student’s Functional Performance and develop goals to address these needs.



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Table 7-1: Connections between Evaluation and IEP Processes

IEP Component	Connections to Evaluation Process
Present Levels of Performance	Assessment results, scores, and narrative with interpretation may be included as part of this section.
Annual Goals	<p>Using the current performance data and areas identified for improvement in the Assessment Process, IEP teams review the Evaluation Plan and Report to craft goals for the student.</p> <p>For additional supports on writing annual goals refer to:</p> <ul style="list-style-type: none">• IEP Goal Writing: Introduction• IEP Goal Writing: Grade Level Standards• IEP Goal Writing: SMART Goals• IEP Goal Writing: Using Data
Specially Designed Instruction and Supplementary Supports	<p>To create a program aligned to present levels and goals, consider the following:</p> <ul style="list-style-type: none">• The basic skill shown to have an Adverse Effect on performance• Impact on performance in other areas of development• Impact of disability on functional skills specifically

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7.4 Timelines, Consents and Documentation

A student's first IEP is developed *within 30 calendar days* of their Special Education eligibility meeting, and it is the IEP Team that is responsible for developing and implementing the IEP.

Upon completion of the IEP, Parental Consent is needed before implementing services. For more about parent engagement and Consent, see [Section 4](#).

7.5 Conclusion

There are many ins and outs related to creating and implementing quality IEPs which are not covered in the Guide. The key piece for the Evaluation Process is the connection between (a) the valuable evidence gathered about the student throughout the process and (b) ensuring it is used to inform a robust conversation about student needs and services required to help the student make progress.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ Can we ensure in every case, the Evaluation Plan and Report is sent to the parents and the IEP team to help inform the IEP creation process?
- ☐ Do we have processes by which the relevant community partners have time and coverage to participate in all required meetings – and have they been trained to understand their roles and responsibilities in the Special Education process?
- ☐ Have members of the IEP team received sufficient training in the Educational Benefit Review process?

SECTION 8: REEVALUATION

8.1 Overview of the Reevaluation Process

The LEA is required to conduct a Reevaluation to determine a student's continued eligibility for Special Education and related services at least every three years. This is referred to as a Mandated Three-Year Evaluation. However, Reevaluations can also be requested by a parent, staff, or other relevant community partner at any time if they deem it necessary to collect additional information to determine support for a student. However, Reevaluations should not be requested more than once annually (absent extenuating circumstances).

During the Mandated Three-Year Evaluation, the LEA can determine that new assessments are not needed and, with Parental Consent, opt to review existing data to determine continued eligibility. Parents should be notified of their right to request new testing to inform the determination of continued eligibility.

A Note on Parental Consent: Parents must agree to foregoing new assessments and document it with the LEA. The Written Agreement Between Parents and District Form ([Form 8](#)) provides a template.

If the EPT determines the need for additional testing but cannot secure Parental Consent, the LEA may seek consent through mediation or due process. (The Guide does not cover due process or mediation. For more information about those processes, see the Vermont Agency of Education [website](#) or connect with the AOE's technical assistance line at aoe.specialed@vermont.gov or (802) 828-1256).

Further, if an Evaluation Plan is created and the Parent refuses to consent to one part of the Plan, the LEA must still proceed with the other assessments.

Because the steps of the Evaluation Process have been reviewed in depth throughout the Guide, this Section will only briefly refer to components of the process that remain the same as an Initial Evaluation. Where the processes vary, they will be noted below. It's important to recall that because a student has already been deemed eligible for Special Education services when a Reevaluation is conducted (though the Reevaluation's purpose is to verify continued eligibility), the first step of the Initial Evaluation Process (Initial Referral) is not necessary.

8.2 Assessment Process

For Mandated Three-Year Evaluations, LEAs should begin planning well before the IEP due date to ensure that all relevant processes can be completed. The EPT is convened to kick off Assessment Planning. In many LEAs, EPTs and IEP Teams consist of the same group of professionals and in this case, can be responsible for both oversight and implementation of all Reevaluation activities.


As part of the Reevaluation Process, the EPT determines if new or additional assessments are needed. The following steps provide a structure for making these decisions.



Table 8-1: Reevaluation Assessment Planning Steps

Step	Considerations
Review existing reports and data	Example data: <ul style="list-style-type: none">• Teacher and related service provider reports• Classroom assessments• Student work samples• Standardized testing• Progress reports• Evaluations and information provided by the parent
Review the student's current IEP document	Pay close attention to the Present Levels section to identify additional student needs that were previously not listed <i>or</i> determination of supports no longer needed
Consider whether new assessments are necessary	Will new assessments provide the EPT with information to: <ul style="list-style-type: none">• Determine continued eligibility• Identify additional Special Education needs• Identify whether any additions or modifications to the student's program or services are needed to enable the student to meet the goals on his/her IEP and to participate as appropriate in general education

Questions to guide planning for the Reevaluation can include the following:

-  ☐ What Basic Skill areas initially met the criteria for Special Education eligibility? Is there sufficient evidence that the skill continues to require support?¹⁴
- ☐ What other Developmental Areas of Concern initially met the criteria for Special Education eligibility? Is there sufficient evidence that those areas continue to require support?
- ☐ Does the student continue to meet the criteria for the identified disability?
- ☐ Is another disability suspected which might be causing the difficulties?
- ☐ Does the student continue to require Special Education?
- ☐ Are the student's educational needs adequately identified and understood to create an appropriate program and IEP?

Parents should also be engaged to provide additional information about the student's home life and potential at-home circumstances that may have shifted over the past couple of years or in the recent past.

Question to ask parents may include:

- ☐ What has changed in the family situation that may impact the student's performance (e.g., health issues, new jobs, loss of jobs, new house, death, new births, etc.)?
- ☐ What has changed at home in terms of the student's peer interactions?
- ☐ What has the student's emotional state been since the last evaluation (e.g., increase or decrease in tantrums, reactions, compliance, depression, calmness, etc.)?
- ☐ What has been the parent's perception of progress in school since the last evaluation?
- ☐ Have there been any outside evaluations since the last evaluation (e.g., medical, psychological, and educational)?
- ☐ Have there been any major changes in the student's health or medical status since the last evaluation?
- ☐ Has the student joined in or participated in any sports activities, groups, or organizations since the last evaluation? If so, what has been the student's experiences with these activities?

¹⁴ If the student has an IEP for a Developmental Delay, it is important for the EPT to evaluate what other areas might be relevant for the evaluation, as this category is reserved for students aged three through five. While school-aged administrators and practitioners may work with students who have a Developmental Delay IEP, upon Reevaluation, the child must be eligible under another disability category to continue receiving Special Education services.

- ☐ Has the student exhibited any changes in physical ability, coordination, or muscle control since the last evaluation?

(AASEP, 2022)

8.3 Eligibility Determination

Eligibility Determinations for Reevaluations are virtually the same as they are for Initial Evaluations. While there is an existing disability category to start from, the EPT will proceed through the Three Eligibility Criteria to determine whether the student remains eligible for Special Education services.

8.4 Planning for Services

Once the Eligibility Determination has been made, the IEP Team will review the data in the student's file, along with any new assessment data, to inform the development of an IEP.



Table 8-2 shows connections between the Reevaluation and the IEP process and can be compared with Table 7-1, which presents similar information for the Initial Evaluation Process.

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Table 8-2: Connection Between Reevaluation Process and IEP Components

IEP Component	Connections to Reevaluation Process
Present Levels of Performance	Comparisons between prior and current assessment results, scores, and narrative with interpretation may be included as part of this section.
Annual Goals	Review prior goals against current performance data and areas identified for improvement in the Assessment Process to determine which goals were met, which were not, and what appropriate goals for the student should be put in place.
Specially Designed Instruction and Supplementary Supports	<p>Review Special Education services from the student’s prior IEP against classroom observations, progress data, and feedback from members of the EPT/IEP Team to evaluate whether the student was best supported.</p> <p>Create a plan aligned to new present levels and goals, consider the following:</p> <ul style="list-style-type: none">• The Basic Skill shown to have an Adverse Effect on performance• Impact on performance in other areas of development• Impact of disability on Functional Skills specifically

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8.5 Timelines, Consents and Documentation

As outlined in [Section 8.1](#) above, a Reevaluation to determine a student’s continued eligibility for Special Education and related services is required *at least* every three years but should not occur more than *once* annually (absent extenuating circumstances). A Mandated Three-Year Reevaluation and the accompanying IEP creation must be completed prior to the three-year anniversary date on the previous IEP. The Reevaluation Process includes many of the same Parental Consent requirements as outlined in the Assessment Planning and Eligibility Determination sections of this Guide. However, there is an exception for Reevaluations that should be noted – Parental Consent is not needed if the LEA can demonstrate that it has taken reasonable measures to obtain consent and the parent failed to respond. In that case, the Reevaluation Process may proceed absent Parent Consent.

The LEA should aim to conduct Reevaluation meetings in alignment with annual IEP review meetings if the consolidation does not impact compliance timelines for either meeting.

8.6 Conclusion

Reevaluations, especially Mandated Three-Year Evaluations, are an essential moment in a student's educational career to take a step back, reassess, and determine whether the current program and services are truly meeting the student's needs. While some practitioners may be tempted to forego assessments for a variety of reasons (e.g., presuming little change has occurred with the student, large caseloads, student disinterest, etc.), it is not recommended to skip this step. Students change a lot in three years and verifying that the student's program is still likely to produce an Educational Benefit can mean the difference between student success or disengagement.

Key Questions for LEAs:

As a check for implementation/readiness, LEAs can ask themselves the following questions:

- ☐ Have we set standards or timelines for when an EPT shall begin planning for a Mandated Three-Year Reevaluation, well before the deadline arises?
- ☐ Have we developed procedures for keeping parents in the loop on their children's education, especially if they are struggling, so we are aware of any big changes or updates prior to conducting a Reevaluation?
- ☐ Do all of our staff who participate in EPTs understand the key differences between Initial Reviews and Reevaluations, particularly with respect to how the Eligibility Determination proceeds with an existing IEP?

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SECTION 10: APPENDICES

Appendix A

Glossary

Adverse Effect

Adverse Effect means to have a negative impact on the Basic Skills areas. The impact does not need to be substantial, significant, or marked. It is more than a minor or transient hindrance, evidenced by findings and observations based on data sources and objective assessments with replicable results.

Basic Skills

Basic Skills are the skills necessary for a student's academic performance including a focus on communication, intellectual or cognitive capacities, and learning styles.

Child Find

Child Find is a component of the Individuals with Disabilities Education Improvement Act (IDEA) 2004 that requires States and LEAs to identify, locate, and evaluate all students with disabilities residing in the State, regardless of the severity of their disabilities, and who need Special Education and related services.

Developmental Areas of Concern

Developmental Areas of Concern are broader areas of development (than the Basic Skill areas) that may be impacted by the presence of a disability.

Educational Benefit

Educational Benefit refers to the responsibility that LEAs must ensure that certain standards of IEP creation and service planning are upheld to maximize the benefits for the student and optimize the student's potential.

Educational Planning Team (EPT)

A team of experts including parents, teachers, special educators, psychologists, and therapists that is responsible for developing an evaluation plan and reviewing the results to determine if a student is or continues to be eligible for special education and related services.

Educational Support Team (EST)

An Educational Support Team is a collaborative team that has regularly scheduled meetings with shared agendas, identified roles for participants, and uses data to determine the additional supports a child may need to be successful.

Ideally, the EST includes an administrator, teachers, a school psychologist, special educator, school counselor(s), parents/families, a social worker, other staff with behavioral and/or academic expertise, and students when appropriate.

This team implements a student plan that supports a classroom teacher's instruction with supplemental, short-term, skill-specific interventions for a student. Plans are frequently monitored to assess progress and adjust.

Educational Performance

Educational Performance is a combination of the academic and functional behavioral skills necessary for a student to successfully perform within the general education classroom at a level equivalent to their grade-level peers.

Eligibility Criteria

To be eligible for Special Education services as a school-aged child, these three criteria must be met by the student and documented. The Eligibility Criteria include ensuring that a student meets the criteria for one of the 13 disability categories, the disability causes an Adverse Effect (except SLD and Deaf-Blindness), and the student requires Special Education to make progress in school. This was formerly referred to as "the three gates."

Evaluation Process

The Evaluation Process for Special Education is a model that outlines the discrete planning and implementation stages that help EPTs determine if a student is eligible for Special Education and related services.

Free and Appropriate Public Education

FAPE is defined as Special Education and related services that are provided for free by the LEA, that meet State standards, are aligned to appropriate education in the State involved, and are provided in conformity with an Individualized Education Program (IEP).

Functional Skills

Functional Skills is defined as “the acquisition of essential and critical skills needed for a student with disabilities to learn specific daily living, personal, social, and employment skills or the skills needed to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for post-secondary and other lifelong opportunities.”

Independent Educational Evaluations (IEE)

Independent Educational Evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student in question.

Individualized Education Program (IEP)

An IEP is a legal document provided for each student with a disability who is eligible for Special Education that sets forth the student’s present levels of performance, annual goals, and a set of services or supports that enable the student to advance toward attaining those goals.

Initial Evaluation Process

The Initial Evaluation Process is the process required by IDEA that an LEA must take for a student before any Special Education and related services can be provided to that student and its purpose is to determine eligibility for Special Education services.

Initial Referral

The Initial Referral is the first stage of the Initial Evaluation Process and begins with a Request for Evaluation for a student who does not already have an IEP.

Local Educational Agency (LEA)

An LEA is the public authority legally constituted to run public elementary or secondary schools in a city, county, township, or school district (e.g., District or Supervisory Union).

Mandated Three Year Evaluation

Under IDEA, a student who has an IEP and who qualified for Special Education services in the past must be reevaluated at least every three years. This is sometimes also referred to as a triennial review or Reevaluation.

Parental Consent

Parental Consent means that the parent understands and agrees in writing to the carrying out of the activity for which consent is sought (e.g., an evaluation for Special Education, assessments, etc.). This can only be done after the parent has been fully informed of all information relevant to the activity (via an Evaluation Plan, Procedural Safeguards and Prior Written Notice), in the parent's preferred language or the LEA must provide a translator to ensure the parent understands what is being asked.

Patterns of Strengths and Weaknesses (PSW)

PSW is a framework for examining a student's areas of strength, as well as weaknesses or deficits, often used by educators to determine eligibility for Special Education services (especially when the Suspected Disability is SLD).

Procedural Safeguards

Procedural Safeguards protect the rights of students with disabilities and their parents. These safeguards include topics such as the right to participate in all meetings, to examine all educational records, and to obtain an IEE and should be given to parents in written form at least once per year.

Promising Practice

A wide range of practices that include educator activities, policies, systems, procedures, and practices aimed to achieve positive changes in student attitudes and academic and non-academic behaviors.

Reevaluation

A Reevaluation is the process of engaging in the Evaluation Process for a student who already has an IEP. This is frequently completed every three years but may occur at other times if appropriate.

Response to Intervention (RTI)

Response to intervention (RTI) is a proactive approach that involves closely monitoring student progress to measures students' skills and uses this data to decide which interventions to use. It aims to identify struggling students early on and give them the support they need. RTI isn't a specific program or type of teaching.

Request for Evaluation

A Request for Evaluation is a verbal or written request made to an LEA that begins the Evaluation Process for Special Education. The Request for Evaluation can be made by a parent, as well as school administrators, teachers, LEA, or other key community partners (e.g., agency staff, external providers) on behalf of a student who is suspected of having a disability requiring Special Education.

Section 504

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that applies to all individuals with disabilities. Section 504 protects any individual with disabilities from discriminatory practices including equitable access to participate in public programs and services – including school.

Section 504 Plan

A Section 504 Plan is a document that outlines the accommodations a student with a disability will receive to help access the general education curriculum.

Special Education

Special Education means Specially Designed Instruction, provided at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings, as well as instruction in physical education.

Specific Learning Disability (SLD)

SLD is one of the 13 disability classifications in IDEA and is a disability that interferes with a student's ability to listen, think, speak, write, spell, or do mathematical calculations. Specific Learning Disability includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. SLD does not include a learning problem that is primarily the result of: visual, hearing, or other motor disabilities; intellectual disability; emotional disturbance; or environmental, cultural, or economic disadvantage.

Suspected Disability

A Suspected Disability occurs when a student exhibits behaviors or learning patterns that are frequently connected to a particular disability for which Special Education services are needed to make progress in the general education curriculum.

Universal Screeners

Universal Screeners are used by educators to monitor the progress of all students and can help educators identify students who might be at risk for learning challenges.

VTmtss Framework

The VTmtss Framework articulates the components and principles of an effective school system that are necessary to provide each and every student with the academic, behavioral, and social emotional supports and services they need to succeed.

The innovation neutral systems-level approach of this framework provides the infrastructure for content or practice specific multi-tiered systems of support models, such as PBIS or RTI to be equitable and sustainable.

The VTmtss Framework is not tiered.

Early MTSS

Early MTSS aims to improve early learning, social and emotional well-being, and competence for children from birth through age 8.

Vermont Early MTSS focuses on building capacity at the systems and practice level-- a two prong approach and is innovation neutral.

Early MTSS balances building a system of supports for school-based programs, families, health providers, and community partners with supporting evidence-based inclusion practices in the classroom to fidelity.

Appendix B

Signs of Suspected Disability

Early Childhood (5-7 years old)

- Delayed speech
- Trouble learning numbers, the alphabet, colors, shapes, etc.
- Has problems responding when being called from across the room, even when it involves something interesting
- Doesn't play games involving back and forth play
- Doesn't point or shows things to others
- Doesn't understand simple instructions
- Doesn't play pretend or make-believe
- Doesn't make eye contact
- Doesn't respond to people outside the family
- Shows extreme behavior (unusually fearful, aggressive, shy, or sad)
- Is unusually withdrawn and not active
- Is easily distracted, has trouble focusing on one activity for more than 5 min.
- Can't jump in place
- Has trouble scribbling
- Resists dressing, sleeping, using toilet
- Loses skills he or she once had
- Can't brush teeth, wash, and dry hands, or get undressed without help

Middle-Aged Children (8-12 years old)

- Poor concentration or sustaining attentions
- Difficulty following directions
- Difficulty organizing tasks or activities
- Poor memorization
- Hard time getting started with tasks
- Hyperactivity/ impulsivity
- Strange or repetitive language patterns
- Difficulty with oral language (production)
- Hard time understanding language
- Poor social skills or inability to relate to others
- Hard time making friends
- Poor spelling

- Slow, inaccurate reading skills
- Difficulty with pronunciation

Teenagers (13 years and older)

- Slow to learn new skills
- Poor concentration or sustained attention
- Unable to master tasks
- Slow to progress or make progress
- Trouble reading
- Impulsivity/Hyperactivity
- Hard time with problem solving or logical thinking
- Poor memorization
- Aggression
- Withdrawal
- Excessive anxiety
- Self-injurious behavior

Appendix C

Disability Characteristics Checklist

Use this chart to identify whether a student has a disability under one of the categories outlined by IDEA.

Autism Spectrum Disorder

- ☐ Significantly affects verbal and non-verbal communication and social interaction
- ☐ Generally evident before age three
- ☐ Engagement in repetitive activities and stereotyped movements
- ☐ Resistance to environmental change or change in daily routines
- ☐ Unusual responses to sensory experiences
- ☐ May be diagnosed as autism, pervasive developmental disorder – not otherwise specified, Rett’s Disorder, Asperger’s Disorder, childhood disintegrative disorder
- ☐ Characteristics vary from mild to severe and in the number of symptoms present
- ☐ Usually needs an opinion of a licensed psychologist or doctor with expertise as to the existence of this disability

Deaf-Blindness

- ☐ Concomitant hearing and visual impairments, which when combined causes severe communication, developmental and educational needs that they cannot be accommodated in Special Education programs solely for children with deafness or children with blindness

Emotional Disturbance

- ☐ Exhibits one or more of the following characteristics over a long period of time and to a marked degree
- ☐ Inability to learn that cannot be explained by intellectual, sensory, or health factors
- ☐ Inability to build or maintain satisfactory interpersonal relationships with peers and teachers
- ☐ Inappropriate types of behaviors or feelings under normal circumstances
- ☐ General pervasive mood of unhappiness or depression
- ☐ Tendency to develop physical symptoms or fears associated with personal or school problems

- ☐ Usually needs an opinion of a licensed psychologist or psychiatrist as to the existence of this disability¹⁵

Note about Social Maladjustment: A student who is socially maladjusted without one or more of the criteria listed above should not be considered to have an emotional disturbance. Social maladjustment is a persistent pattern of violating social norms and is marked by struggle with authority, low frustration threshold, impulsivity, or manipulative behaviors.

To qualify for the emotional disturbance disability category for Special Education, children with social maladjustment often have some of the following:

- ☐ Unhappiness or depression that is not pervasive;
- ☐ Problem behaviors that are goal-directed, self-serving, and manipulative;
- ☐ Actions that are based on perceived self-interest even though others may consider the behavior to be self-defeating;
- ☐ General social conventions and behavioral standards are understood but not accepted;
- ☐ Negative counter-cultural standards or peers are accepted and followed;
- ☐ Problem behaviors have escalated during pre-adolescence or adolescence;
- ☐ Inappropriate behaviors are displayed in selected settings or situations (e.g., only at home, in school, or in selected classes), while other behavior is appropriately controlled; and/or
- ☐ Problem behaviors are frequently the result of encouragement by a peer group, are intentional, and the student understands the consequences of such behaviors.

Hearing Loss

- ☐ Deafness or hard of hearing in one or both ears, with or without amplification
- ☐ Demonstrated by a 25 decibel HL threshold (ANSI, 69) or worse for one or more of the frequencies 250-8000HZ
- ☐ Determined by an audiologist, otologist, or otolaryngologist

¹⁵ Upon determination of the existence of an emotional disturbance, the LEA must inform the parent of the availability of interagency coordination of services.

Intellectual Disability

- ☐ Delay in learning of sufficient magnitude to cause a student's performance to fall at or below -1.5 standard deviations from the mean of a test of intellectual ability, existing concurrently with deficits in adaptive behavior

Multiple Disabilities

- ☐ Concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) the combination of which causes such severe educational needs that they cannot be accommodated in Special Education programs solely for one of the impairments
- ☐ Does not include deaf-blindness

Orthopedic Impairment

- ☐ Includes impairments caused by a congenital anomaly, disease (e.g., poliomyelitis, bone tuberculosis), or other causes (e.g., cerebral palsy, amputation, fractures or burns that cause contractures)
- ☐ Determined by a licensed physician

Other Health Impairment

- ☐ Limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness in the educational environment
- ☐ Due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, non-verbal learning disability, Tourette syndrome
- ☐ Determined by a person whose professional licensure authorizes the offering of an opinion on the existence of the specific condition and who has specific training and experience in diagnosing and recommending treatment for the specific condition suspected

Specific Learning Disability

- ☐ Disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken, or written
- ☐ May manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations

- ☐ Includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia
- ☐ Does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage

Speech and Language Impairment

- ☐ Communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely effects a student's educational performance
- ☐ Demonstrated by significant deficits in listening comprehension or oral expression
- ☐ Determined by a licensed speech-language pathologist

A note about determining speech and language impairment: VT regulations set forth additional specific criteria for identifying SLI:

Listening Comprehension - At least 2.0 standard deviations below the mean on at least one composite score and other measures of auditory processing or comprehension of connected speech, including:

- Phonology
- Morphology
- Syntax
- Semantics
- Pragmatics

Oral Expression - Child demonstrates one or more of the following conditions:

- A significant deficit in *voice* when (a) an otolaryngologist has documented that treatment is indicated for a vocal pathology or speech related medical condition; and (b) abnormal vocal characteristics in pitch, quality, nasality, volume, or breath support for more than one month.
- A significant deficit in *fluency* when (a) part word repetitions or sound prolongations occur on at least 5% of the words spoken in two or more speech samples; (b) sound or silent prolongations exceed one second in two or more speech samples; or (c) secondary symptoms or signs of tension or struggle during speech which are so severe as to interfere with the flow of communication.
- A significant deficit in *articulation* attributed to an organic or functional disorder when (a) the student is unable to articulate two or more of the unrelated phonemes in connected speech (see Chart in Vt. Rule 2362.2(j) for phonemes); and (b) it is not attributed to dialect or second language difficulties.
- A significant deficit in oral discourse exists when a student demonstrates a deficit of at least 2.0 standard deviations below the mean on at least one composite score and other measures of oral discourse, including:
 - Phonology
 - Morphology
 - Syntax
 - Semantics
 - Pragmatics

Traumatic Brain Injury

- ☐ Injury to the brain caused by an external physical force or by an internal occurrence such as a stroke or aneurysm, resulting in total or partial functional disability or psychosocial impairment, or both
- ☐ Includes open or closed head injuries resulting in impairments in one or more areas including:
 - Cognition
 - Language
 - Memory
 - Attention
 - Reasoning
 - Abstract thinking
 - Judgment
 - Problem solving
 - Sensory, perceptual, and motor abilities
 - Psychosocial behavior
 - Physical functions
 - Information processing
 - Speech
- ☐ Does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma
- ☐ Determined by a licensed physician

Visual Impairment

- ☐ An impairment in vision, including:
 - Blindness and partial sight
 - A visual acuity of 20/70 or less in the better eye
 - Reduced visual field to 20 degrees
 - A diagnosis of cortical visual impairment
 - A diagnosis of a degenerative condition that is likely to result in a significant loss of vision
 - Other vision condition such as convergence insufficiency disorder
- ☐ Determined by an optometrist or ophthalmologist

Appendix D

The following table presents hyperlinks to all AOE resources referenced throughout the Guide, organized by section.

Guide Section	Supporting Forms or Resources
Big Picture	Vermont Special Education Procedures Manual
System of supports	VTmtss Field Guide Universal Screening Assessments Educational Support Teams resource page Vermont Family Engagement Toolkit and Self-Assessment
Initial Referral	Form 1: Notice of Meeting Form 2: Evaluation Plan and Report Form 3: Notice of Special Education Evaluation Form 3a: Consent for a Special Education Evaluation Form 7: Notice of Local Educational Agency Decision Notice of Procedural Safeguards
Assessment Process	Vermont Family Engagement Toolkit and Self-Assessment Form 2: Evaluation Plan and Report Guidance to Rule Change: Functional Skills and Performance Form 3: Notice of Special Education Evaluation Form 3a: Consent for a Special Education Evaluation Form 4: Notice of an Evaluation Delay Form 7: Notice of Local Educational Agency Decision Notice of Procedural Safeguards

Guide Section	Supporting Forms or Resources
Eligibility Determination	Adverse Effect Memorandum Three-Gate Eligibility Determination Guidance Document Specific Learning Disability: Guidelines for Determining Eligibility Systematic Observation of Learner – Core Instruction Specially Designed Instruction Handout Specially Designed Instruction Handout Part II Determination of Eligibility: Specific Learning Disability Form 2: Evaluation Plan and Report Notice of Procedural Safeguards
Reevaluation	Form 8: Written Agreement Between Parents and District Re-evaluations
Professional Development Request form	AOE Professional Development Request Form