

State Board Rules – Rules 2360 side by side

Purpose

This document is a representation of the [State Board Rules 2360 effective until June 30, 2022](#) and the [State Board Rules 2360 effective as of July 1, 2022](#) as a side by side document reflecting the major differences in bold.

2360.1 Statement of Purpose

These rules are designed to ensure that:

- (a) Eligible Vermont students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; in accordance with state and federal laws and regulations and in a cost-effective manner; and
- (b) The rights of children with disabilities and their parents are protected.

Quick Links

To be helpful we have provided quick links to the Rules sections. Some changes reflected are within the Rules Section and some are the title of the Rule itself.

2360 Special Education in Vermont

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Contact Information:

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[2365.1.12 Transfer of Parental Rights at Age of Majority \(34 C.F.R. § 300.520\)](#)

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[2365.2.13 Destruction of Information \(34 C.F.R. § 300.624\)](#)

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2366: State Funding for Special Education changed to (Reserved)

[2366 State Funding for Special Education](#)

2367: (Reserved) changed to Children with Disabilities Enrolled in Independent Schools and in-Home Study (34 C.F.R. § 300.129)

[2367 Children with Disabilities Enrolled in Independent Schools and in-Home Study \(34 C.F.R. § 300.129\)](#)

[2367.1.1 Child Find \(34 C.F.R. § 300.131\)](#)

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[2367.1.3 Proportionate Share of IDEA-B Funds \(34 C.F.R. § 300.133\(b\)\)](#)

[2367.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or in-Home Study \(34 C.F.R. § 7\(a\)\)](#)

[2367.1.5 Services Determined](#)

[2367.1.5.1 Consultation \(34 C.F.R. § 300.134\)](#)

[2367.1.5.2 Written Affirmation \(34 C.F.R. § 300.135\)](#)

[2367.1.5.3 Compliance \(34 C.F.R. § 300.136\)](#)

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[2367.1.7 Equitable Services Determined \(34 C.F.R. § 300.137\)](#)

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[2367.1.8 Location of Services; Transportation \(34 CFR §300.139\)](#)

[2367.1.9 Funds May Not Benefit an Independent School or Home Study Program \(34 CFR §300.141\)](#)

[2367.1.10 Use of Public and Independent School Personnel to Provide Services \(34 CFR §300.142\)](#)

[2367.1.11 Property, Equipment and Supplies \(34 CFR §300.144\)](#)

[2367.1.12 Complaints \(34 CFR §300.140\)](#)

[2367.2 School Districts without a Public School](#)

[2367.3 Placement of Children by Parents if FAPE is at Issue \(34 C.F.R. § 300.148\)](#)

2368: Children with Disabilities Enrolled in Independent Schools and in Home Study changed to **Educational Surrogate Parents**

[2368 Educational Surrogate Parents](#)

2369: Monitoring and Corrective Action (New 2022)

[2369 Monitoring and Corrective Action](#)

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Rules 2360 effective until June 30, 2022 (2013 version)	Rules 2360 effective as of July 1, 2022
<p>2360.2.12 Special Education Services</p> <p>The term "special education" means specially designed instruction that cannot be provided within the school's standard instructional conditions or provided through the school's educational support system, at no cost to the parent, to meet the unique needs of an eligible child with a disability. Specially designed instruction means adapting, as appropriate, to the needs of an eligible child, the content, methodology, or delivery of instruction:</p> <ul style="list-style-type: none"> (a) To address the unique needs of the child that result from the child's disability; and (b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the LEA that apply to all children. <ul style="list-style-type: none"> (1) Special education services include, as appropriate: <ul style="list-style-type: none"> (i) Classroom instruction, home instruction, instruction in hospitals and institutions and instruction in other settings; (A) Co-teaching services is the delivery of special education services in the general education classroom provided jointly by the general education classroom teacher and a special education teacher. <ul style="list-style-type: none"> 1) By selecting the co-teaching services model, the IEP team has determined that there is no compelling reason why the child's instruction cannot be provided jointly in the general education classroom. The general education classroom teacher shall be an active participant in 	<p>2360.2.12 Special Education Services (34 C.F.R. § 300.39)</p> <ul style="list-style-type: none"> (a) Special education means specially designed instruction, 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 means adapting, as appropriate to the needs of an eligible child under this part, 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. (b) Special education includes each of the following, if the services otherwise meets the requirements of subsection (a): <ul style="list-style-type: none"> (1) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (2) Travel training; (3) Vocational education; and (4) Co-teaching. (c) Individual special education terms defined. The terms in this definition are defined as follows: <ul style="list-style-type: none"> (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program. (2) Physical education means –

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<p>IEP meetings.</p> <p>2) The general education and special education teachers will review and document each child’s progress towards course objectives and IEP goals.</p> <p>3) Should a progress review at any grading period indicate that a child is in danger of failing a course or is not making satisfactory progress towards IEP goals, the IEP team shall meet immediately to:</p> <p>a) Determine continued co-teaching services or change of placement, and</p> <p>b) Revise the IEP as appropriate.</p> <p>4) In order to offer co-teaching services, the LEA must complete a plan for implementation which includes continuous professional development and submit the plan to the Vermont Agency of Education for approval.</p> <p>(ii) Instruction in physical education which is the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and includes special physical education, adapted physical education, movement education, and motor development.</p>	<p>(i) The development of—</p> <p>(A) Physical and motor fitness;</p> <p>(B) Fundamental motor skills and patterns; and</p> <p>(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and</p> <p>(ii) Includes special physical education, adapted physical education, movement education, and motor development.</p> <p>(3) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—</p> <p>(i) Develop an awareness of the environment in which they live; and</p> <p>(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).</p> <p>(4) Vocational education or technical education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.</p> <p>(5) Co-teaching services is the delivery of special education services in the general education classroom provided jointly by the general education classroom teacher and a special education teacher.</p>

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<p>(iii) Speech–language pathology services for the prevention and/or habilitation of speech-language impairments may be special education, if provided as specially designed instruction; or related services, if required to assist a student with a disability to benefit from special education.</p> <p>(iv) Travel training which is the provision of instruction, as appropriate, to children with significant cognitive disabilities and any other children with disabilities who require this instruction, to enable them to:</p> <p>(A) Develop an awareness of the environment in which they live; and</p> <p>(B) Learn the skills necessary to move effectively and safely from place to place within that environment such as school, home, work, and in the community.</p> <p>(v) Technical education which means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.</p> <p>(c) To ensure successful post-secondary transition, transition services may be special education, if provided as specially designed instruction, or related services, if required to assist a student to benefit from special education.</p> <p>(1) “Transition services” means a coordinated set of activities</p>	<p>(i) By selecting the co-teaching services model, the IEP team has determined that there is no compelling reason why the child’s instruction cannot be provided jointly in the general education classroom. The general education classroom teacher shall be an active participant in IEP meetings.</p> <p>(ii) The general education and special education teachers will review and document each child’s progress towards course objectives and IEP goals.</p> <p>(iii) Should a progress review at any grading period indicate that a child is in danger of failing a course or is not making satisfactory progress towards IEP goals, the IEP team shall meet immediately to:</p> <p>(A) Determine continued co-teaching services or change of placement, and</p> <p>(B) Revise the IEP as appropriate.</p> <p>(iv) In order to offer co-teaching services, the LEA must complete a plan for implementation which includes continuous professional development and submit the plan to the Vermont Agency of Education for approval.</p> <p>(d) To ensure successful post-secondary transition, transition services may be special education, if provided as specially designed instruction, or related services, if required to assist a student to benefit from special education.</p> <p>(1) “Transition services” means a coordinated set of activities for a child with a disability that:</p> <p>(i) Is designed to be within a results-oriented process, that is</p>

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<p>that:</p> <ul style="list-style-type: none"> (i) Are designed within a results-oriented process, that is focused on improving the academic and functional achievement of the child who is eligible to facilitate the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (ii) Are based on the individual student's needs, taking into account the student's preferences and interests; and includes: <ul style="list-style-type: none"> A) Instruction; (B) Related services; (C) Community experiences; (D) The development of employment and other adult living objectives; and (E) If appropriate, acquisition of daily living skills and functional vocational evaluation. 	<p>focused on improving the academic and functional achievement of the child with a disability, and to facilitate the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;</p> <ul style="list-style-type: none"> (ii) Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes: <ul style="list-style-type: none"> (A) Instruction; (B) Related services; (C) Community experiences; (D) The development of employment and other post-school adult living objectives; and (E) If appropriate, acquisition of daily living skills and functional vocational evaluation.

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<p>2360.2.16 Related Services</p> <p>(b) Exception. Related services do not include a medical device that is surgically implanted, the optimization of device functioning, maintenance of the device, or the replacement of that device.</p> <p>(4) Interpreting services, as used with respect to children who are deaf or hard of hearing, includes oral transliteration services, cued language transliteration services, and sign language interpreting services.</p>	<p>2360.2.16 Related Services (34 C.F.R. § 300.34)</p> <p>(b) Exception. Except as provided in Rule 2360.2.18, related services do not include a medical device that is surgically implanted, the optimization of device functioning, maintenance of the device, or the replacement of that device.</p> <p>(4) Interpreting services, as used with respect to children who are deaf or hard of hearing, includes oral transliteration services, cued language transliteration services, sign language transliteration services, sign language interpreting services, transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell, and special interpretive services for children who are deaf-blind.</p>
<p>2361 Part B – Serving Children/Students Ages Three Through Twenty-One:</p> <p>IDEA Part B in Vermont is categorized into two distinct age groups. Children ages three through age five are served through Essential Early Education (EEE). The second age group, ages six through twenty-one. are students served through the local education agency where the student resides.</p>	<p>2361 Part B – Serving Children/Students Ages Three Through 21:</p> <p>IDEA Part B in Vermont is categorized into two distinct age groups. Children ages three through age five are served through Essential Early Education/Early Childhood Special Education (EEE/ECSE). The second age group, ages six through 21 are students served through the LEA where the student resides.</p>

2361.1 Part B Definitions

- (10) Core curriculum. Core curriculum means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography which have instructional approaches that are based on scientifically validated research supporting the curriculum’s effectiveness and demonstrate a high probability of success for a majority of students.
- (13) Eligibility. See Rule 2360.5.5 for children from birth through 2 years 11 months of age. See Rule 2361 for children ages 3 up to the sixth birthday. See Rule 2362 for children and students ages 6 through 21.
- (25) Local Education Agency Plan (LEAP). The Vermont Agency of Education has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. Each LEA assures its commitment to that goal by submitting its LEAP consistent with Rule 2366.10
- (31) Related services. Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation, transportation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of

2361.1 Part B Definitions:

- (i) Core curriculum. Core curriculum means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, geography, **and physical education** which have instructional approaches that are based on scientifically validated research supporting the curriculum’s effectiveness and demonstrate a high probability of success for a majority of students.
- (m) Eligibility. See Rule 2360.5.5 for children **under three years of age**. See Rule 2361 for children ages three **through five**. See Rule 2362 for children and students ages six through 21.
- (y) Local Education Agency Plan (LEAP). The Vermont Agency of Education has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. Each LEA assures its commitment to that goal by submitting its LEAP consistent with **SBE Rule 1311**.
- (ee) Related services. Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability **to benefit from special education** and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation, transportation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early

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<p>disabling conditions in students as described in Rule 2360.2.16.</p> <p>(33) Services plan. Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in an independent school or in a registered home school, who has been designated to receive services, including the location of the services and any transportation necessary, and is developed and implemented in accordance with Rule 2368.</p> <p>(34) Special Education Services. The term "special education" means specially designed instruction that cannot be provided within the school's standard instructional conditions or provided through the school's educational support system, at no cost to the parent, to meet the unique needs of an eligible child with a disability. Specially designed instruction means adapting, as appropriate, to the needs of an eligible child, the content, methodology, or delivery of instruction.</p> <p>(35) Student. For the purpose of this document, the term "student" shall refer to individuals ages six through twenty-two years of age.</p>	<p>identification and assessment of disabling conditions in students as described in Rule 2360.2.16.</p> <p>(gg) Services plan. Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child, grades K-12, with a disability enrolled in an independent school or in a registered home school, who has been designated to receive services, including the location of the services and any transportation necessary, and is developed and implemented in accordance with Rule 2367.</p> <p>(hh) Special education services. As defined in Rule 2360.2.12.</p> <p>(ii) Student. For the purpose of this document, the term "student" shall refer to individuals ages six through 21 years of age, inclusive.</p>

2361.2 Essential Early Education (EEE) Eligibility of Children Age Three Years Up To the Sixth Birthday

- (a) A child age three years up to the sixth birthday shall be eligible for EEE services if the child meets at least one of the following:
- (1) The child meets criteria set forth in Part C Rule 2360.5.9(c):
 - (i) Received consistent (e.g., one 60 minute intervention session per week) specialized instruction, developmental therapy services or speech and language services through an IFSP/One Plan; and
 - (ii) CIS/EI IFSP/One Plan team has determined the child as ‘potentially eligible’ for EEE services within six months of the child’s third birthday; or
 - (iii) The child has a medical condition which may result in significant delays by the child’s sixth birthday, and the school based Evaluation Planning Team (EPT) has determined that the child is in need of Part B EEE services; or
 - (2) After the EPT reviews the results of the comprehensive evaluation and concludes that the child has a disability caused by a developmental delay and the child is in need of early childhood special education services; or
 - (3) The child has a medical condition which may result in significant delays, and the child is in need of early childhood special education services; or
 - (4) For a child enrolled in kindergarten, the EPT may consider using eligibility criteria for children ages 6 through 21 (school age) pursuant to Rule 2362, including the determination of a disability, adverse effect on educational performance and need for special education.
- (c) For the purposes of this section, “developmental delay” is determined through a comprehensive evaluation as measured by at least two appropriate assessment measures, one of which must be a diagnostic instrument. Other measures may include, but are not

2361.2 Essential Early Education (EEE) Eligibility of Children Age Three Years Through Five

Essential Early Education (EEE) is IDEA Part B Early Childhood Special Education (ECSE) services for children ages three through five, inclusive. Special education and related services are provided by LEAs to ensure children receive age appropriate services within inclusive early childhood settings, including the child’s home, to the extent possible.

- (a) A child under age three may be eligible for placement in Part B under IDEA on or up 90 days prior to their third birthday if the LEA determines the child meets criteria set forth in Part C Rule 2360.5.10.
- (1) If the child is eligible for Part B, an IEP must be developed by the child’s third birthday.
 - (2) Given parental consent under Rule 2363.8, a child shall receive ECSE services from the period of time between initiation of services up to their three-year evaluation date. The three-year evaluation date is three years from the date of initial eligibility determination under Part C CIS/EI as written in the child’s One Plan.
 - (3) Before the three-year evaluation date is due, the LEA shall conduct and complete an initial comprehensive evaluation under Part B using ECSE eligibility criteria.
- (b) A child age **three years through five years** shall be eligible for EEE services if the child meets at least one of the following:
- (d) For the purposes of this section, “developmental delay” is determined through a comprehensive evaluation as measured by at least two appropriate assessment measures, one of which must be a **standardized** diagnostic instrument. Other measures may include, but are not limited to, observation of a **child’s function across daily routines and settings**, interview with teachers,

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<p>limited to, observation, interview, review of ongoing assessment, and functional assessment. To meet developmental delay criteria a child must demonstrate at least one of the following:</p>	<p>family, and/or caregivers, review of ongoing assessment, and, if warranted, a functional behavior assessment. To meet developmental delay criteria a child must demonstrate at least one of the following:</p>
<p>2361.3 Educational Placement in the Least Restrictive Environment (LRE)</p> <p>(a) In determining the educational placement of a preschool child with a disability, each LEA shall provide a full continuum of placement options and ensure that:</p> <p style="padding-left: 40px;">(iv) Based on consideration of community-based early care and education settings, such as public pre-K classrooms, private childcare, Head Start or as appropriate for the child, within the home.</p>	<p>2361.3 Educational Placement in the Least Restrictive Environment (LRE) (34 C.F.R. § 300.115)</p> <p>(a) At all times, a child’s LRE placement must be based on their unique abilities and needs, and must provide the opportunity for a meaningful educational benefit. In determining the educational placement of a preschool child with a disability, each LEA shall provide a full continuum of placement options and ensure that:</p> <p style="padding-left: 40px;">(iv) Based on consideration of community-based early care and education settings, such as public or private Universal Prekindergarten Education (UPK) classrooms, private childcare, Head Start or as appropriate for the child, within the home.</p> <p style="padding-left: 40px;">(A) A child may receive ECSE services in a State-approved public or private prequalified UPK program. The LEA may, but is not required to, provide ECSE services outside of the LEA, even if the child is enrolled in an out-of- district UPK program.</p> <p style="padding-left: 40px;">(B) All public and private UPK programs shall adhere to applicable federal and state laws including, but not limited to, IDEA Part B; Section 504 of the Rehabilitation Act of 1973; the Americans with</p>

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	<p>Disability Act (ADA); Title VII of the Civil Rights Act of 1964; Vermont’s Act 166 of 2014; SBE Rule Series 2600; and the Vermont Agency of Human Services (AHS), Child Development Division (CDD) licensing regulations.</p> <p>(C) For children who are enrolled in public or private UPK programs and receive ECSE services, the UPK program shall allow access to ECSE service providers and permit announced and unannounced visits by representatives of AOE, AHS, and school district staff.</p>
<p>2361.4 Transition for Children Moving into Kindergarten</p> <p>(a) In order to ensure a smooth transition to kindergarten, the IEP team shall:</p> <p>(1) Meet three to six months prior to the child’s entrance into kindergarten to ensure that the child’s IEP is ready to be implemented at the beginning of the school year.</p>	<p>2361.4 Transition for Children Moving into Kindergarten</p> <p>(a) In order to ensure a smooth transition to kindergarten, the IEP team shall:</p> <p>(1) Meet three to six months prior to the child’s entrance into kindergarten to ensure that the child’s IEP is ready to be implemented at the beginning of the school year. The child’s re-evaluation date is determined three years from the child’s evaluation date as stated on the child’s current IEP.</p>
<p>2361.5 IEP Content</p> <p>The content of the student’s IEP shall be as set forth in Rule 2363.7. For preschoolers, the IEP may also address how the child’s disability affects his or her participation in developmentally appropriate play activities.</p>	<p>2361.5 IEP Content</p> <p>The content of the child’s IEP shall be as set forth in Rule 2363.7. For a preschool age child, the IEP shall address how the child’s disability affects their access to and active participation in age appropriate activities within the LRE. The IEP present levels of performance, goals, and objectives shall align with the following early childhood outcome areas:</p>

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	<p>(a) Positive Social and Emotional Skills and Relationships;</p> <p>(b) Acquisition and Use and Knowledge and Skills; and</p> <p>(c) Taking Appropriate Action to Meet Needs.</p>
<p>2362 Eligibility for Children Ages Six Years through Twenty One (34 CFR §300.306)</p> <p>(2) The disability results in an adverse effect on the child's educational performance in one or more of the basic skill areas as described in subsection (f), below; and</p> <p>(3) The student needs special education services to benefit from his or her educational program and this support cannot be provided through the educational support system, standard instructional conditions or supplementary aids and services provided in the school.</p> <p>(d) Adverse Effect.</p> <p>(1) To conclude that a disability has an adverse effect on the student's educational performance, the EPT shall determine and document that, as a result of his or her disability, the student is functioning significantly below grade norms compared to grade peers in one or more of the basic skills defined in Rule 2362(g).</p> <p>(2) "Significantly below grade norms" means the 15th percentile or below, or a 1.0 standard deviation or more below the mean, or the equivalent, as reflected by performance on at least three of the six following measures of school performance, generally over a period of time:</p>	<p>2362 Eligibility for Children Ages Six Years through 21 (34 C.F.R. § 300.306)</p> <p>(2) Except for the disability categories of Deaf-Blindness and Specific Learning Disability, the disability results in an adverse effect on the child's educational performance in one or more of the basic skill areas as described in subsection (g), below; and</p> <p>(3) The student needs special education services to access and benefit from his or her educational program and this support cannot be provided through the educational support system, standard instructional conditions or supplementary aids and services provided in the school.</p> <p>(d) Adverse Effect.</p> <p>(1) In this section, "adverse effect" and to "adversely affect" are used interchangeably and mean to have a negative impact on the basic skills areas. This 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.</p>

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<ul style="list-style-type: none"> (i) Individually administered nationally normed achievement test; (ii) Normed group administered achievement tests, including nationally normed curriculum- based measures; (iii) Grades; (iv) Curriculum-based measures which could include benchmark assessments and continuous progress monitoring outcomes; (v) Criterion-referenced or group-administered criterion-referenced assessments; (vi) Student work, language samples or portfolios. <p>(3) With respect to each basic skill considered, the EPT shall specifically identify in its report:</p> <ul style="list-style-type: none"> (i) Each type of measure considered by the Team; (ii) The finding of the Team, with respect to each measure considered, as to whether and why the measure met (or did not meet) the 15th percentile, -1.0 standard deviation, or equivalent standard, in order to support a finding of adverse effect; (iii) The specific testing data/scores, student work, and/or education records relied upon by the Team to support its finding under subparagraph (ii) that a measure did or did not meet the standard; and 	<ul style="list-style-type: none"> (2) 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 where the disability category requires a finding of adverse effect. The EPT and IEP team will consider academic and nonacademic aspects of the child’s functioning. (3) The documentation of adverse effect on educational performance must also substantiate that the educational deficiencies persist or will persist over time in spite of specific alternative strategies that are provided within the general education setting. The EPT should document evidence that scientific, research-based interventions have been implemented with fidelity. The EPT will consider these efforts and their impact when determining adverse educational performance. <ul style="list-style-type: none"> (1) Consider the interventions, services, and accommodations the student may need, and (2) Determine and provide justification that the student requires specially designed instruction that cannot be provided within the school's standard instructional conditions, or provided through the school's educational support system. <p>(g) Basic skill areas—</p> <ul style="list-style-type: none"> (viii) Motor skills; and (ix) Functional skills. <p>(4) “Functional skills” means the acquisition of essential and critical skills needed for a child with disabilities to learn specific daily living, personal, social, and employment skills</p>

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<p>(iii) A statement of each basic skill area in which the disability was determined to have an adverse effect, based upon (i)-(iii).</p> <p>(g) Basic skill areas—</p> <p>(vii) Motor Skills</p>	<p>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 life-long opportunities.</p>
<p>2362.1 Categories of Disability</p> <p>(l) Visual impairment including blindness means an impairment in vision as evaluated by an optometrist or ophthalmologist, demonstrated by central visual acuity that is 20/70 or worse in the better eye with correction, or a peripheral field that subtends an angle not greater than 20 degrees at its widest diameter. For the purposes of this disability, mobility and orientation shall also be considered to be special education services. The term includes both partial sight and blindness.</p>	<p>2362.1 Categories of Disability (34 C.F.R. § 300.8)</p> <p>(l) Visual impairment including blindness means an impairment in vision as evaluated by an optometrist or ophthalmologist.</p> <p>(1) This term includes, but is not limited, to the following:</p> <ul style="list-style-type: none"> (i) partial sight and blindness; (ii) a visual acuity of 20/70 or less in the better eye; (iii) reduced visual field to 20 degrees; (iv) a diagnosis of cortical visual impairment; (v) a diagnosis of a degenerative condition that is likely to result in a significant loss of vision; or (vi) other vision conditions that may adversely affect a child's educational performance, such as convergence insufficiency disorder. <p>(2) For the purposes of this disability, mobility and orientation shall also be considered to be special education services.</p>
<p>2362.2.1 Initial Evaluations (34 CFR §300.301)</p> <p>Either a parent of a child, or an LEA, or the AOE, or other State agency,</p>	<p>2362.2.1 Initial Evaluations (34 C.F.R. § 300.301)</p> <p>Either a parent of a child, or an LEA, or the AOE, or other State agency, may initiate a request for an initial evaluation to determine if a child or</p>

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<p>may initiate a request for an initial evaluation to determine if a child or student is eligible for special education and related services.</p>	<p>student is eligible for special education and related services. Implementation of Response to Intervention (RTI), Multi-tiered System of Supports (MTSS) or other strategies for academic and behavioral support shall not cause the evaluation of a child or student suspected of having a disability to be delayed or denied.</p>
<p>2362.2.5 Additional Procedures for Identifying Children With Specific Learning Disabilities (34 CFR §§300.307-300.311)</p> <p>(a) In making the determination that a student has a specific learning disability the LEA shall decide whether to use a discrepancy model or a model based on whether the student responds to scientific, research based intervention.</p> <p>(1) When using a discrepancy model, the EPT shall document that the student exhibits a discrepancy of 1.5 standard deviations or greater between ability and expected levels of performance in one or more of the basic skill areas.</p> <p>(c) The EPT may determine that a student has a specific learning disability if:</p> <p>(2) The student does not make sufficient progress to meet age or State approved grade level standards in one or more of the areas identified in (c)(1) when using either a discrepancy model or a model based on whether the student responds to scientific, research based intervention.</p>	<p>2362.2.5 Additional Procedures for Identifying Children With Specific Learning Disabilities (34 C.F.R. § 300.307-300.311)</p> <p>(a) In making the determination that a student has a specific learning disability the LEA shall decide whether to use a model based on whether the student responds to scientific, research- based intervention or to use a model based on other alternative research-based procedures for determining whether a child has a specific learning disability.</p> <p>(1) Eligibility determinations for a student who is determined to have a specific learning disability shall not be required to include an assessment of adverse effect as outlined in Rule 2362(d).</p> <p>(c) The EPT may determine that a student has a specific learning disability if:</p> <p>(2) The student does not make sufficient progress to meet age or State-approved grade level standards in one or more of the areas identified in (c)(1) when using a model based on whether the student responds to scientific, research-based intervention.</p>
<p>2362.2.6 Evaluation and Planning Team Report</p> <p>(2) The evaluation procedures used including:</p>	<p>2362.2.6 Evaluation and Planning Team Report</p> <p>(2) The evaluation procedures used, including:</p> <p>(ii) Changes which were necessary in test administration as</p>

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(ii) Changes which were necessary in test administration as described in Rule 2362.2.3(h);	described in Rule 2362.2.4(b)(4);
<p>2362.2.8 Independent Educational Evaluation (34 CFR §300.502)</p> <p>(f) Except as provided in (d) above, timelines or conditions related to obtaining an independent educational evaluation may not be imposed by the LEA.</p>	<p>2362.2.8 Independent Educational Evaluation (34 C.F.R. § 300.502)</p> <p>(f) Except as provided in (c) above, timelines or conditions related to obtaining an independent educational evaluation may not be imposed by the LEA.</p>
<p>2363.7 Content of IEP (34 CFR §300.320)</p> <p>(b) Measurable annual goals related to the child's present levels of academic and functional performance which shall:</p> <p>(1) Be written as measurable short-term objectives or benchmarks with projected dates for accomplishment, including a description of the evaluation procedures to be used to measure the child's progress towards meeting the short-term objectives or benchmarks;</p> <p>(f) Where the student's placement is a residential placement pursuant to Rule 2366.9, the student's IEP shall contain annual goals and short-term objectives or benchmarks designed to reintegrate the student into a local LEA placement, and a description of how they will lead to reintegration.</p>	<p>2363.7 Content of IEP (34 C.F.R. § 300.320)</p> <p>(b) Measurable annual goals related to the child's present levels of academic and functional performance which shall:</p> <p>(1) Use pertinent data to inform the development of appropriate goals and objectives.</p> <p>(2) Be written as measurable short-term objectives or benchmarks with projected dates for accomplishment, including a description of the evaluation procedures and the specific data that will be used to assess goals progress.</p> <p>(f) Where the student's placement is a residential placement pursuant to Rule 2364.4, the student's IEP shall contain annual goals and short-term objectives or benchmarks designed to reintegrate the student into a local LEA placement, and a description of how they will lead to reintegration.</p> <p>(j) Parent Input. The IEP shall contain a section for parents to provide written comments regarding their child's IEP. Following an IEP meeting to write or amend an IEP, the LEA shall send the IEP to the parent together with prior written notice of decision. The parent shall be provided 10 days to complete and return the parent input section of the IEP. The purpose of the parent input</p>

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	<p>section is to facilitate feedback from families to ensure they have an opportunity to express any opinions about the IEP or the IEP process. Upon receipt of the parent input, the LEA may, but is not required to, schedule a meeting to discuss parental concerns.</p>
<p>2364.4 LRE for Non-Academic and Extra-curricular Activities (34 CFR § 300.117)</p> <p>(a) In providing or arranging for the provision of non-academic (examples: meals and recess periods) and extra-curricular services and activities, the LEA shall ensure that an eligible student participates with non-disabled students in those services and activities to the maximum extent appropriate to the needs of that student.</p> <p>(b) The LEA shall ensure that each child with a disability has the supplementary aids and services determined by the child’s IEP team to be appropriate and necessary for the child to participate in non-academic and extra-curricular activities.</p>	<p>2364.4 Residential Placements by LEAs</p>
<p>2364.1 General LRE Requirements (34 CFR § 300.114)</p>	<p>2364.4.1 Individual Residential Placements</p> <p>Funding of individual residential placements shall be in accordance with 16 V.S.A. Chapter 101, subchapter 2 and 16 V.S.A. § 2958(c)(2). Applications for funding of individual residential placements shall undergo the residential review process set forth in 16 V.S.A. § 2958 and Rule 2364.4.1.1.</p>
<p>No reference for 2013 version</p>	<p>2364.4.1.1 Residential Placement Review Team</p>

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	<p>As needed, the Secretary may appoint Agency of Education employees and others to a residential placement review team. Members of the team shall be subject to the confidentiality provisions of State and federal law. The team shall have those responsibilities set forth in 16 V.S.A. § 2958(b). The team shall be composed of at least two members: (1) one who has knowledge about the child’s area of disability and (2) the other who has knowledge of available resources and services in the LEA’s region of the State, and, where relevant to the provision of a continuum addressing the student’s disability, elsewhere in the State and in their region of the United States.</p>
<p>No reference for 2013 version</p>	<p>2364.4.1.2 Early Notification to the Secretary</p> <p>(a) Each LEA shall provide timely notification to the Secretary, in writing, with a copy sent to the student’s parents, that residential placement is being considered as a possible option for inclusion in the student’s IEP when there has been:</p> <ul style="list-style-type: none"> (1) A recommendation by the Evaluation and Planning Team for residential placement; (2) A unilateral residential placement by the parents or by another State agency, pursuant to 16 V.S.A. § 2942(7); (3) An annual review for a student already in residential placement; or (4) When any circumstance warrants consideration by the LEA that residential placement is a possible option for inclusion in a student’s IEP. <p>(b) Nothing herein shall be construed to mean that a student who falls within one of the above four categories necessarily requires</p>

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	<p>residential placement. Additionally, nothing herein shall be construed to mean that notice to the Secretary represents a decision of the IEP participants.</p> <p>(c) Reimbursement for residential placements shall be for placements from the date the Agency receives the notification in accord with this section. This requirement shall not apply to emergency placements made due to life-threatening events to a child or to other exceptional circumstances approved by the Secretary or designee after request by an LEA and recommendation of the residential review team.</p>
No reference for 2013 version	<p>2364.4.1.3 Timelines</p> <p>Unless extraordinary circumstances are presented, each LEA shall notify the Secretary at least 30 days prior to a change of placement to a residential placement, or other program, or 30 days prior to the IEP meeting where continuation at a residential placement or program is being considered. Such notice shall be given as soon as possible so that the involvement of the review team, if deemed necessary by the Secretary, does not interfere with the timelines for the placement decision.</p>
No reference for 2013 version	<p>2364.4.1.4 Receipt of IEP</p> <p>Prior to an IEP team’s determination that a student requires residential placement, the LEA shall forward the following documents to the Secretary:</p> <p>(a) The student’s most recent Evaluation Plan and Report;</p> <p>(b) Current IEP;</p> <p>(c) Residential placement application form; and</p>

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	(d) Any other relevant information.
No reference for 2013 version	<p>2364.4.1.5 Residential Review Team Procedures</p> <p>(a) Upon receiving notice under Rule 2364.4.1.2 or the IEP under Rule 2364.4.1.4, or upon request by a parent to establish a residential placement review team to review his or her child’s case, whichever comes earlier, the Secretary may establish a review team. Within ten working days of receipt of the notice, the IEP, or the parental request, the Secretary or the Secretary’s designee shall notify the LEA and the parents whether or not a review team has been constituted or reconvened.</p> <p>(b) The review team or any designated member thereof shall promptly investigate the need for residential placement of a student and provide technical assistance to the LEA concerning the need for residential placement, alternatives to residential placement, and alternative cost- effective residential facilities.</p> <p>(c) Within 30 days, or fewer, of its establishment, the team, after investigation, may take any of the following actions, depending on the circumstances associated with the request for residential placement:</p> <ol style="list-style-type: none"> (1) Advise the LEA and parents on alternatives to residential placement; (2) Review the individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment; (3) Assist the LEA in locating cost effective and appropriate

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	<p>residential facilities where necessary;</p> <p>(4) Request, but not require, a new IEP when it believes that appropriate alternatives to residential placement are available; or</p> <p>(5) Offer mediation as a means of resolving disputes relating to the need for residential placement, the particular residential facility recommended for a student with a disability, or the associated costs.</p> <p>(6) The residential review team shall provide notice in writing to the LEA's IEP team if and when it determines, as a result of its review, that residential placement, or that a particular residential placement, is not appropriate. The notice shall set forth the reasons(s) for the team's conclusions.</p> <p>(d) The Secretary may waive any provision of Rule 2364.4.1.5, not otherwise inconsistent with law for emergency placements or administrative efficiency.</p> <p>(e) Where the team or its designee finds that the placement practices or policies of an LEA are substantially inconsistent with least restrictive environment provisions of State or federal law, it may require the agency to submit a plan of correction.</p> <p>(f) Where the residential review team has identified, with the timelines noted above, residential facilities or alternative educational programs that are available, appropriate, and less costly, and has presented such facilities or programs to the IEP team for consideration during the IEP team's consideration of placement alternatives, and the IEP team has chosen to place the child in a more costly residential facility or program, the amount</p>

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	<p>of reimbursement by the State to the LEA shall be based upon the less costly placement. In such an instance, the LEA may appeal the decision of the Secretary to the State Board of Education in accordance with Rule 1230.</p> <p>(g) Where the recommendation of the residential review team to IEP team is for a residential program or facility operated or developed by, or funded directly or indirectly through, another State agency, it shall be the responsibility of the residential review team, the LEA, and the IEP team to work with the State agency in a timely manner and in accordance with the Part B Interagency Agreement, as amended.</p> <p>(h) If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child. (34 C.F.R. § 300.104)</p> <p>(i) The Secretary, or the Secretary’s designee, shall establish a system whereby the Agency of Education identifies and maintains current information on residential facilities, or other programs in Vermont and elsewhere, that provide educational programs to students with a variety of disabilities. Information about such facilities or programs may include, but not be limited to, the categories of disabilities served by the facility or program; the state’s approval status; the costs associated with tuition and services for which the facility or program charges a fee; and any other pertinent information. Any information system created by the Agency shall include a description of procedures for gathering updated information.</p>

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No reference for 2013 version	<p>2364.4.1.6 Due Process Hearing</p> <p>When the residential review team recommends that a student does not require residential placement, the Secretary may initiate a special education due process hearing under Rule 2365.1.6 to determine the appropriate placement for the child.</p>
2364.4 LRE for Non-Academic and Extra-curricular Activities (34 CFR § 300.117)	2364.5 LRE for Non-Academic and Extra-curricular Activities (34 C.F.R. § 300.117)
2364.5 Technical Assistance, Training and Monitoring Activities for LRE (34 CFR §300.119-120)	2364.6 Technical Assistance, Training and Monitoring Activities for LRE (34 C.F.R. § 300.119-120)
2364.6 Instruction for Homebound or Hospitalized Special Education Students	2364.7 Instruction for Homebound or Hospitalized Special Education Students
2365.1.3 Parental Consent	2365.1.3 Parental Consent (34 C.F.R. § 300.300)
2365.1.4 Mediation	2365.1.4 Mediation (34 C.F.R. § 300.506)
<p>2365.1.5 Administrative Complaints</p> <p>(j) A complaint may also be filed regarding provision of Part C of the IDEA. Investigation of a Part C complaint shall be completed in coordination with the Agency of Human Services, Department of Health, Child Development Division. A written complaint should be sent to the Director of the Children’s Integrated Services/Early Intervention (CIS/EI).</p>	<p>2365.1.5 Administrative Complaints (34 C.F.R. § 300.151)</p> <p>(j) A complaint may also be filed regarding provision of Part C of the IDEA. Investigation of a Part C complaint shall be completed in coordination with the Agency of Human Services, Department of Health, Child Development Division. A written complaint should be sent to the Director of the Children’s Integrated Services/Early Intervention (CIS/EI) and the Secretary of Education.</p>
<p>2365.1.6.1 Timeliness of Due Process Complaint Request</p> <p>(3) Exceptions to the timeline. The timelines described in (i) and (ii) of this section do not apply to a parent if the parent was prevented from filing a due process complaint due to:</p>	<p>2365.1.6.1 Timeliness of Due Process Complaint Request</p> <p>(3) Exceptions to the timeline. The timelines described in (a)(1) and (2) above do not apply to a parent if the parent was prevented from filing a due process complaint due to:</p>

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2365.1.6.2 Initiation of Due Process Hearing by a Parent, an LEA, or the Secretary	2365.1.6.2 Initiation of Due Process Hearing by a Parent, an LEA, or the Secretary (34 C.F.R. §§300.508 and 509)
2365.1.6.6 Response to Issues Raised in Complaint	2365.1.6.6 Response to Issues Raised in Complaint (34 C.F.R. § 300.508)
2365.1.6.8 Resolution Session	2365.1.6.8 Resolution Session (34 C.F.R. § 300.510)
2365.1.6.15 Hearing Procedures	2365.1.6.15 Hearing Procedures (34 C.F.R. § 300.512)
2365.1.6.16 Decision; Extension of 45-Day Period	2365.1.6.16 Decision; Extension of 45-Day Period (34 C.F.R. § 300.515)
<p>2365.1.6.17 Expedited Due Process Hearings</p> <p>(d) Upon being appointed, the hearing officer shall immediately arrange with the parties two days of hearing to occur within 20 school days of the filing of a complaint under Rule 2365.1.6.17(c)(2). At the same time, the hearing officer shall schedule an expedited resolution session to be held no later than seven days of the receipt of the written complaint. Unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the complaint, the due process hearing may proceed. The hearing officer shall schedule a prehearing conference prior to the hearing.</p> <p>(f) Except for the timelines in subsections (c)(2), (d), (e), and (i), the hearing officer may waive any of the procedures in this section in a case, but only to the extent necessary to preserve the full and fair nature of the due process hearing. At the agreement of both parties, the hearing officer may reduce the timelines in subsections (c)(2), (d), (e), and (h).</p>	<p>2365.1.6.17 Expedited Due Process Hearings</p> <p>(d) Upon being appointed, the hearing officer shall immediately arrange with the parties two days of hearing to occur within 20 school days of the filing of a complaint under Rule 2365.1.6.17. At the same time, the hearing officer shall schedule an expedited resolution session to be held no later than seven days of the receipt of the written complaint. Unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the complaint, the due process hearing may proceed. The hearing officer shall schedule a prehearing conference prior to the hearing.</p> <p>(f) Except for the timelines in subsections (c)(2), (d), (e), and (h), the hearing officer may waive any of the procedures in this section in a case, but only to the extent necessary to preserve the full and fair nature of the due process hearing. At the agreement of both parties, the hearing officer may reduce the timelines in subsections (c)(2), (d), (e), and (h).</p>
2365.1.7 Impartial Hearing Officer	2365.1.7 Impartial Hearing Officer (34 C.F.R. § 300.514)

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2365.1.8 Finality of A Due Process Hearing Decision; Appeal	2365.1.8 Finality of A Due Process Hearing Decision; Appeal (34 C.F.R. § 300.514)
2365.1.9 Civil Action	2365.1.9 Civil Action (34 C.F.R. § 300.516)
<p>2365.1.10 Attorneys' Fees</p> <p>(a) In any action or proceeding brought under Section 1415 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to—</p> <p>(b) Prohibition on use of funds.</p> <p>(2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under Section 1415 of the Act.</p> <p>(c) A court, in its discretion, may award reasonable attorneys' fees under Section 1415 of the Act consistent with the following:</p> <p>(1) Fees awarded under Section 1415 of the Act shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.</p> <p>(2) (i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Section 1415 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if—</p> <p>(4) Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the</p>	<p>2365.1.10 Attorneys' Fees (34 C.F.R. § 300.517)</p> <p>(a) In any action or proceeding brought under Section 1415 of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to—</p> <p>(b) Prohibition on use of funds.</p> <p>(2) Subsection (b)(1) above does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under Section 1415 of the IDEA.</p> <p>(c) A court, in its discretion, may award reasonable attorneys' fees under Section 1415 of the IDEA consistent with the following:</p> <p>(1) Fees awarded under Section 1415 of the IDEA shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.</p> <p>(2) (i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Section 1415 of the IDEA for services performed subsequent to the time of a written offer of settlement to a parent if:</p>

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attorneys' fees awarded under Section 1415 of the Act, if the court finds that--	(4) Except as provided in subsection (c)(5) , the court reduces, accordingly, the amount of the attorneys' fees awarded under Section 1415 of the IDEA , if the court finds that:
2365.1.11 Child's Status During Proceedings	2365.1.11 Child's Status During Proceedings (34 C.F.R. § 300.518)
2365.1.12 Transfer of Parental Rights at Age of Majority	2365.1.12 Transfer of Parental Rights at Age of Majority (34 C.F.R. § 300.520)
2365.2 Confidentiality of Information and Student Records	2365.2 Confidentiality of Information and Student Records (34 C.F.R. § 300.610)
2365.2.1 Notice to Parents	2365.2.1 Notice to Parents (34 C.F.R. § 300.612)
2365.2.2 Access Rights to Records	2365.2.2 Access Rights to Records (34 C.F.R. § 300.612)
2365.2.3 Record of Access	2365.2.3 Record of Access (34 C.F.R. § 300.614)
2365.2.4 Records on More than One Child	2365.2.4 Records on More than One Child (34 C.F.R. § 300.615)
2365.2.5 List of Types and Locations of Information	2365.2.5 List of Types and Locations of Information (34 C.F.R. § 300.616)
2365.2.6 Fees	2365.2.6 Fees (34 C.F.R. § 300.617)
2365.2.7 Amendment of Records at Parent's Request	2365.2.7 Amendment of Records at Parent's Request (34 C.F.R. § 300.618)
2365.2.8 Opportunity for a Hearing	2365.2.8 Opportunity for a Hearing (34 C.F.R. § 300.619)
2365.2.9 Result of Agency's Hearing	2365.2.9 Result of Agency's Hearing (34 C.F.R. § 300.620)
2365.2.10 Hearing Procedures	2365.2.10 Hearing Procedures (34 C.F.R. § 300.621)

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2365.2.11 Consent	2365.2.11 Consent (34 C.F.R. § 300.622)
2365.2.12 Safeguards	2365.2.12 Safeguards (34 C.F.R. § 300.623)
2365.2.13 Destruction of Information	2365.2.13 Destruction of Information (34 C.F.R. § 300.624)
2365.2.14 Children's Rights	2365.2.14 Children's Rights (34 C.F.R. § 300.625)
2366 State Funding for Special Education	2366 (Reserved)
2367 (Reserved)	<p>2367 Children with Disabilities Enrolled in Independent Schools and in-Home Study (34 C.F.R. § 300.129)</p> <p>2367.1 Children with Disabilities Enrolled by their Parents in Independent Schools and in-Home Study (34 C.F.R. § 300.130)</p> <p>Independent school children means children who are enrolled by their parents in kindergarten through grade twelve in recognized or approved independent schools, as defined in 16 V.S.A § 166, including religious elementary and secondary schools. Home study children means children enrolled with the Vermont Agency of Education in a home study program pursuant to 16 V.S.A § 166b. For the purposes of Rule 2367, home study children shall be deemed the same as children enrolled by their parents in an independent school.</p> <p>This section does not apply to children who are either:</p> <ul style="list-style-type: none"> (a) Placed in independent schools by the LEA based on an IEP team’s determination that the independent school, rather than the LEA’s school, is the appropriate placement and least restrictive environment for the child, or (b) Attend an independent school because the LEA does not maintain a public school.

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2368.1.1 Child Find (34 CFR §300.131)	2367.1.1 Child Find (34 CFR §300.131)
2368.1.2 Child-Count (34 CFR §300.133(c))	2367.1.2 Child-Count (34 CFR §300.133(c))
2368.1.3 Proportionate Share of IDEA-B Funds (34 CFR §300.133(b))	2367.1.3 Proportionate Share of IDEA-B Funds (34 CFR §300.133(b))
2368.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or in Home Study (34 CFR §300.137(a))	2367.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or in Home Study (34 CFR §300.137(a))
2368.1.5 Services Determined	2367.1.5 Services Determined
<p data-bbox="96 659 667 691">2368.1.5.1 Consultation (34 CFR §300.134)</p> <p data-bbox="96 716 1045 915">(b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve independent school and home study children with disabilities under Rule 2368.1.3(b), including the determination of how the proportionate share of those funds was calculated.</p>	<p data-bbox="1045 659 1638 691">2367.1.5.1 Consultation (34 CFR §300.134)</p> <p data-bbox="1045 716 2001 915">(b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve independent school and home study children with disabilities under Rule 2367.1.3(b), including the determination of how the proportionate share of those funds was calculated.</p>
2368.1.5.2 Written Affirmation (34 CFR §300.135)	2367.1.5.2 Written Affirmation (34 CFR §300.135)
2368.1.5.3 Compliance (34 CFR §300.136)	2367.1.5.3 Compliance (34 CFR §300.136)
2368.1.6 Services Plan and Record Keeping (34 CFR §300.132)	2367.1.6 Services Plan and Record Keeping (34 CFR §300.132)
<p data-bbox="96 1153 871 1185">2368.1.7 Equitable Services Determined (34 CFR §300.137)</p> <p data-bbox="96 1209 294 1242">(b) Decisions.</p> <p data-bbox="96 1266 1045 1385">(1) Decisions about the services that will be provided to independent school and home study children who are eligible for special education and related services shall be made in</p>	<p data-bbox="1045 1153 1879 1185">2367.1.7 Equitable Services Determined (34 CFR §300.137)</p> <p data-bbox="1045 1209 1249 1242">(b) Decisions.</p> <p data-bbox="1045 1266 2001 1417">(1) Decisions about the services that will be provided to independent school and home study children who are eligible for special education and related services shall be made in accordance with paragraph (c) of this section and Rule</p>

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<p>accordance with paragraph (c) of this section and Rule 2368.1.5.1(c).</p> <p>(c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school or home study program by the child’s parents and will receive special education or related services from an LEA, the LEA shall--</p> <p>(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 2368.1.7.1 (b); and</p>	<p>2367.1.5.1(c).</p> <p>(c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school or home study program by the child’s parents and will receive special education or related services from an LEA, the LEA shall--</p> <p>(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 2367.1.7.1 (b); and</p>
<p>2368.1.7.1 Equitable Services Provided (34 CFR §300.138)</p> <p>(b) Services provided in accordance with a services plan.</p> <p>(1) Each independent school or home study child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Rules 2368.1.5.1 and 2368.1.6, it will make available to independent school and home study children who are found eligible for services.</p>	<p>2367.1.7.1 Equitable Services Provided (34 CFR §300.138)</p> <p>(b) Services provided in accordance with a services plan.</p> <p>(1) Each independent school or home study child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Rules 2367.1.5.1 and 2367.1.6, it will make available to independent school and home study children who are found eligible for services.</p>
<p>2368.1.8 Location of Services; Transportation (34 CFR §300.139)</p>	<p>2367.1.8 Location of Services; Transportation (34 CFR §300.139)</p>
<p>2368.1.9 Funds May Not Benefit an Independent School or Home Study Program (34 CFR §300.141)</p>	<p>2367.1.9 Funds May Not Benefit an Independent School or Home Study Program (34 CFR §300.141)</p>
<p>2368.1.10 Use of Public and Independent School Personnel to Provide Services (34 CFR §300.142)</p>	<p>2367.1.10 Use of Public and Independent School Personnel to Provide Services (34 CFR §300.142)</p>
<p>2368.1.11 Property, Equipment and Supplies (34 CFR §300.144)</p>	<p>2367.1.11 Property, Equipment and Supplies (34 CFR §300.144)</p>

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(a) An LEA shall control and administer the funds used to provide special education and related services under Rules 2368.1.7 and 2368.1.8, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.	(a) An LEA shall control and administer the funds used to provide special education and related services under Rules 2367.1.7 and 2367.1.8, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.
2368.1.12 Complaints (34 CFR §300.140)	2367.1.12 Complaints (34 CFR §300.140)
2368.2 School Districts without a Public School	2367.2 School Districts without a Public School
2368.3 Placement of Children by Parents if FAPE is at Issue	2367.3 Placement of Children by Parents if FAPE is at Issue (34 C.F.R. § 300.148)
2368.1.1 Child Find (34 CFR §300.131)	2367.1.1 Child Find (34 CFR §300.131)
2368.1.2 Child-Count (34 CFR §300.133(c))	2367.1.2 Child-Count (34 CFR §300.133(c))
2368.1.3 Proportionate Share of IDEA-B Funds (34 CFR §300.133(b))	2367.1.3 Proportionate Share of IDEA-B Funds (34 CFR §300.133(b))
2368.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or in Home Study (34 CFR §300.137(a))	2367.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools or in Home Study (34 CFR §300.137(a))
2368.1.5 Services Determined	2367.1.5 Services Determined
2368.1.5.1 Consultation (34 CFR §300.134) (b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve independent school and home study children with disabilities under Rule 2368.1.3(b), including the determination of how the proportionate share of those funds was calculated.	2367.1.5.1 Consultation (34 CFR §300.134) (b) Proportionate share of funds. The determination of the proportionate share of federal funds available to serve independent school and home study children with disabilities under Rule 2367.1.3(b), including the determination of how the proportionate share of those funds was calculated.
2368.1.5.2 Written Affirmation (34 CFR §300.135)	2367.1.5.2 Written Affirmation (34 CFR §300.135)

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(a) When timely and meaningful consultation, as required by Rule 2368.1.5.1, has occurred, the LEA representative shall obtain a written affirmation signed by the representatives of participating independent schools and home study programs.	(a) When timely and meaningful consultation, as required by Rule 2367.1.5.1, has occurred, the LEA representative shall obtain a written affirmation signed by the representatives of participating independent schools and home study programs.
2368.1.5.3 Compliance (34 CFR §300.136)	2367.1.5.3 Compliance (34 CFR §300.136)
<p>2368.1.6 Services Plan and Record Keeping (34 CFR §300.132)</p> <p>(a) Consistent with Rule 2368.1.3 and 2368.1.4, a services plan shall be developed and implemented for each child with a disability who has been designated by the LEA in which the independent school or home study program is located to receive special education and related services.</p>	<p>2367.1.6 Services Plan and Record Keeping (34 CFR §300.132)</p> <p>(a) Consistent with Rule 2367.1.3 and 2367.1.4, a services plan shall be developed and implemented for each child with a disability who has been designated by the LEA in which the independent school or home study program is located to receive special education and related services.</p>
<p>2368.1.7 Equitable Services Determined (34 CFR §300.137)</p> <p>(b) Decisions.</p> <p>(1) Decisions about the services that will be provided to independent school and home study children who are eligible for special education and related services shall be made in accordance with paragraph (c) of this section and Rule 2368.1.5.1(c).</p> <p>(c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school or home study program by the child’s parents and will receive special education or related services from an LEA, the LEA shall--</p> <p>(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 2368.1.7.1 (b); and</p>	<p>2367.1.7 Equitable Services Determined (34 CFR §300.137)</p> <p>(b) Decisions.</p> <p>(1) Decisions about the services that will be provided to independent school and home study children who are eligible for special education and related services shall be made in accordance with paragraph (c) of this section and Rule 2367.1.5.1(c).</p> <p>(c) Services plan for each child served under this section. If an eligible child is enrolled in an independent school or home study program by the child’s parents and will receive special education or related services from an LEA, the LEA shall--</p> <p>(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Rule 2367.1.7.1 (b); and</p>

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<p>2368.1.7.1 Equitable Services Provided (34 CFR §300.138)</p> <p>(b) Services provided in accordance with a services plan.</p> <p>(1) Each independent school or home study child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Rules 2368.1.5.1 and 2368.1.6, it will make available to independent school and home study children who are found eligible for services.</p>	<p>2367.1.7.1 Equitable Services Provided (34 CFR §300.138)</p> <p>(b) Services provided in accordance with a services plan.</p> <p>(1) Each independent school or home study child who has been found eligible and who has been designated to receive services shall have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Rules 2367.1.5.1 and 2367.1.6, it will make available to independent school and home study children who are found eligible for services.</p>
<p>2368.1.8 Location of Services; Transportation (34 CFR §300.139)</p>	<p>2367.1.8 Location of Services; Transportation (34 CFR §300.139)</p>
<p>2368.1.9 Funds May Not Benefit an Independent School or Home Study Program (34 CFR §300.141)</p>	<p>2367.1.9 Funds May Not Benefit an Independent School or Home Study Program (34 CFR §300.141)</p>
<p>2368.1.10 Use of Public and Independent School Personnel to Provide Services (34 CFR §300.142)</p>	<p>2367.1.10 Use of Public and Independent School Personnel to Provide Services (34 CFR §300.142)</p>
<p>2368.1.11 Property, Equipment and Supplies (34 CFR §300.144)</p> <p>(a) An LEA shall control and administer the funds used to provide special education and related services under Rules 2368.1.7 and 2368.1.8, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.</p>	<p>2367.1.11 Property, Equipment and Supplies (34 CFR §300.144)</p> <p>(a) An LEA shall control and administer the funds used to provide special education and related services under Rules 2367.1.7 and 2367.1.8, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA-B.</p>
<p>2368.1.12 Complaints (34 CFR §300.140)</p>	<p>2367.1.12 Complaints (34 CFR §300.140)</p>
<p>2368.2 School Districts without a Public School</p>	<p>2367.2 School Districts without a Public School</p>
<p>2368.3 Placement of Children by Parents if FAPE is at Issue</p>	<p>2367.3 Placement of Children by Parents if FAPE is at Issue</p>

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	(34 C.F.R. § 300.148)
	<p>2368 Educational Surrogate Parents</p> <p>(a) To ensure that the educational rights of a child or student are protected, an educational surrogate parent shall be assigned whenever the individual is eligible for special education or is being evaluated for special education eligibility, and one of the following applies:</p> <ol style="list-style-type: none"> (1) The parents of the student are not known or cannot be located after reasonable efforts; (2) The student is a child in state custody through the Department of Children and Families or has a public guardian appointed by a Vermont court (18 V.S.A. §§9301-9316); or (3) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) (34 C.F.R. § 300.519(a)(4). <p>(b) The Secretary of Education or a designee shall assign an individual to act as an educational surrogate parent. The educational surrogate parent may represent the child in all matters relating to:</p> <ol style="list-style-type: none"> (1) The identification, evaluation, and educational placements of the child; and (2) The provision of FAPE to the child. <p>(c) The Educational Surrogate Parent Program shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after an LEA or other responsible agency determines</p>

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	<p>that the child needs a surrogate.</p> <p>(d) Before making the appointment, the Secretary or designee shall assure that the person appointed as an educational surrogate parent:</p> <ol style="list-style-type: none"> (1) Has no personal or professional interest that conflicts with the interests of the student to whom the surrogate is assigned; (2) Has knowledge and skills that ensure adequate representation of the child; and (3) Is not an employee of the Agency of Education, the child’s LEA, or any other agency that is involved in the education or care of the child. <p>(e) In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates without regard to paragraph (d)(3).</p> <p>(f) A foster parent or developmental home provider shall not automatically have the rights of a parent, but may be appointed by the Secretary of Education or designee to serve as an educational surrogate parent for the child, pursuant to subsections (a), (b), and (d) above.</p> <p>(g) Nothing in this section shall be interpreted to diminish, or otherwise alter, any authority or responsibility of a state agency regarding general education decisions for a child in state custody pursuant to Chapters 49 and 55 of Title 33 or a vulnerable adult in state custody pursuant to Chapter 215 of Title 18.</p>

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	<p>2369 Monitoring and Corrective Action</p> <p>(a) The Secretary shall periodically monitor all LEAs for compliance with Vermont statutes and rules, and federal requirements under the IDEA. The monitoring process shall include, but not be limited to, review of the State Performance Plan indicators and provision of FAPE for all eligible students.</p> <p>(b) The monitoring procedures may include, but are not limited to:</p> <ol style="list-style-type: none"> (1) A self-assessment conducted by the LEA being monitored; (2) Review of data, reports, and student records; (3) On-site visits; (4) Comparison of a sample of individualized education programs with the programs and services provided; and (5) Development of an improvement plan by the LEA being monitored to address areas of noncompliance identified during the self-assessment. <p>(c) After the monitoring process is completed, a report shall be written and sent to the LEA. If the report indicates noncompliance, the LEA shall develop an improvement plan that includes areas of need identified through self-assessment as well as noncompliance cited by the Secretary, and submit it to the Secretary for approval. The Secretary shall review the improvement plan and notify the LEA if it is acceptable.</p> <p>(d) An improvement plan shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> (1) Objectives and strategies for correcting each noncompliance

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	<p>item cited, including resources needed; and</p> <p>(2) The dates by which noncompliance will be corrected.</p> <p>(e) Corrective actions identified in the improvement plan shall be completed as soon as possible, but in no case later than one year after the Secretary's identification of noncompliance.</p> <p>(f) When an improvement plan is not submitted, found unacceptable, or not implemented, the Secretary shall notify the LEA of additional intended actions. These actions may include, but are not limited to:</p> <ol style="list-style-type: none"> (1) Further monitoring; (2) Mandatory technical assistance or professional development; (3) Withholding or directing of funding. <p>(g) An LEA shall provide documentation necessary for the Secretary to fulfill the Agency's reporting obligations pursuant to federal regulations. Documentation shall be provided in accordance with the timeline and format specified by the Secretary.</p> <p>(h) If documentation is not submitted consistent with subsection (g) of this Rule, the Secretary shall notify the LEA of additional intended actions.</p> <p>Effective Date: These rules will take effect on July 1, 2022.</p>