

## Item E-2

### Summary of the AOE's Proposed Revisions to the Special Education Rules, Rule Series 2360: Prepared for the 1/21/2020 VT State Board of Education meeting

Generally: Scope of revisions limited to 1) Act 173 directive to adopt rules necessary to implement the Act; 2) Revisions necessary for IDEA compliance; and 3) Technical/stylistic edits.

Substantive proposed revisions:

Yellow highlight indicates change from draft of proposed 2360 revisions presented to the SBE on 6/19/2019 and 7/17/2019.

- 1) **Rule 2360.2.12 – Definition of “Special Education Services”** – definition revised to correspond with federal definition (34 C.F.R. § 300.39) and revisions in proposed Rule Series 1300 (Special Education Funding). Rule retaining VT specific Co-teaching rule (not in federal rules) and Transition Services rule (in federal real, but appears as a separate rule, 34 C.F.R § 300.43).
- 2) **Rule 2360.2.16(d)(4) – Related Services** – addition of available interpreting services for consistency with federal rules, 34 C.F.R. § 300.34(c)(4)(ii).
- 3) **Rule 2361.1(j) – Part B Definitions** – addition of “physical education” to the definition of “core curriculum.” Appropriate as PE now has a standardized assessment, is part of ESSA reporting, and consistent with VT statutory definition of “minimum course of study” (16 V.S.A. § 906(b)).
- 4) **Rule 2361.1(hh) – Part B Definitions** – Definition of “Special Education Services” – rule revised to refer to Rule 2360.2.12 for clarity and consistency.
- 5) **Rule 2361.2 – Essential Early Education** – multiple changes:
  - a. Rule 2361.2 - Introductory language added for clarity and readability;
  - b. Rule 2361.2(a) – Rule differentiates between eligibility for up to three years of age and eligibility for three years through five years of age. Current rule references eligibility requirements in Rule 2360.5.10, then restates the rule. Proposed revisions simply reference Rule 2360.5.10 and clarifies transitional timelines.
  - c. Rule 2361.2(b) – Rule differentiates between eligibility for up to three years of age and eligibility for three years through five years of age.
  - d. Rule 2361.2(d) – Clarifying language to assist with compliance.

- 6) Rule 2361.3 – Least Restrictive Environment** - multiple changes:
- a. Rule 2361.3(a) – Language added to more closely reflect federal rule (34 C.F.R. § 300.115) and legal standard for provision of a free appropriate public education (FAPE).
  - b. Rule 2361.3(a)(2)(iv) – Subsection added to signal that special education entitlement extends to universal pre-k program (UPK) that has developed since the last revision to the 2360 rules. Language mirrors UPK rules in SBE Rule Series 2600.
- 7) Rule 2361.4(a)(1) – Transition for Child Moving into Kindergarten** – Necessary clarification for the field to ensure compliance.
- 8) Rule 2361.5 – IEP Content** – Revisions based on Office of Special Education Programs (OSEP) guidance. Proposed revisions with assist with compliance and AOE reporting.
- 9) Rule 2362.1(l) – Categories of Disabilities – Visual Impairment** – revision for consistency with federal rules (34 C.F.R. § 300.8(c)(13) and OSEP guidance (<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/letter-on-visual-impairment-5-22-17.pdf>)). Proposed revisions based on OSEP guidance and language provided by the Vermont Association for the Blind and Visually Impaired (VABVI).
- 10) Rule 2361.2.1 – Initial Evaluations** – addition of requirement that use of academic/behavioral support systems (such as MTSS and RTI) shall not delay an initial special education evaluation.
- 11) Rule 2364.4 – Least Restrictive Environment – Residential Placements** - Residential Placement rule transferred from Rule 2366 (current funding section) to Rule 2364 (Least Restrictive Environment). The Rule primarily addresses placement issues, not funding issues, therefore it seems to fit more consistently with the other placement rules as opposed to the proposed Special Ed. Finance and Census-based Funding Rules. Title changed to distinguish between residential placements by LEAs and residential placement by the State.
- 12) Rule 2365.1.5(j) – Administrative Complaints** – addition of requirement that Part C administrative complaints be sent to Agency of Human Resources (AHS) and AOE concurrently. Procedurally, AOE needs to receive the complaint as soon as possible to conduct a thorough investigation within the 60-day timeline.
- 13) Rule 2366 – State Funding for Special Education** - Generally, Rule 2366 and subsections will be replaced by the proposed Rule Series 13, Special Education Finance and Census-

based Funding Rules. Subsections are addressed specifically in the notes within the draft.

- 14) **Rule 2369 – Educational Surrogate Parents** – Rule reinserted, as rule was apparently inadvertently deleted during the corrective filing that occurred in August 2018. Removal at that time would have been inconsistent with administrative rulemaking procedure.
- 15) **Rule 2370 – Monitoring and Corrective Action** – New proposed special education programmatic monitoring rule; responsive to rulemaking directive in Act 173, section 16.