

REVISIONS

A Parent's Guide to the Special Education Process October 2006

In December 2004, Congress reauthorized the Individuals with Disabilities Education Act (IDEA). The revisions to this booklet are based on changes in the IDEA and changes to Vermont special education procedures. Unless otherwise noted, the changes described below will go into effect on August 24, 2006 for Vermont special education regulations and October 14, 2006 for federal special education regulations.

Page 2, Making a referral for an evaluation

- Change: The IDEA 2004 specifies that referrals for a special education evaluation may be made by parents/guardians, the school district, the Department of Education, and other state agencies.

Page 8, Special education evaluation for learning disabilities

- Change: IDEA allows states to use a response to intervention model for evaluating children for specific learning disabilities. Response to intervention (RTI) is research-based general education instruction and provides an alternative approach for identifying students with specific learning disabilities. RTI determines how a student responds to specific instructional methods and materials.

Page 10, Evaluation requirements

- **60 day timeline**
 - Change: Exceptions to the 60 day timeframe to complete an evaluation are allowed if the child moves during the evaluation timeframe or the parent repeatedly does not make the child available for the evaluation.
 - Change: If a parent has not given his or her consent for an initial evaluation, the local education agency will not be held responsible for knowing that the child is a child with a disability. This change applies in a major disciplinary action regarding the child.
- **Reevaluations**
 - Change: Reevaluations may not occur more than once a year unless agreed to by the parent and the local education agency (school).
 - Change: Reevaluations must occur at least once every three years unless the parent and local education agency agree it is unnecessary. (Form 8)
 - Reevaluations must be conducted when requested by parents, teachers or the school district.

Page 12, Evaluation requirements

- **Disability categories**
 - Change: The following categories have been added or changed. Developmental Delay, Autism Spectrum Disorder, Other Health Impairment now includes Tourette's syndrome.

- **Adverse effect**
 - Change: To determine whether a disability has an adverse effect on a child's ability to learn, schools may use three of six measures when testing the child.

Page 14, Summary of IEP requirements

- **IEP team**
 - Change: the following individuals make up the IEP team.
 - Parents (guardians, educational surrogate parents)
 - Local education agency representative
 - At least one of the child's special education teachers
 - At least one of the child's regular education teachers
 - Others at the discretion of the parents or school
 - An individual who can interpret evaluation results
 - Whenever appropriate, the child
- **IEP meetings**
 - Change: The parent and local education agency may agree not to have a meeting in order to change the child's IEP. The state has developed a form to record any changes or amendments to the IEP. (Form 5b)
 - Change: Parents must be given a copy of the revised IEP, including any amendments or modifications.
 - IEP meetings can take place using conference calls, video conferencing, or other means if agreed upon by the parent and school.
- **Attendance at meetings**
 - Change: If the parent and school agree, a member of the IEP team may be excused from the meeting if his or her area of the curriculum is not being discussed. (Form 5a)
 - Change: An IEP team member may be excused from part or the entire IEP meeting with written consent from the parent and the school. This member must submit in writing his or her input into the development of the child's IEP before the meeting. (Form 5a)

Pages 15 and 16, Individualized Education Program

- **Present levels of education performance**
 - Change: The IEP must now include present levels of the child's academic and functional performance. Functional performance refers to the nonacademic needs of the child, such as communication skills, independent living skills, technology skills, interpersonal skills, decision-making and problem solving skills, and motor skills..
- **IEP goals**
 - Change: IEP goals must address the child's academic and functional needs.

- **Short-term objectives**

- Change: The IDEA has eliminated short-term objectives on the IEP, except for students with significant cognitive disabilities, who take alternate assessments aligned to alternate standards. Vermont will retain short-term objectives on the IEP for all students.

Page 17, Transition

- Change: New IDEA requirements for transition begin at age 16 not age 14 and now include transition goals, assessments, and services. By age 16, the IEP must contain age appropriate transition goals based on information gathered through a transition assessment.
- Change: When a student graduates or exits special education, the local education agency must prepare a written summary of the student's academic and functional performance and make recommendations for assisting the student in reaching postsecondary goals.

Page 19, IEP checklist

- Change: The current Vermont IEP checklist is still in effect with some changes and is now included in the instructions to special education forms.

Page 20, Child's first IEP

- **Assessments**

- Change: The IEP must include a statement of accommodations necessary to measure academic achievement and functional performance on statewide and district assessments.

- **Consent for services**

- Change: Parental consent to provide special education services for the first time must now be given for all IEP services. Previously in Vermont special education regulations parents could consent to some or all of the IEP services.
- Change: If a parent does not consent to initial special education services, the local education agency will not be held responsible for not providing the child with a free, appropriate public education. In addition, the school will not be liable for knowing that the child was a child with a disability, in the event of discipline procedures.

Pages 22 and 23, Discipline procedures

- Change: The IDEA now allows schools to consider any unique circumstance on a case-by-case basis when deciding to place a child in an alternative educational setting.

- **Manifestation determination**

- Change: The parent, school, and relevant members of the IEP team, as determined by the parent and school, must review all relevant information in the student's file to determine
 - if the child's behavior was caused by his or her disability
 - if the child's behavior was a direct result of the local education agency's failure to implement the IEP.

- **Functional behavioral assessment**

- Change: When the IEP determines that the child's behavior was related to the disability, the school must conduct a functional behavioral assessment followed by the

implementation of a behavior plan. This rule applies in situations when a functional behavioral assessment has not been conducted and the student does not have a behavior plan. Otherwise, the team must review and modify the student's existing functional behavioral assessment and behavior plan.

- **Interim alternative educational settings**

- Change: Schools can now change a child's placement because of violating a code of student conduct.
- Schools can now remove students to alternative educational settings if they believe serious bodily injury may occur as a result of the student's behavior.

Page 24, Due process hearing

- **Resolution Session**

- The IDEA now requires schools to hold a resolution session meeting before going to a due process hearing to try and resolve complaints. A summary of the requirements for a resolution session follow.
 - The resolution session meeting must take place within 15 days of receiving a due process complaint notice from the parent.
 - The resolution session meeting includes parents and relevant members of the child's IEP team, including a local education agency representative with decision-making authority.
 - No attorneys may be present at the meeting unless parents are accompanied by an attorney.
 - Parents and the local education agency may agree in writing to waive the resolution session meeting.
 - If an agreement is reached at the meeting, parents and the school will sign a written agreement that is binding in a court of law. Parents and the school have three days to change their minds.
 - Parents can move forward with the due process hearing if an agreement has not been reached.

Page 35, Resources

- **Vermont Parent Information Center**

- Change of address and phone number:
 - 600 Blair Park Road, Suite 301, Williston, VT, 05495
 - 802-876-5315

- **Champlain ARC**

- This organization is no longer operating.