

Interagency Agreement with
Vermont Department of Education and
Vermont Agency of Human Services
Pursuant to Part B of the Individuals with Disabilities Education Act

June 2005

TABLE OF CONTENTS

PURPOSE.....	2
MISSION/GUIDING PRINCIPLES	2
AREAS OF AGREEMENT.....	3
COORDINATION OF SERVICES	3
FINANCIAL RESPONSIBILITY	9
DISPUTE RESOLUTION RELATIVE TO THE IMPLEMENTATION OF THE INTERAGENCY AGREEMENT	13
QUARTERLY REVIEW	13
NON-DISCRIMINATION	13
AMENDMENTS OR MODIFICATIONS	13
TERM.....	14

PURPOSE

This agreement promotes collaboration between the Agency of Human Services (AHS) and the Department of Education (DOE) in order to ensure that all required services are coordinated and provided to students with disabilities, in accordance with applicable state and federal laws and policies. As required by the Individuals with Disabilities Education Act (IDEA), the agreement delineates the provision and funding of services required by federal or state law or assigned by state policy. The areas covered by this agreement include coordination of services, agency financial responsibility, conditions and terms of reimbursement, and resolution of interagency disputes.

This interagency agreement outlines the provision of services to students who are eligible for both special education and services provided by AHS and its member departments and offices including Department of Health (VDH), Department for Children and Families (DCF), Department of Disability, Aging and Independent Living (DAIL), Department of Corrections (DOC), and Office of Vermont Health Access (OVHA). It is intended that the agreement will provide guidance to human services staff and school personnel in the coordination and provision of services for students with disabilities.

MISSION/GUIDING PRINCIPLES

The DOE, the local education agencies (LEA) and AHS work together to assure that children and youth with disabilities, ages 3-22, receive services for which they are eligible in a timely and coordinated manner. Ultimate responsibility to ensure a free and appropriate public education (FAPE) to students with disabilities lies with DOE and responsibility to provide a FAPE lies with the LEA. AHS is responsible for supporting students and their families toward successful outcomes in their broader functioning consistent with federal law including 32 CFR §300.142¹ as well as state law. These agencies will work together to assure the needs of eligible students with disabilities are met, services are coordinated and integrated, funds are efficiently used, and a dispute resolution process is in place to resolve interagency policy and funding disputes when a conflict occurs.

In recognition of the importance of providing a smooth transition from education to adult life, transition services for eligible students will be community-driven, involve a comprehensive system including AHS, DOE, employers, the workforce system and youth and their families. These services will be provided with the intent to increase the number of youth with disabilities entering employment, further education, and independent or supported living.

¹ All statutory and regulatory citations in this agreement are to those in effect at the date of execution of the agreement and as amended thereafter from time to time. The statutory and regulatory citations in this agreement will be updated to reflect the IDEA of 2005 and its implementing regulations.

AREAS OF AGREEMENT

I. COORDINATION OF SERVICES

A. General

The Department of Education and the Agency of Human Services and its member departments are committed to assuring that students with disabilities, ages 3-22, receive integrated services which allow them to receive a free and appropriate education and to grow and develop and reach their goals. The intent of this section is to extend, by agreement and by procedure, the provisions of 33 V.S.A. §§ 4301-4303 and 4305, to all children and youth who meet eligibility requirements under IDEA, who also are eligible for disability-related service delivery and coordination by at least one AHS department.

1. Coordinated Services Plan

Eligible children and youth are entitled to receive a coordinated services plan developed by a service coordination team including representatives of education, the appropriate departments of the Agency of Human Services, the parents or guardians, and natural supports connected to the family. The coordinated services plan includes the Individual Education Plans (IEP) as well as human services treatment plans or individual plans of support, and is organized to assure that all components are working toward compatible goals, progress is monitored, and resources are being used effectively to achieve the desired result for the child and family. Funding for each element of the plan is identified.

Special consideration needs to be given to transition-age youth. Specific transition planning must begin at the age required by federal and state law. (See page 4 for definition of transition services.) The LEA is responsible for identifying each child or youth in need of a transition plan and arranging for appropriate team meetings. Also, the LEAs will collaborate with AHS on the annual survey which identifies students who will be graduating and may be in need of long-term supports.

Each child or youth and family has a lead service coordinator who assures that the plan is regularly reviewed and serves as the agreed upon contact person if the “coordinated services plan” needs to be adjusted.

If a team has not been formed or is not functioning, if a coordinated services plan is not satisfactory, if there is no lead service coordinator, or if a plan is not being implemented satisfactorily, the family or individual or another involved party may request a meeting of the Local Interagency Team (see below) to address the situation.

When a team believes that a child or youth requires highly intensive services in residential care or intensive wrap-around services, the plan

shall be reviewed and approved by the Case Review Committee (see below), except as otherwise required by federal or state law.

2. Infrastructure

a. State Interagency Team

The DOE and the AHS commit to the existence and ongoing support of a State Interagency Team (SIT). The SIT includes a high level manager from the following departments and divisions within state government: DOE, Division of Mental Health(DMH), Division of Disabilities and Aging Services (DDAS), Division of Family Services (DFS), Division of Alcohol and Drug Abuse Programs (ADAP), Division of Vocational Rehabilitation (VR) and AHS Field Services as well as other units as determined by the Secretary of AHS. A family consumer representative will also be a core member of the SIT. The SIT is responsible for overseeing the development and maintenance of the system of care to address the needs of children with eligible disabilities, for assuring the consistent development of coordinated services plans, and to be part of the dispute resolution process outlined below.

b. Local Interagency Team

The DOE and the AHS commit to the existence and support of a system of Local Interagency Teams (LIT) in each of the 12 AHS regions in Vermont. Each LIT includes a special education director selected by the districts in that region, the local children's mental health director, the Family Services director, a family consumer representative, high level local leaders from developmental services and substance abuse, and a VR representative. Other AHS programs are represented as needed. The LIT supports the creation of a local system of care and assures that staff are trained and supported in creating coordinated services plans. They also play a role in dispute resolution as outlined below. The AHS Field Director and a designated DOE staff person assure that the region has a highly functional team and is responsible for working with the team to solve funding issues. The Field Director is the key conduit to a High Risk Fund, managed through the Field Services Division.

LITs will assure that there is a structure to focus on the particular needs of transition-age youth to support transition from school to adult life. Adult agency providers would be included as needed including high level local leaders from adult mental health programs (CRT) and the Department of Employment and Training (DET).

Likewise, special attention must be taken to assure an appropriate process to address the needs of children ages 3 to 6. Such a process must include the Child Development Division.

c. Case Review Committee (CRC)

The SIT shall establish a Case Review Committee that will include representatives of the Family Services Division, DMH, DDAS, DOE, and a parent representative. Other units of AHS will be included as appropriate. The CRC meets regularly to review the recommendations of service coordination teams for intensive services including residential care and high-level wrap-around services. The purpose of the review is to determine if a child's needs require the proposed level of service. The CRC serves both as a control to assure the appropriateness of high cost placements in the least restrictive environment, and also as a consulting body for local teams, helping identify appropriate services and approaches for eligible children and youth with the highest level of need.

B. VR Transition Service Coordination for Students with Disabilities in Vermont's High Schools

1. VR Services for Students with Disabilities

VR is committed to the successful transition of young adults with disabilities from school to work or further education or training. VR is required under the Rehabilitation Act of 1973, as amended by the Workforce Investment Act of 1998, see 29 U.S.C. §720 et seq. and pertinent federal regulation, see 34 CFR §361.22; the IDEA, and pertinent federal regulation, see 34 CFR §§300.347 (b) and 300.348; and the Assistive Technology Act of 2004, see 29 U.S.C. §3001 et seq., to coordinate policies and procedures with education officials that facilitate the transition of students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services from the VR agency.

“Transition services” are defined as a coordinated set of activities for a child with a disability that (a) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability 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; b) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and (c) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

2. *Early Identification and Follow-Along*

A VR staff member will maintain at least annual contact with school personnel in each area school to ensure early identification of students in special education who may be eligible for vocational rehabilitation services. This early identification occurs at the age required by federal and state law and includes formal VR involvement in IEP/Transition Team meetings. VR will provide brochures to schools to be shared with students with disabilities and their families. Additionally, local Core Transition Teams will provide the VR Counselor with a forum to discuss projections of numbers of students who will need transition services from VR.

Outreach activities by VR, such as visits with guidance counselors, will include ways to identify out-of-school youth and students at risk for dropping out of school. Outreach activities may also include meeting with families and students at their homes (or other settings at the choice of families and students).

The VR Counselor's role in this early identification is primarily counseling, guidance and assistance during the IEP/transition planning process. The Counselor may assist the individual, family members, and school transition team members in long-term planning for adult life. This planning may focus on post-secondary education, a job, a place to live after graduation and participation in the community.

Although VR's primary focus is to assist with vocational preparation, VR staff also serves as a resource for area schools regarding local community services and long-term supports.

3. *Referrals to VR*

Consultation should intensify when a student is four years from graduation. VR should initiate formal intake at least 18 months before the student is scheduled to graduate or exit from high school. Students at risk for dropping out or students with complex needs may be considered for earlier intake.

VR will not serve persons under age 18 without the permission of a parent, guardian, or legal representative unless they are emancipated.

Services may include counseling and consultation around the development of the Individual Plan for Employment (IPE) that is coordinated with the IEP. Services also may include assessment, job development, training and other paid services.

The IPE must be developed and written before the student leaves school.

4. *Purchased Services*

The VR Counselor shall make the IEP/Transition Team aware of the scope of VR services available, including financial assistance for post-secondary education.

As determined on an individual basis, VR may provide for assistive technology, (AT), services and devices for a VR-eligible student within 12 months of exiting school. The AT services must meet the following criteria: a) they are part of an IEP with coordinated transition goals, b) they are part of an approved IPE, and c) they are necessary to accomplish a successful transition to employment, post-secondary education or training.

During the student's Transition Year (nine months before exiting school), VR may support Employment Specialist services on a job site, which is expected to continue post-graduation. VR may pay for an Employment Specialist for up to twelve (12) months if ongoing supports have been negotiated with a long-term services provider (e.g., mental health agency, DDAS, private provider, or through the use of natural supports).

As determined by the Counselor and the VR Regional Manager, services may be provided prior to the last year in school if essential to the IPE goals and/or their development and there are no other funding options. As determined by the Counselor and the VR Regional Manager, other time-limited services may be purchased consistent with the comparable services and benefits requirement of 34 CFR §361.53. Examples include on-site job assessments, driver education evaluations or physical restoration services.

5. *VR Transition Counselors*

VR Transition Specialty Counselors work with many high schools in Vermont. At least one counselor is based on-site, serving one of the largest high schools in the state and the remaining counselors are on-site in schools multiple times per month. General VR Counselors serve adults as well as young adults in transition in the remaining high schools. VR school counselors who exclusively serve youth in transition provide a higher level of service and offer a higher level of expertise on transition issues and requirements.

6. *Bridges to Self Sufficiency – Youth Benefits Counseling Program*

It is often the accepted wisdom of high school special education staff, transition professionals and family members that youth with disabilities put their cash benefits and healthcare at risk by working. What is generally not well understood, is that there are some excellent work incentives built into these public benefit programs for youth who want to work and attend post-secondary education.

The Bridges Project makes benefits planning and other assistance available to every student with a disability of transition age in Vermont and provides accurate information to youth and their families on the impact of employment on all the federal and state benefits they receive. Benefits Counselors, located in each of the AHS district offices, are in the schools in their district on a regular basis, work with Special Education staff and attend transition planning/IEP meetings at the request of the student, family or school personnel. They conduct training for educators, students and families on benefits and work incentives. About half of Vermont's high schools routinely use the benefits counselors' expertise to assist students and their families. Benefits Counselors receive referrals from VR, community mental health agencies, community developmental services agencies, family services agencies, consumer advocates and families.

7. *JOBS Program*

The JOBS Program offers vocational services and intensive case management to high-risk youth with emotional behavioral disabilities in 11 of 12 AHS districts through a partnership between VR and the Division of Mental Health, the Division of Family Services and the Department of Corrections. The program serves high school drop-outs and those at high risk of dropping out and engages youth in non-stigmatizing employment services while providing a bridge to more intensive mental health and case management services.

8. *Vermont Assistive Technology (AT) Project*

The AT Project provides services to schools and students through the Assistive Technology Act of 2004 and through a formula grant from the Vermont DOE. Two certified staff provide the following AT services across the state as requested by school personnel: a) assistive technology evaluations, consultation and technical assistance to children with disabilities, enrolled in public schools; b) additional children's AT services are provided on a case-by-case basis, depending on level and need and intervention required; c) outreach, information and referral and tryout of equipment; and d) training and technical assistance to students, educators, other service providers and family members as teams.

II. FINANCIAL RESPONSIBILITY

A. General Statement

The Vermont DOE and AHS are committed to meeting financial responsibilities as required by law. The secretary of AHS and the commissioner of DOE will periodically review the financial responsibilities enumerated below, identify areas for improved programmatic and financial efficiencies, and develop strategies to meet financial responsibilities, including joint appropriations requests from the state legislature and negotiations with federal agencies.

1. *Specific Funding Provisions for State-placed Students*

In the circumstances listed below, financial responsibility for services otherwise considered special education and related services shall be as set forth in federal law, Vermont law, and/or existing memorandum of understanding as described below:

a) **Services provided to state-placed students in residential facilities with approved schools or tutorial program, as defined in 16 V.S.A. § 11(28), with payment as described:**

- i. **DCF, Family Services** – Pursuant to 16 V.S.A. § 2950(b)(1) and 33 V.S.A. § 310, when a child is in the custody of the DCF, and DCF has agreed to the child’s placement in a 24-hour residential facility with an approved educational program, the Commissioner of Education shall pay the education costs and the Commissioner of DCF shall arrange for the payment of the remainder of the costs. Except for short-term emergency or evaluation placements, prior approval of payment must be provided by authorized representatives of DCF and DOE for its respective portions.
- ii. **VDH, DMH, Child, Adolescent and Family Unit** – Pursuant to 16 V.S.A. § 2950(b)(2), when a child is placed in a 24-hour residential facility by a designated community mental health agency and that placement has been approved by the Division, the Commissioner of DOE shall pay the education costs and DMH shall arrange for payment of the remainder of the costs. Except for short-term emergency or evaluation placements, prior approval of payment must be provided by authorized representatives of DMH and DOE for its respective portions.
- iii. **VDH, ADAP** – For individuals placed by a licensed alcohol and drug counselor of a designated community mental health agency or substance abuse agency in an approved 24-hour residential substance abuse treatment facility located within Vermont, and who meet the DSM-IV criteria or its successor for substance abuse/dependence and the American Society of Addiction

Medicine Level III criteria for residential treatment, DOE will pay for both general and special education tutorial services; ADAP, or its sub-grantee will pay for treatment, room and board. (Note: Substance abuse is not an IDEA-covered disability; this provision pertains to students otherwise IDEA-eligible who enter a substance abuse treatment residential program.)

b) Services provided to children residing in their homes and communities with payment as described:

i. DAIL, DDAS– DAIL, DDAS, serves children with developmental disabilities as defined in 18 V.S.A. §8722 and provides services pursuant to 18 V.S.A. §8725. DAIL, DDAS, pays for the developmental home or shared parenting placement for children who:

(a) are under 18 years of age and “grandfathered, following a regulatory change in 2001, and

(b) are at risk of entering a psychiatric institution and in which case, DAIL pays the state share.

In these instances where the child is receiving educational services in a district other than the district of the parent’s residence, the costs for those services will be paid by the DOE pursuant to VSBE Rule 2366.7.2(1).

Prior approval of payment must be provided by authorized representatives of DAIL for its respective portion.

ii. VDH, DMH, Child, Adolescent and Family Unit

Local community mental health agencies provide mental health supports to children who would benefit from such services within available resources. Community mental health agencies receive funding on an annual basis from the DMH which pays for a portion of the costs associated with the provision of care to children with mental health disabilities. Depending on the type of service, the community mental health agency may fund the appropriate and necessary mental health services; to the extent that such services may also be considered “related services” pursuant to 34 C.F.R. §300.24, such services shall be provided consistent with 34 C.F.R. §300.142(b)(ii).

iii. VDH, Children with Special Health Needs (CSHN) program

Eligible children who meet program requirements may receive medically necessary services provided at the CSHN Clinic consistent with 42 U.S.C. § 1396b(c). Upon enrollment in CSHN, a CSHN team evaluates the child and issues a report that is sent to the child’s family who in turn may send the report to the child’s

school. The report may also be used at the LIT and SIT meetings. Pursuant to Vt. Code Rules 13 140 CVR 048, Cost-Share for Patients of AHS/VDH/CSHN Programs, all families with children enrolled in the CSHN program are subject to cost sharing, as specified in the rule. For any service specified in an IEP, the school district may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services specified in an IEP pursuant to 34 C.F.R. 300.142(e) and (g)(2).

- a) **Vocational Rehabilitation** - For eligible students, VR will pay for services to the extent that funds are available at the time the services are needed, including assistive technology services and devices, that are identified in an approved IPE in keeping with VR's order of selection for services that:
 - i. are consistent with the Rehabilitation Act of 1973 and implementing regulations including but not limited to 34 C.F.R. §361.53; the IDEA, including but not limited to 34 C.F.R. §§300.5, 300.6, 300.347(b), and 300.348; the Assistive Technology Act of 2004, PL 108-364; and Vermont State Plan; and
 - ii. promote or facilitate the accomplishment of vocational rehabilitation goals and any intermediate rehabilitation objectives identified in the student's IPE to ensure the student's successful transition to employment, post-secondary education, or training within 12 months of the student's exit from school.
- b) **Medicaid – School-based Program** – Financial responsibility for the School-based Medicaid program will be consistent with the “Interagency Agreement between AHS and DOE for School-Based Health Services” of November 2004 or any subsequent agreements replacing it. Pursuant to the IDEA, related services do not include services that must be performed by a physician, other than services for diagnostic and evaluation purposes.
- c) **Medicaid – OVHA** – OVHA will pay for Medicaid-covered services to eligible individuals consistent with 42 U.S.C. §1396b(c) of the Public Health and Welfare law, and 34 C.F.R. §300.142(b)(1)(ii) of the IDEA. However, for the purposes of a 42 U.S.C. §1396n waiver, “habilitation services” shall not include special education and related services. For any service specified in an IEP, the school district may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim

² Order of selection does not consider whether a student is on an IEP or not.

for services specified in an IEP pursuant to 34 C.F.R. 300.142(e) and (g)(2). Pursuant to the IDEA, related services do not include services that must be performed by a physician, other than services for diagnostic and evaluation purposes.

- d) **Community High School of Vermont (CHSVT), DOC** – For students enrolled in CHSVT, the Department of Corrections’ and the DOE’s financial responsibility shall be assigned in accordance with 28 V.S.A. §120 and other relevant state and federal laws. A separate memorandum of understanding for CHSVT will be developed and signed by the commissioners of corrections and education to be incorporated into this agreement.
- e) **Woodside** – For students who are in DCF custody and placed at the Woodside Juvenile Rehabilitation Center, DCF will pay for all costs of treatment, room and board, and education, including services required in an IEP, as required by 16 V.S.A. § 2948(n).

2. *Other Funding Obligations*

For all other services that may be considered special education and related services, financial responsibility will be assigned consistent with federal law including 34 C.F.R. § 300.142, state law and the following understanding:

- a) DOE shall be responsible to ensure a FAPE to students with disabilities and LEAs shall be responsible to provide a FAPE
- b) The DOE will work with LEAs to maximize receipt of federal Medicaid dollars available for reimbursement of medically related services provided to Medicaid-eligible students.
- c) The DOE will identify best practices concerning cost containment and the provision of FAPE consistent with 16 V.S.A. §2959b. DOE will provide technical assistance in this area to LEAs.
- d) The IDEA does not limit the responsibility of non-educational agencies from providing or paying for some or all of the costs of FAPE to children with disabilities. However, this shall not be construed to expand or otherwise alter state and/or federal law requirements imposed on any non-education agency.

3. *Conditions and Terms of Reimbursement*

If a non-educational agency fails to provide or pay for services for which they are responsible and which are also considered special education and related services, the LEA (or state agency responsible for developing the child’s IEP) shall provide or pay for these services to the child in a timely manner. The LEA or state agency may then claim reimbursement for the services from the non-educational agency that was responsible for the provision of the services and failed to provide or pay for these services and that agency shall reimburse the LEA or state agency in accordance with the terms of this agreement.

Pursuant to this provision, the AHS and DOE will develop joint procedures for reimbursement.

III. DISPUTE RESOLUTION RELATIVE TO THE IMPLEMENTATION OF THE INTERAGENCY AGREEMENT

Where the LIT is unable to resolve any of the issues pursuant to this agreement, a referral may be made to the SIT for resolution.

Where the SIT is unable to resolve a dispute among the various agencies, it shall inform all participating parties of the right to an appeal process. The Secretary of AHS and Commissioner of DOE may resolve the issues and render a written decision or may arrange for a hearing pursuant to Chapter 25 of Title 3.

If a hearing is held, it shall be conducted by a hearing officer appointed by the Secretary of the AHS and the Commissioner of Education. The Secretary and the Commissioner may affirm, reverse, or modify the proposals of the hearing officer.

Nothing in this agreement shall be construed to limit any existing substantive or procedural protections of state or federal law or regulations.

IV. QUARTERLY REVIEW

The Commissioner of DOE and the Secretary of AHS or their designees will meet at least quarterly to review existing data and evaluate the implementation of this agreement in order to improve the results for eligible children with disabilities and the operations of local and regional teams of educators and human services providers. Local and/or state teams may be asked to assist state agencies through provision of data on coordinated services plans and financial resources. The input of parents and other stakeholders may be solicited and considered. DOE and AHS will develop a plan for coordinated data sharing. This evaluation will be used to improve policies, procedures and planning and development activities.

V. NON-DISCRIMINATION

The parties shall comply with all applicable state and federal non-discrimination laws and regulations including the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 and Vermont's Public Accommodations Act.

VI. AMENDMENTS OR MODIFICATIONS

Any provision in this agreement may be rendered null and void by changes in federal or state law that prevent either or both parties from fulfilling the terms of the agreement. If this circumstance should arise, each party agrees to notify the other as soon as reasonably possible.

During the term of the agreement, either party that is a signatory to this agreement may submit a written request to amend or modify this memorandum. When such a request is made, the parties shall meet without unnecessary delay to consider the proposed amendment.

VII. TERM

This agreement in its present form or as modified shall be effective as of the date of signing and shall remain in effect for five years. The agreement shall be reviewed annually by the parties and may be extended by the mutual written agreement of the parties. Prior to the expiration of the agreement the parties shall meet to negotiate and execute a successor agreement. In the event a successor agreement is not in place when this agreement is due to expire, this agreement will remain in effect until a successor agreement is concluded.

Michael Smith, Secretary
Agency of Human Services

Richard H. Cate, Commissioner
Department of Education

Date _____

Date _____

Approved as to Form:

Assistant Attorney General