

Regulations
for Act 264 [1988 Adjourned Session]
and Act 203 [1990 Adjourned Session]

1000 Statement of Purpose

These rules are jointly promulgated by the Vermont Departments of Mental Health and Mental Retardation (DMHMR) and Social and Rehabilitation Services (SRS) and the Vermont State Board of Education to implement the provisions of Act 264 of the 1988 Adjourned Session and Act 203 of the 1990 Adjourned Session. It is the intent of these rules that improved coordination among the three agencies and the local service providers will result in improved services for children and adolescents with a severe emotional disturbance.

Nothing in the provisions of this chapter shall be construed to grant an entitlement to any child or adolescent with a severe emotional disturbance to receive any educational, residential, mental health or other service until and unless the general assembly further provides that such children and adolescents or any subgroup thereof are so entitled.

2000 Statutory Authority

33 V.S.A. 4305 (b)

3000 Definitions

For the purposes of these rules, a "child or adolescent with a severe emotional disturbance" means a child or adolescent who meets the criteria set forth in 33 V.S.A. 4301 (3) and who is in need of coordinated services. For the purposes of these rules, a "child or adolescent with a severe emotional disturbance shall be referred to as an "eligible child".

For the purpose of these rules, the "lead agency" is that agency which has the responsibility for the coordination of (1) the assessment of the eligible child and (2) the development of the coordinated service plan.

4000 Guidelines for Local Interagency Team Procedures

Each Local Interagency Team (LIT), with public participation, shall develop written procedures for interagency collaboration concerning eligible children. "Public participation" should, at a minimum, include at least one public meeting with notice thereof in a newspaper of general circulation in the region. Each Local Interagency Team shall develop procedures in a step-by-step format in the areas of training interagency personnel; interagency collaboration; case management; and provision for notice to parents, guardians and involved agencies. The following (Rules 4001-4004) are guidelines for suggested procedures that shall be submitted on or before February 1, 1992 by the Local Interagency Teams to the advisory board established pursuant to 33 V.S.A. 4303 and then to the commissioners of

DMHMR, SRS, and Education for approval.

4001 Training of Interagency Personnel

The interagency team procedures shall provide for the training of interagency personnel in the following subjects:

- A. the rationale for coordinated services;
- B. the development and implementation of coordinated service plans;
- C. the responsibility of personnel for implementation of the procedures and provision of coordinated services generally; and
- D. the procedures and responsibilities of all agencies involved in the provision of services to eligible children.

4002 Lead Agency Assignment

- A. In the case of an adjudicated child on the SRS caseload, SRS shall be the lead agency.
- B. In the case of a non-adjudicated child where the presenting problems are primarily educational in nature, the lead agency shall be the local school district.
- C. In all other cases, the community mental health agency shall be the lead agency.
- D. The lead agency shall, where necessary, arrange for case management. Local procedures for fixing case management responsibility shall, generally, follow the same criteria as that which is used for determining lead agency.

4003 Interagency Collaboration

The interagency team procedures shall provide for the referral and assessment of eligible children; development of coordinated service plans; revision and annual review of such plans; and time frames for interagency collaboration as follows:

- A. Referral
 1. A referral for a coordinated service plan may be made by a parent, guardian, service provider, educator or advocate.
 2. Written consent from the child's parent or guardian shall be obtained before the referral is accepted.

3. The procedures shall contain a clear designation of the agency or person to whom referrals are made and an explanation of how a referral is made.
4. A referral should be made under the following circumstances:
 - (a) a child appears to meet the definition of an eligible child; and
 - (b) the child is being served by a school, a community mental health agency or the Department of Social and Rehabilitation Services; and
 - (c) the child is in need of coordinated services.

B. Assessment

Sufficient information shall be gathered through a documented process to determine if the child is eligible for a coordinated service plan. "Documented process" shall consist of a form supplied or approved by the State stating that the assessor has determined whether or not a child or adolescent has a severe emotional disturbance. The form shall also indicate that the assessor has reviewed evaluations and/or has observed the child or adolescent. No assessment shall be required if a child or adolescent, prior to the effective date of these regulations, has been determined to have a severe emotional disturbance or has been receiving coordinated services. The procedures shall identify the agency responsible for assessing the child.

C. Development of a Coordinated Service Plan

1. To the extent practicable, the development of the coordinated service plan shall involve the eligible child, the child's family, all relevant service providers and, in the case of an adjudicated child, the child's attorney.
2. The lead agency shall ensure that the plan is drafted.
3. The plan shall be signed by all the participants.

D. Annual Review

The plan shall be reviewed at least annually.

E. Revision

The plan may be revised at the request of the child, the child's family, any relevant service provider, or, in the case of an adjudicated child, the child's attorney and, to the extent practicable, all such persons shall be involved in any revision of the plan. The plan shall be revised whenever a significant change is made and, wherever possible, should be revised prior to the change.

F. Time Frames

The following are recommended time frames for local procedures:

1. Eligibility for a coordinated service plan should be determined within 30 days of the receipt of consent.
2. A coordinated service plan should be developed within 60 days of determination of eligibility.
3. A decision as to revision of a coordinated service plan shall be made within 30 days of the request for revision or within 30 days of the date a significant change is made.

4004 Notification

A. Public Notification

Each Local Interagency Team shall develop and implement a procedure for notifying the public of the existence of the process for obtaining coordinated services. Public participation shall be documented in developing this procedure.

B. Service Provider Notification

Each Local Interagency Team shall notify local service providers of the process for eligible children to obtain coordinated services.

C. The notice required in subsections A and B above shall include an explanation of the existence, purposes and procedures of the Local Interagency Team.

D. Local procedures shall provide that the lead agency shall ensure notice to the child's parents, legal guardian, attorney (in the case of an adjudicated child), and any relevant service providers regarding the following:

1. Determination of eligibility or ineligibility;
2. Development of coordinated service plan;
3. Revisions to a coordinated service plan;
4. Annual review.

5000 Protection of the Right to Consent and of Confidentiality

Each Local Interagency Team shall develop written procedures for protecting the rights of eligible children and their parents and guardians concerning consent and confidentiality. These procedures shall include:

- A. A policy requiring that the local interagency team regard all information received on a particular case as confidential and that

no such information be disclosed without appropriate consent. Such policy shall be consistent with the policy and rules of the three individual agencies regarding confidentiality.

- B. A form for parents or guardians to sign consenting to referral for a coordinated service plan; and
- C. A form for parents or guardians to sign releasing information to relevant service providing agencies.

6000 Dispute Resolution

- A. Each Local Interagency Team shall develop a notice for parents, guardians and service providers describing procedures for dispute resolution. The notice shall include the following:

- 1. Local Interagency Team

- Where the eligible child's planning team cannot reach consensus on a coordinated service plan or is unable to implement such a plan, a referral may be made by any participating party to the Local Interagency Team for resolution.

- 2. State Interagency Team (SIT)

- Where the Local Interagency Team is unable to resolve any of the issues set forth in subsection (A) (1) above, a referral may be made by the Local Interagency Team to the State Interagency Team for resolution.

- 3. Appeal Process

- Where the State Interagency Team is unable to resolve a dispute concerning coordination among the various agencies, it shall inform all participating parties of the right to an appeal process. The appeal process shall consist of a hearing pursuant to Chapter 25 of Title 3. The hearing shall be conducted by a hearing officer appointed by the Secretary of the Agency of Human Services and the Commissioner of Education. Based upon evidence presented at the hearing, the hearing officer shall issue written findings and proposals for decision to the Secretary and the Commissioner. The Secretary and the Commissioner may affirm, reverse, or modify the proposals for decision.

- 4. Procedural Safeguards

- Nothing in these rules shall be construed to limit any existing substantive or procedural protections of state or federal law or regulations.