

# Accountability Operations Manual

Vermont  
Accountability System  
Based on Student  
Achievement



**February 2007**



**Division of Standards and Assessment  
(802) 828-5158**

# Operations Manual for the Vermont Accountability System Based on Student Achievement

## Vermont State Board of Education

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Jessica Bullock  
Shrewsbury

Rick Manahan  
St. Albans

Chris Robbins  
Danville

Sigrid Solomon  
Bennington

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Williamstown

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Hinesburg

Diane Mueller  
Chester

Susan Schill  
Belvidere

Ruth Stokes  
Williston

**Commissioner of Education  
Richard H. Cate**

**Approved by the State Board of Education**  
February 2007

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# I. Introduction

## Purpose

This *Accountability Operations Manual* is designed to support the effective implementation of the *Rules for Vermont's School Accountability System Based on Student Achievement* (see Appendix A) adopted by the State Board of Education in July 2000 and revised in September 2004. It provides information that local school boards and school and district staff need to understand the state's school accountability system. This manual may also be helpful for policymakers, members of the public, researchers, and others interested in better understanding Vermont's school accountability system.

The *Accountability Rules*, Vermont's Equal Educational Opportunity Act of 1997, as amended, and the federal No Child Left Behind Act (NCLBA) of 2001 provide the legal authority for the manual. This manual is part of the information provided by the department to help schools and districts meet standards of quality and provide equal educational opportunity, as required by 16 V.S.A. §165(a) and (b) (see Appendix B) and NCLBA 115 Stat. 1111, 1116 and 1117.

## Terminology

In this manual, "assessment" refers to the measurement of student achievement using statewide testing. "Accountability" refers to determinations that are based on student test results and other indicators closely associated with student achievement.

## Information Available through the Department

Pertinent information regarding the state assessment program and other areas (e.g., Action Planning, Vermont School Report, and *Vermont School Quality Standards*) is available on the Department of Education's Web site, [www.education.vermont.gov](http://www.education.vermont.gov). If you have questions that are not answered by this manual, please contact the person in charge of testing or accountability in your school or district. Assessment materials, information, and training are offered to these individuals on a regular basis. You may also contact the Vermont Department of Education. The primary department contact for school accountability based on student achievement is:

Gail Taylor, Division Director  
Standards and Assessment  
Department of Education  
120 State Street, 4<sup>th</sup> Fl.  
Montpelier, VT 05620-2501  
Phone: (802) 828-5158  
E-mail: [gail.taylor@state.vt.us](mailto:gail.taylor@state.vt.us)

## Overview

The Commissioner and the State Board of Education are required by Vermont law (16 V.S.A. §165(b)) to implement an accountability system that determines whether schools have made sufficient improvement in student achievement in relation to *Vermont's Framework of Standards and Learning Opportunities*, which was expanded in 2004 to include Grade Level Expectations (GLEs). The law also specifies that the commissioner is responsible for providing technical assistance to, or taking other actions in, those schools making insufficient progress.

Vermont's first accountability system, approved by rule in July 2000, was developed as a result of a three-year process organized by the department with the active participation of the statewide Adequate Yearly Progress (AYP) Committee. The National Center for the Improvement of Educational Assessment (NCIEA) provided support to ensure that the system was technically sound, and worked with the AYP Committee through the last year of development.

Passage of NCLBA required Vermont to amend its original accountability system. This federal law established the goal that, by 2014, schools must demonstrate that 100 percent of their students are proficient on state assessments in reading and mathematics at grades three through eight and once in high school. Vermont's state accountability assessment is the New England Common Assessment Program (NECAP), which is supplemented for students with significant cognitive disabilities by the Lifeskills Portfolio.

NCLBA requires states to measure incremental progress toward the 2014 goal using a system of starting points, annual measurable objectives (AMOs) and intermediate goals, resulting in an annual determination of Adequate Yearly Progress (AYP). Schools must also meet AYP for student participation in state assessments and for another academic indicator. Schools that do not make AYP in one of these components for two consecutive years will be identified and will receive technical assistance from the state.

Vermont's revised accountability system received federal approval in 2003 and was amended in 2006. This manual outlines relevant policies and procedures for implementing the current accountability system.

## II. Four Components of Vermont's Accountability System

### Summary of Four Components of Accountability System

Adequate Yearly Progress (AYP) is determined annually based on four components. A school is first identified for school improvement after not making AYP in the same component for two consecutive years. A school that does not make AYP in a component in year one, and does not make AYP in a different component in year two, does **not** enter school improvement.

The four components of Vermont's accountability system are:

1. **Mathematics Achievement Index:** Results from the New England Common Assessment Program (NECAP) mathematics test for grades 3-8 (in place since 2005) and 11 (effective in Fall 2007) and results from the Lifeskills Portfolio Assessment
  - Construction (p. 8)
  - Use in AYP Decisions (p. 11)
2. **Reading Achievement Index:** Results from the NECAP reading test for grades 3-8 (in place since 2005) and 11 (effective in Fall 2007) and results from the Lifeskills Portfolio Assessment
  - Construction (p. 8)
  - Use in AYP Decisions (p. 11)
3. **Academic Indicator:** Graduation rate for all schools that include grade 12; Percentage of students in the lowest achievement level of the NECAP reading assessment for schools that do not include grade 12
  - Construction and use in AYP Decisions (p. 14)
4. **Participation Rate:** Percentage of enrolled students in the tested grades who participated in the NECAP or the Lifeskills Assessment
  - Calculation and use in AYP Decisions (p. 16)

### Mathematics and Reading Indexes

Vermont uses an index to describe the academic proficiency of students in schools. The use of an index credits schools with a higher point value for students who are partially proficient compared with those who are substantially below proficient. It is a method to reward schools whose students are getting closer to proficiency.

### Construction of Indexes

The state calculates separate reading and mathematics indexes for all schools. The school’s index represents an average of the points that are assigned for each student’s achievement in either the NECAP or Lifeskills assessment, as illustrated in Examples 1 and 2.

Steps in creating indexes:

1. Convert each student’s achievement level into index points based on this table:

<b>Assignment of Point Values for NECAP and Lifeskills Achievement Levels</b>	
<b>Achievement Levels</b>	<b>Index Points</b>
4 - Proficient with distinction	500 points
3 – Proficient	500 points
2 - Partially proficient	375 points
1a - Substantially below proficient (upper half of scaled scores)*	250 points
1b - Substantially below proficient (lower half of scaled score)	125 points
Participation with no scaled score** for NECAP; non-scoreable Lifeskills portfolio or lack of participation in either assessment without a valid exemption	0 points

\* The upper and lower halves of scaled scores are determined by the halfway point between a scaled score of zero and the cut point between “Substantially below proficient” and “Partially proficient.” For example, in grade 3 mathematics, the cut point between SBP and PP is 332; all scores equal to or below 316 are in the “lower half.”

\*\*A student must have a minimum number of correct responses to generate a scaled score.

2. Count the number of students whose scores are included in the index
3. Combine the index points for all students
4. Divide the sum by the number of students from Step 2
5. Report the result

#### Example 1: Little School, Math, All Students

<i>Column A</i>	<i>Column B</i>	<i>Column C</i>	<i>Column D</i>
<b>Student Name</b>	<b>Free-Reduced Price Lunch</b>	<b>Assessment Proficiency Level</b>	<b>Points Assigned</b>
1. Sarah Snowflake	Yes	NECAP, 2	375
2. Paul Proficiency	No	Lifeskills, 3	500
3. Dan Study	Yes	Lifeskills, 4	500
4. Adelle Achievement	Yes	NECAP, 2	375
5. Enrica Scoresmore	Yes	NECAP, 3	500

6. Lee Skiing	No	NECAP, 1 (bottom half)	125
7. Janisco Hills	No	NECAP, 4	500
8. Phillipe Border	No	Lifeskills, 3	500
9. Mapletta Inajar	No	NECAP, 1 (top half)	250
10. Christopher Hiker	Yes	NECAP, 2	375

- Step 1: Convert each student’s achievement level into index points (Column D)  
 Step 2: Count the number of students whose scores are included in the index (10)  
 Step 3: Sum the index points for all students (Sum of Column D = 4500)  
 Step 4: Divide the sum derived from Step 3 by the number of students from Step 2  
 (4500/10 = 450)  
 Step 5: Report the result: ***AYP Index for Little School, Math, All Students: 450***

An AYP decision must be made for every school for all students in the assessed grades. In addition, a separate AYP decision must be made for the following student groups when there are 40 or more students in the group:

- Economically disadvantaged (free or reduced lunch) students
- Students with disabilities (IEP)
- Limited English proficient (LEP) students
- Six major racial or ethnic groups

The following table illustrates the construction of a Reading Index for students who receive free/reduced price lunch. In this example, the group of students does not include 40 students so an AYP decision would not be made.

Example 2: Little School, Math, Free/Reduced Price Lunch Student Group			
<i>Column A</i>	<i>Column B</i>	<i>Column C</i>	<i>Column D</i>
<b>Student Name</b>	<b>Free-Reduced Price Lunch</b>	<b>Assessment Proficiency Level</b>	<b>Points Assigned</b>
1. Sarah Snowflake	Yes	NECAP, 2	375
2. Dan Study	Yes	LifeSkills, 4	500
3. Adelle Achievement	Yes	NECAP, 2	375
4. Enrica Scoresmore	Yes	NECAP, 3	500
5. Christopher Hiker	Yes	NECAP, 2	375

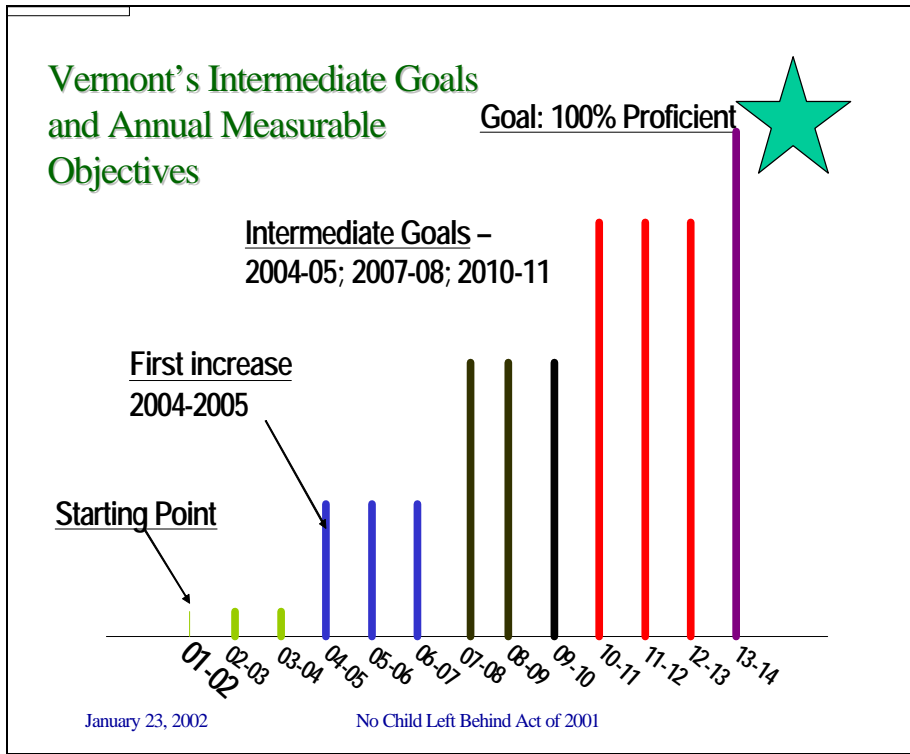
- Step 1: Convert each student’s achievement level into index points (Column D)  
 Step 2: Count the number of students whose scores are included in the index (5)  
 Step 3: Sum the index points for all students (Sum of Column D = 2125)  
 Step 4: Divide the sum derived from Step 3 by the number of students from Step 2  
 (2125/5 = 425)  
 Step 5: Report the result (425)

***AYP Points for Little School, Math, Free/Reduced Price Lunch Students: 425***

## How Indexes Are Used to Make AYP Decisions

### Incremental Progress

Schools are required to make incremental progress toward the goal of all students reaching proficiency in reading and mathematics by 2014. Incremental progress is defined by a series of targets or Annual Measurable Objectives (AMOs). The AMOs are raised every three years.



As required by NCLBA, Vermont established the baseline (starting point) for each school in order to track progress toward the proficiency goal. Separate baselines were calculated for reading and mathematics indexes for each school in the state by assigning points to student achievement levels as described above. AMOs are established from the schools' baseline indexes.

### Annual Measurable Objectives

Steps in calculating AMOs:

1. Group schools according to grade spans.
2. Order schools in one grade span from lowest index to highest index.
3. Begin with the school with the lowest index.
4. Proceed up the list and add the student population of each school until 20 percent of the state's student population is reached.
5. Identify the school that represents 20 percent of the state's student population.
6. That school's baseline index is the starting point for the AMOs applicable to the grade span.
7. Repeat this process for each grade span group.

The following table lists the current AMOs based on the assessments administered in the school. Schools that administer only NECAP assessments have one set of AMOs and schools that administered NECAP assessments and the NSRE in 2006 have a different set of AMOs. The AMOs will be modified before the 2008 AYP decision, when the grade 11 NECAP will be used for the first time.

	NECAP Only	NECAP Only	NECAP and NSRE (2006)	NECAP and NSRE (2006)
Year	Math	Reading	Math	Reading
2006	390	403	341	377
2007	390	403	341	377
2008	427	435	394	418
2009	427	435	394	418
2010	427	435	394	418
2011	463	468	447	459
2012	463	468	447	459
2013	463	468	447	459
2014	500	500	500	500

**Variance**

Variance is estimated for each AMO and is used in the calculation of the confidence interval (below). Variance is a measure of its statistical dispersion, indicating how possible values are spread around an expected value.

Steps in calculating variance:

1. Within each school, variance in the students’ index points is calculated.
2. Variance for the AMO is the average variance among schools clustered near the AMO.
3. New variances are calculated each time the AMO ‘bumps up.’

The following table lists the current variances based on the assessments administered in the school.

	NECAP Only	NECAP Only	NECAP and NSRE (2006)	NECAP and NSRE (2006)
Year	Math	Reading	Math	Reading
2006	21756	21107	25361	17721
2007	21756	21107	25361	17721

**Confidence Intervals**

A confidence interval is calculated around the Annual Measurable Objective (AMO) to ensure 99 percent certainty of the accuracy of the school’s AYP classification. The reason for using a confidence interval is to account for the variance of student achievement on any given test administration.

If a school’s index is within the confidence interval, it makes AYP. In effect, a school makes AYP by having an index equal to or greater than the lower boundary of the confidence interval. This number is clearly indicated on the AYP report.

Steps for calculating the confidence interval around the AMO:

1. Determine AMO and variance (var) from the above tables
2. Count all the students who are in the achievement index calculation (n)
3. Calculate the lower boundary of the confidence interval (LCB) around the AMO using the following formula:

$$LCB = AMO - 2.3268 * \sqrt{\frac{\text{var}}{n}}$$

*Note that the LCB cannot be lower than zero.*

Example of confidence interval calculation for a NECAP only school in 2007 with 56 students in its math index.

$$LCB = 367 - 2.3268 * \sqrt{\frac{21756}{56}}$$

$$LCB = 367 - 2.3268 * \sqrt{388.5}$$

$$LCB = 367 - 2.3268 * 19.7104$$

$$LCB = 367 - 45.8622$$

$$LCB = 321.1378$$

$$LCB = 321$$

If the school's Math Achievement Index is greater than or equal to 321, the school meets AYP.

### **Safe Harbor**

A school may make AYP even if an index does not meet the lower boundary of the confidence interval if its current year's index is 10 percent greater than the previous year's index.

For example, if a school had an index of 200 in one year and an index of 221 in the following year and the lower boundary of the confidence interval was 225, the school would still make AYP because the index had increased by 10 percent. If one of the groups with 40 or more students meets AYP through Safe Harbor, that group must also meet the academic indicator for the school to make AYP.

## **Academic Indicators**

### *Calculation of Indicators and How They Are Used to Make AYP Decisions*

In addition to the achievement indexes, NCLBA requires AYP decisions to include another indicator closely related to student achievement. For high schools (in Vermont this means any school with grade 12), the federal law requires the use of the graduation rate. States must select another academic indicator for elementary and middle schools. In Vermont, this indicator is the percentage of students in the lowest achievement level on the NECAP reading assessment.

**High School Graduation Rate**

For any school with a grade 12, the academic indicator is the graduation rate. Students are assigned to a cohort when they first enter ninth grade. The graduation rate calculation is made by dividing the number of students from the cohort who graduate within four years by the number of students in the cohort. Students who transfer into a school in years 1-4 are included in the cohort. Students who transfer to another school in years 1-4 are removed. A school meets AYP if its graduation rate is 72 percent or greater.

The formula for the graduation rate is:

$$\text{Graduation Rate} = \frac{G_4}{C_1 + (TI_1 + TI_2 + TI_3 + TI_4) - (TO_1 + TO_2 + TO_3 + TO_4)}$$

Where:

$G_4$ = The number of students graduating by year four, including students who graduate early

$C_1$ = The number of students entering grade nine for the first time in year 1

$TI_{1-4}$ = The number of students transferring into the cohort in years 1-4

$TO_{1-4}$ = The number of students transferring out of the cohort in years 1-4

**Reading Academic Indicator**

The academic indicator based on the NECAP reading assessment is calculated for any school without grade 12 and measures the percentage of students in the lowest achievement level on the NECAP reading assessment. If, after applying the confidence interval, the percentage is less than 15 percent of the students in the school who participated in the NECAP reading assessment, the school makes AYP. This number is clearly indicated on the AYP report.

Steps for calculating the reading academic indicator and determining AYP based on the following table:

Example: Town School, Reading, All Students

<i>Column A</i>	<i>Column B</i>
<b>Student Name</b>	<b>Assessment Proficiency Level</b>
1. Rosalita Readsalot	NECAP, 4
2. Vernan Vocabulary	NECAP, 3
3. Carmen Comprehension	NECAP, 1
4. Alice Answers	NECAP, 1
5. Gary Grammar	NECAP, 4
6. Denise Definition	NECAP, 1
7. Sarah Spelling	NECAP, 2
8. Sly Spelling	NECAP, 3
9. Ervin Essay	NECAP, 4
10. Lucy Literate	NECAP, 2

- Step 1: Count all students who were in Achievement Level 1 (Substantially Below Proficient) on the NECAP reading test (Column B) (x=3)
- Step 2: Divide this number by the total number of students tested in NECAP reading (n=10) to determine the percentage of students in the lowest achievement level (p=.30)
- Step 3: Calculate the lower boundary of the confidence interval (LCB) around the percentage of students using the following formula:

$$LCB = p - 2.3268 * \sqrt{\frac{p * (1 - p)}{n}}$$

$$LCB = 0.30 - 2.3268 * \sqrt{\frac{0.30 * (1 - 0.30)}{10}}$$

$$LCB = 0.30 - 2.3268 * \sqrt{\frac{0.21}{10}}$$

$$LCB = 0.30 - 2.3268 * \sqrt{0.021}$$

$$LCB = 0.30 - 2.3268 * 0.1449$$

$$LCB = 0.30 - 0.3372$$

$$LCB = -0.0372$$

$$LCB = 0$$

Note that the LCB cannot be lower than zero.

*School's LCB is less than 15 percent so school meets the academic indicator.*

## Participation Rate

### *Calculation of Participation Rate*

In addition to the achievement indexes and academic indicator results, schools are held accountable for the assessment participation rate of all students enrolled in the school at the beginning of the October test window. The participation rate is calculated by dividing the number of students in the assessed grades who participated in the assessment by the number of students in the assessed grades who were required to participate.

### *How Participation Rates Are Used to Make AYP Decisions*

The school's participation rate must be 95 percent or higher for any group of 40 or more students for the school to make AYP, including the all-student group.

There are valid and invalid reasons for student non-participation in state testing. The following table illustrates how student non-participation affects the school's achievement index and participation rate calculations, both of which are used for accountability purposes.

<b>Reason for student exclusion/assessment invalidation</b>	<b>Achievement index</b>	<b>Participation rate calculation</b>
Student or parent refusal	Will receive a score of 0	Will be considered non-participant
Student with unexcused absences	Will receive a score of 0	Will be considered non-participant
Student with invalidated assessment results (including test security issues or student cheating)	Will receive a score of 0	Will be considered non-participant
Student who participates in the assessment but does not respond to sufficient items to generate a scaled score	Will receive a score of 0	Will be considered as participating
Student with medical/emergency crisis (The school must keep on file a written statement from a medical doctor indicating the student cannot participate in the assessment for the entire test administration window. Other documented student/family crisis may also be considered but should be significant and should remove the student from the school for the entire test window.)	Will not be included in achievement index	Will not be included in the participation rate

Data about the number and percentage of students assigned to any of these categories will be tracked as the system is implemented. The impact of the classifications on school accountability determinations will be reviewed to ensure that the system is supporting both excellence and equity and that there are no unintended consequences.

**Inclusion of All Students**

All publicly funded students in Vermont, including those in independent schools, must participate in state assessments. Public schools are held accountable for the assessment of some students served in settings outside their regular program. The following table shows how student results are assigned for assessment and accountability.

<b>Type of Student</b>	<b>Type of Setting</b>	<b>Required to Participate in Vermont Assessments</b>	<b>Reporting of Student Assessment Results</b>	<b>Inclusion of Student Assessment Results In School Accountability</b>
<i>Publicly funded IEP or non-IEP student</i>	VT public school	YES	Aggregate: School attended Individual: School attended	School attended
	Designated Independent School in Vermont	YES	Aggregate: School attended Individual: School attended	Sending district
	Independent school in VT	YES	Aggregate: School attended Individual: School attended	Not Applicable
	Technical Center	YES	Aggregate: Sending school Individual: Sending school	Sending school

Type of Student	Type of Setting	Required to Participate in Vermont Assessments	Reporting of Student Assessment Results	Inclusion of Student Assessment Results In School Accountability
<i>Publicly funded IEP student placed by school IEP team</i>	Public school or alternative program offered by public school/SU/D in VT; Independent school in VT	YES	Aggregate: Sending school Individual: Sending school	Sending school
<i>Publicly funded IEP or non-IEP student with school choice*</i>	Public school or alternate program offered by public school/SU/D in VT	YES	Aggregate: School attended/school granting diploma Individual: School attended/school granting diploma	School they attend/grants diploma
	Independent school in VT	YES	Aggregate: School attended Individual: School attended	Independent Schools are not included in the Accountability System
	Public school outside VT (including Canada)	NO	Not Applicable	Not Applicable
<i>Home Schooled student</i>	Home schooled – may participate in some aspect of school program or may be fully home-schooled	By parent request	Aggregate: None Individual: School Tested	Not Included
<i>State Placed Students</i>	Residential Treatment	YES	Not Applicable	Not Applicable**
<i>Non-publicly funded IEP or non-IEP student</i>	VT public school or independent school in or out of VT	NO	Not Applicable	Not Applicable

\* These are students for whom there is no designated school for attendance purposes. They select a school to attend. This also includes students who select a school through a regional choice collaborative under Act 150 of 2000, Public High School Choice.

\*\* Under Policy Review

## Assignment of Accountability and Assessment Results to Schools and LEAs

The NECAP assessments are administered in October (testing year) and assess the previous year’s (teaching year) Grade Level Expectations. For example, the third grade Fall NECAP measures second grade GLEs, and the fourth grade Fall NECAP measures third grade GLEs.

### **AYP for Schools**

For the purposes of assessment and accountability, “school” is defined as an individual public school building or combination of public school buildings with one school-level administration. In the event of a school consolidation or reorganization, the superintendent shall notify the commissioner in writing. After reviewing the notice, the commissioner shall determine how and when accountability decisions shall be made for the new entity.

Schools are held accountable in their achievement indexes and in the reading academic indicator for students whom they taught for the “full academic year.” In Vermont, the full academic year begins with the first day of school and ends with the last day of school. Because there are breaks in school configurations and because students move, students’ test results will be tracked back for those who take the test in one school but were taught the grade expectations in a different school.

For the participation component of the accountability system, schools are held accountable for the participation of all students enrolled in the school at the beginning of the October test window.

Assessment results — as distinguished from accountability results — will be reported for all students at the last school they attend during the teaching year. Based on the fall administration of the NECAP, the following table shows which test results will be included in a school’s official assessment report, accountability indexes and reading academic indicator, and participation calculation for accountability.

The following table illustrates where results count based on school configuration:

<b>If School Configuration is:</b>	<b>Testing occurs at the following grades and the school is held accountable for participation of students at these grades:</b>	<b>NECAP and Lifeskill assessment results and accountability results (indexes and other academic indicators) will include students who were taught in the school in the following grades:*</b>
(P)K-2	No Testing	2**
(P)K-3 and 1-3	3	2, 3**
(P)K-4	3, 4	2, 3, 4**
(P)K-5	3, 4, 5	2, 3, 4, 5**
(P)K-6	3, 4, 5, 6	2, 3, 4, 5, 6**
(P)K-8	3, 4, 5, 6, 7, 8	2, 3, 4, 5, 6, 7
3-5	3, 4, 5	3, 4, 5**
3-6	3, 4, 5, 6	3, 4, 5, 6**
4-5	4, 5	4, 5**
5-8	5, 6, 7, 8	5, 6, 7
6-8	6, 7, 8	6, 7
7-8	7, 8	7
6-12	7, 8, 11	6, 7, 10
7-12	7, 8, 11	7, 10
K-12	3, 4, 5, 6, 7, 8 and 11	2, 3, 4, 5, 6, 7 and 10
9-12	11	10
* NECAP assessment results include scores ONLY for those students who took the NECAP and achieved a scale score greater than 0; in contrast, accountability results include all students, including students who achieved a scale score of 0 and students who did not participate in assessment		
**Results from these tests are tracked back from the testing year to the teaching year school(s)		

For example, in a (P)K-2 school, no students are assessed. However, because the third grade NECAP assessed second grade GLEs, the results for any third grader who takes the test and who attended the (P)K-2 grade school for the full academic year will be included in that school’s AYP index.

Similarly, if a student attends fifth grade in one school and sixth grade in another, his or her sixth grade results will be tracked back to the achievement indexes for the school which he or she attended for the prior full academic year. Student results are not tracked back when non-participation at one school would result in a zero in the achievement index for another school.

**AYP for Local Education Agencies (LEAs)**

In Vermont, for the purpose of accountability decisions, the LEA is the town or union school district. Federal law requires that AYP decisions be made for LEAs using the same criteria and processes as for schools. Separate reports are issued for LEAs, even when the town school district consists of a single school. In the case of districts with multiple schools, the data are aggregated to the district level and the same AYP determinations are made with the data.

If a town district includes a Grade 12, the academic indicator is the graduation rate. If the town district does not include Grade 12, the academic indicator is the percentage of students in the lowest level of the reading NECAP.

### III. Identification of Schools and Provision of Technical Assistance

#### Use of Accountability Calculations to Identify Schools and LEAs for Technical Assistance

Vermont’s Accountability System Based on Student Achievement is used to identify those schools and LEAs meeting and not meeting their Annual Measurable Objectives (AMOs), required assessment participation rates or academic indicator.

##### **School or LEA Identification**

A school or LEA will be identified if the All Student Group or any group (defined on Page 10) of 40 or more students in either achievement index has an index that is below the confidence interval around the AMO.

A school or LEA with 40 or more students in a group may also be identified if it does not meet the 95 percent participation requirement or the academic indicator for the All Student Group or for any other group meeting AYP by the application of Safe Harbor.

Accountability results and decisions will be published in the spring and the consequences of that decision will apply to the subsequent school year.

The rules of the Accountability System apply in the same manner to Title I and non-Title I schools. Under Sec. 1116 of Title I, there are specific requirements and resources for Title I schools that do not apply to non-Title I schools. See the manual for *Vermont’s System of Support for School Improvement* for more information.

##### **Public Recognition (Academic Achievement Recognition — AAR)**

Since the criteria for Academic Achievement Recognition (AAR) must be based on AYP results, schools that meet the criteria for receiving AAR will have that status published on their AYP report and information about these schools will be included in the AYP press release.

##### **Technical assistance provided to identified schools:**

- is designed to help the school improve student learning;
- is grounded in the school’s action plan, and is done in partnership with the school;
- will address any barriers to learning if present, including issues of curriculum, professional development, supervision and evaluation, school climate, student mobility, and community support;
- will link schools with the resources that will support improved student learning.

A school may achieve AAR in reading and/or mathematics, and must meet the criteria for the student groups described on Page 10 of this document. A school achieves AAR if those student groups:

- have an index score at least one point above the required AMO for two consecutive years, or,
- increase their index by a significant point value from one year to the next.

## School Accountability Data Verification

### **Annual Verification of Accountability Participation Report**

Annually, the department sends each school an *Accountability Participation Report*. (See “Inclusion of All Students” on p. 17). On receipt of this report, schools will be responsible for verifying the data and returning the verified report, signed by the principal, to the department. On this form the principal will either:

1. accept the data as accurate for use in his or her school accountability calculation, or;
2. indicate that a possible discrepancy exists between the school’s records and the Department report.

If the principal suspects a discrepancy, he or she will complete the section of the form that provides additional information necessary to assure accurate data. The evidence submitted by the school will be reviewed and, if necessary, department data will be amended prior to the calculation of the school’s indexes for accountability.

During data verification, both the school and the department must ensure the protection of student confidentiality.

### **Annual School and LEA Accountability Report**

Every year in the spring, schools and LEAs will be given an opportunity to review their preliminary Accountability Reports prior to the public release of any information about their performance in the Accountability System Based on Student Achievement. This is the school and LEA’s opportunity to review all data elements of the AYP decision and identify any discrepancies. If schools or LEAs do not report a discrepancy to the department, the preliminary reports will be considered final.

**Note:** Assessment data are verified on an annual basis. Corrections to these data will not occur during the accountability verification. During data verification, both the school and the department must ensure the protection of student confidentiality.

## Reporting Accountability Results and Decisions

Accountability results will be released every year in the spring and will include, at minimum, the following elements:

- Mathematics Achievement for all AYP Groups (All Student Group, Students with disabilities, etc.)
- Reading Achievement Index for all AYP groups

- Academic Indicator for all AYP groups
- Assessment Participation rate for all AYP groups
- Accountability decisions: meeting or not meeting AYP, identification for school improvement.

### **Accountability Results Distinguished From Assessment Results**

It is important to understand clearly the difference between assessment results and accountability results. Accountability results based on student performance refer to the school accountability index scores, participation rate and academic indicators and related decisions about school improvement or other consequences. Assessment results refer to student scores on the assessments, and associated reports to schools.

Accountability and assessment results serve different purposes and often may have different numerical values. For example, a school is accountable for all students. Only students who take the assessment are included in the assessment results. However, those students who did not take the assessment and did not have a valid excuse or exemption are also included in the accountability results. Schools will receive both assessment and accountability results annually.

## **System Reviews, Safeguards and Supports**

Reviews, safeguards and supports have been designed to help ensure the integrity, fairness and effectiveness of the assessment and accountability systems. These provisions are required by federal and state law and by the accountability rules.

### *Reviews*

**Additional Review by Commissioner:** This requires a thorough analysis of the school's overall performance before the commissioner may recommend to the State Board other actions pursuant to 16 V.S.A. § 165(b) after a school has received two years of technical assistance.

### *System Safeguards*

**Appeals:** Schools have the opportunity to appeal accountability decisions. The appeals process is designed to provide schools the opportunity to resolve any unusual circumstances that make school accountability decisions unfair or inappropriate, in the school's view. If a school decides to submit an appeal, it must comply with the following requirements:

1. **Time:** the appeal must be filed within 45 calendar days of the accountability decision being made public. Proceedings before the State Board are governed by Rule 1230.
2. **Impact on Implementation of Technical Assistance:** until the appeal is resolved, the school will not receive technical assistance.
3. **Reasons:** appeals should reflect unusual circumstances that make the results of the school accountability system unfair or inappropriate, in the school's view. Data corrections should be handled through the verification process described in this manual, not through an appeal.
4. **Contents of Appeal:** the appeal must be sent to the Commissioner of Education and include the following:
  - a. reasons for the appeal and the outcome the school desires from the appeals process;
  - b. evidence supporting the appeal;
  - c. signatures of the school board chair, principal and the superintendent of the school filing the appeal.

**Civil Action:** A school and/or district must complete the appeals process before initiating any actions in a court of law regarding school accountability results.

**Implementation of New Assessments:** The Technical Advisory Panel will recommend the inclusion of new state assessments, based on technical quality. This panel is appointed by the commissioner.

### *System Supports*

**The Technical Advisory Panel** will provide the department with ongoing expertise in measurement to provide oversight of the technical quality of the assessment and accountability systems. The department established the Technical Advisory Panel (TAP) in 1999. TAP consists of assessment experts, and is staffed by the department. TAP provides independent advice regarding technical issues related to the assessment and accountability systems.

**The Committee of Practitioners** will review and advise the department on assessment policy and procedures. The Committee of Practitioners is appointed by the commissioner. Its members, representing administrators, teachers, parents, school boards, private schools, and pupil services, meet quarterly to advise the commissioner on issues related to the effects of the assessment and accountability systems on schools' instructional programs. Additionally, the COP reviews, before publication, any proposed or final state rule related to Title I of NCLBA.

**Quality Controls:** The department and the testing contractor have implemented extensive quality control procedures for the New England Common Assessment Program. In addition, the department sends required procedures to schools and districts for handling assessment materials. These should help ensure that tests are administered, scored, and reported accurately and on time.

**Data Verification:** Schools will be given an opportunity to review school accountability participation data and school accountability reports on an annual basis. NOTE: Assessment data are verified on an annual basis. Corrections to these data are made prior to the public release of assessment results.

## Commissioner's Review of Schools Not Making AYP for Four Years

### **Commissioner's Role**

In accord with state and federal law, after a school does not make AYP for four years, the commissioner may recommend actions beyond technical assistance. These include adjusting supervisory union boundaries, allowing students to enroll in other schools, or assuming administrative control of the school to the extent necessary to correct deficiencies.

### **State Board's Role**

The State Board of Education, after providing the school or LEA the opportunity for a hearing, may accept, reject, or modify the recommendation presented by the commissioner.

## IV. Additional Resources

### Resources and Contacts

This *Accountability Operations Manual* includes several key documents, including the Vermont statute and accountability rules. Other resources — printed, web-based, and staff — are listed in this section. You may explore these other resources and contacts if you have questions or if you would like assistance in better understanding or implementing the School Accountability System Based on Student Achievement.

#### **Resources Included in the Operations Manual**

- Accountability Rules approved by the State Board of Education in July 2004 (Appendix A)
- Vermont Statute – 16 V.S.A. §165 (Appendix B)

#### **Publications Available from the Department**

- Action Planning Guide
- *Documentation of Eligibility for Alternate Assessment* (<http://www.state.vt.us/educ/cses/alt/eligdoc/htm>)
- *Vermont School Quality Standards*

#### **Local Assessment and Accountability Coordinators**

Each district should have a person who is fully informed and trained regarding assessment and accountability matters. Your district or supervisory union office will know who this person is. This local coordinator is a good source of information if you have questions. Because this person is also the point-of-contact with the department, he or she may also be able to get questions answered or issues resolved quickly.

#### **Department of Education Web site**

Pertinent information regarding the assessment system and other elements of the accountability system (i.e., Action Planning, Vermont School Reports, and *Vermont School Quality Standards*) has been made available through the Department of Education's Web site, [www.education.vermont.gov](http://www.education.vermont.gov). This Web site is also a good place to check for updates and additional information that may become available after this manual is published.

#### **Department of Education Staff**

The mailing address for all correspondence with the Department of Education staff is:

Vermont Department of Education  
120 State Street, 4<sup>th</sup> Fl.  
Montpelier, VT 05620-2501

The primary Department contact for the school accountability system is:

Gail Taylor  
 (802) 828-5158  
[gail.taylor@state.vt.us](mailto:gail.taylor@state.vt.us)

**Department staff:**

<b>Name</b>	<b>Area/Title</b>	<b>Phone</b>	<b>E-mail Preface <i>name@state.vt.us</i></b>
Gail Taylor	Division Director, Standards & Assessment	828-5158	<a href="mailto:gail.taylor@state.vt.us">gail.taylor@state.vt.us</a>
Dave White	Asst. Division Director, Standards & Assessment	828-0154	<a href="mailto:david.white@state.vt.us">david.white@state.vt.us</a>
Michael Hock	Director of Educational Assessment	828-3115	<a href="mailto:michael.hock@state.vt.us">michael.hock@state.vt.us</a>
Tina Muncy	School Support Coordinator	828-1184	<a href="mailto:tina.muncy@state.vt.us">tina.muncy@state.vt.us</a>
Pat Johnson	School Support Coordinator	828-5124	<a href="mailto:pat.johnson@state.vt.us">pat.johnson@state.vt.us</a>
Kathy Blanchard	School Support Coordinator	828-5404	<a href="mailto:kathy.blanchard@state.vt.us">kathy.blanchard@state.vt.us</a>

## Appendix A

### *Rules for the Accountability System Based on Student Performance*

#### **Adopted Rule - Rules for Vermont's School Accountability System Based on Student Achievement - Approved by the Legislative Committee on Administrative Rules on July 15, 2004**

Rules 2500-2585 of the State Board of Education Manual of Rules and Practices are amended by striking Rules in their entirety and substituting therefore the following:

#### **Table of Contents**

<b>Rule 2500</b>	<b>School Accountability System Based on Student Performance</b>
<b>Rule 2505</b>	<b>Statutory Authority</b>
<b>Rule 2510</b>	<b>Statement of Purpose</b>
<b>Rule 2515</b>	<b>Statement of Policy and System Overview</b>
<b>Rule 2520</b>	<b>Definitions</b>
<b>Rule 2525</b>	<b>Operations Manual for the Accountability System Based on Student Achievement</b>
<b>Rule 2528</b>	<b>Technical Advisory Panel (TAP)</b>
<b>Rule 2530</b>	<b>Committee of Practitioners</b>
<b>Rule 2535</b>	<b>Validity of State Assessment Results and Other AYP Determination Data</b>
<b>Rule 2540</b>	<b>Accountability for All Students and Annual Determinations</b>
<b>Rule 2545</b>	<b>Accountability Determinations for AYP Groups</b>
<b>Rule 2550</b>	<b>Small School Review</b>
<b>Rule 2555</b>	<b>Accountability Reports</b>
<b>Rule 2560</b>	<b>Identification of Schools and LEAs Not Making AYP for Two Consecutive Years</b>

**Rule 2565 Required Actions for Identified Schools and LEAs**

**Rule 2568 Appeal of Identification and/or Required Actions**

**Rule 2570 Exiting Identification after Two Consecutive Years of Making AYP**

**Rule 2575 Commissioner's Recommendations to the State Board for Schools or LEAs Not Making AYP for the Fourth Consecutive Year**

**Rule 2575.1 State Board Action on Commissioner's Recommendations and Appeal of State Board Decision**

**Rule 2580 School and LEA Public Recognition**

**Rule 2585 Effective Date**

**Rule 2500 School Accountability System Based on Student Achievement**

**Rule 2505 Statutory Authority**

16 V.S.A. § §164 (9) & (17) and 165 (b), as amended by Sec. 2, Act 64 of 2003; Sec. 96 of Act 71 of 1998 and Title I of the No Child Left Behind Act (NCLBA) of 2001, 20 U.S.C. § 6311 et seq.

**Rule 2510 Statement of Purpose**

The purposes of these rules are to: (1) establish a process for identifying public schools and Local Educational Agencies (LEA) in need of improving student performance – and those with outstanding performance – in relation to the content standards set forth in *Vermont's Framework of Standards and Learning Opportunities* and the *Grade Level Expectations for Mathematics and English Language Arts* associated therewith, and (2) provide for technical assistance to schools and LEAs that are not making sufficient progress and, as necessary, require further actions to ensure that students in those schools and LEAs have opportunities to meet such standards.

**Rule 2515 Statement of Policy and System Overview**

The accountability system set forth in these rules is designed to fulfill the student performance accountability requirements of 16 V.S.A §165.

The rules provide for a method for aggregating state assessment results into two achievement indexes, in mathematics and in English Language Arts (ELA), from a number of student performance measures over time. These indexes are developed through the assignment of points to the

achievement levels of all students who take assessments in a school or LEA.

The Commissioner of Education shall annually determine whether schools and LEAs make Adequate Yearly Progress (AYP).

The Commissioner will ensure the provision of technical assistance to schools and LEAs that make insufficient progress. Appeals processes are established for accountability calculations and for consequences. A State Board review of the Commissioner's recommendations for consequences for schools and LEAs that have not made AYP for four consecutive years is also established.

## **Rule 2520 Definitions**

The following definitions apply and may be further described in the Operations Manual.

**“Academic Indicators”** are student performance measures closely associated with academic achievement. Graduation Rate shall be used as the Academic Indicator for any school or LEA containing grades 9-12.

**“Adequate Yearly Progress (AYP)”**: A school or LEA makes AYP when it meets the applicable criteria in the following elements:

- ELA Achievement Index
- Mathematics Achievement Index
- Participation Rate
- Academic Indicator

**“All Student Group”** means all students enrolled in the school in the assessed grades for the full academic year.

**“Alternate Assessment”** means an assessment for students for whom the regular assessment or the regular assessment with accommodations is not appropriate, as determined by the IEP team.

**“Annual Measurable Objective (AMO)”** means the annual target on the achievement indexes.

**“Assessment”** means the process of measuring student achievement.

**“Confidence Interval”** means the statistical method used to ensure the reliability of one or more elements of the AYP decision.

**“English Language Arts (ELA) Achievement Index”** means the index containing combined ELA state assessment results for a school or LEA.

**“Full Academic Year”:** When state assessments are given in the spring, the full academic year is defined as beginning on the first Tuesday in September of that year. When state assessment are given in the fall, the full academic year is defined as beginning on the first Tuesday in September of the previous year.

**“Local Education Agency (LEA)”** means the school district which operates a school at elementary, middle and/or high school level, unless otherwise determined by legislation.

**“Mathematics Achievement Index”** means the index containing combined math state assessment results for a school or LEA.

**“One Year of Exceptional Growth”** means the method by which AYP is met when two years of assessment results meet the AMO without the use of a confidence interval.

**“Participation Rate”** means the percentage of students in a school or LEA who take state assessments; it is calculated by dividing the number of students who participate in all regular or alternate state assessments included in the accountability system by the number of students enrolled in a school or LEA on the day before the first day of the official test period.

**“Safe Harbor”** is a determination of whether a school or LEA has met AYP because of significant improvement in student achievement, even if this achievement has not been sufficient to meet the AMO.

**“Title I”** means Title I of NCLBA.

## **Rule 2525 Operations Manual for the Accountability System Based on Student Achievement**

The Commissioner shall prepare an Operations Manual. It shall be approved by the State Board – and may be revised from time to time – through a public process pursuant to written procedures developed in advance by the Commissioner. The process shall include, at minimum:

- Notice on the Department’s Web site and in newspapers of general circulation in all areas of the state, and provision of copies to anyone who requests
- Sending the proposed Manual and any proposed revisions to educational organizations, the Legislative Committee on Administrative Rules and the No Child Left Behind Oversight Committee
- A reasonable period for written public comment

- One or more public hearings, and
- Consideration and approval of the Manual and any proposed revisions at a duly warned regular State Board meeting

The Operations Manual shall contain practices to be used by the Department in the discharge of its powers and duties under these rules and under its statutory authority that do not alter or affect substantive legal rights. It shall include, but not be limited to, the following:

- Criteria or formulae for the calculation of achievement indexes, statistically significant size of student groups for accountability determinations, selection of and criteria for meeting academic indicators, application of the participation rate, calculation of “one-year exceptional growth” and “safe harbor”, the process and criteria for Small School Reviews and the calculation of AYP for schools with anomalous grade configurations
- Criteria for permitting exemptions from assessment
- Criteria and process for public recognition for outstanding performance by schools and LEAs
- Table of Annual Measurable Objectives
- Explanation of the use of confidence intervals in AYP decisions.

**Rule 2528      Technical Advisory Panel (TAP)**

The Commissioner shall appoint individuals experienced in the field of educational assessment to the Technical Advisory Panel (TAP). Its members shall advise the Commissioner on technical issues related to state and local assessments, thereby ensuring that Vermont’s Comprehensive Assessment System and the Accountability System Based on Student Performance are technically and educationally sound.

**Rule 2530      Committee of Practitioners (CP)**

The Commissioner shall appoint representatives of local educational agencies, educators, principals, pupil services personnel, administrators

and parents to the Committee of Practitioners. The CP fulfills the federal requirement for consultation and shall advise the Commissioner on issues related to the effects of the assessment and accountability systems on schools' instructional programs, with a particular focus on equal opportunities to learn as well as other requirements for consultation under federal law.

**Rule 2535      Validity of State Assessment Results and Other AYP Determination Data**

The Commissioner, after consulting with TAP, CP, and the State Board, shall annually determine the validity of state assessment results and other data (e.g., graduation rate, academic indicators, and participation rate) prior to their use in making AYP determinations.

**Rule 2540      Accountability for All Students and Annual Determinations**

Schools and LEAs shall ensure that all students are appropriately included in calculating the participation rate. The results of all students enrolled in the school or LEA for the full academic year shall be included in the Mathematics and ELA Achievement Indexes. There shall be an annual determination of AYP for all schools and LEAs.

**Rule 2545      Accountability Determinations for AYP Groups**

A determination of AYP shall be made for the All Student Group in each school and LEA. AYP decisions shall also be made for each of the following groups of students, when they have statistically reliable numbers of students present in the school or LEA:

- Economically Disadvantaged Students
  - Students with Disabilities
  - Limited English Proficient Students
  - African-American Students
  - American Indian/Alaskan Native Students
  - Asian Students
  - Hispanic or Latino Students
  - Native Hawaiian /Pacific Islander Students
  - White Students
- Or as otherwise may be required by federal law.

**Rule 2550      Small School Review**

The Commissioner shall conduct a review of additional student achievement results in small schools. The Operations Manual shall

describe schools' eligibility for the reviews, the review process and how AYP determinations are made.

**Rule 2555     **Accountability Reports****

The Commissioner shall provide accountability reports on all elements of the AYP determination and the accountability status to each school and LEA.

The Commissioner shall annually issue a public report of accountability results. The report shall include the accountability results of every public school and LEA for the applicable elements of the AYP decision.

To ensure the confidentiality of individual students' results, public reporting of any assessment or accountability result shall require a minimum of 11 students. In no case shall results be reported when personally identifiable information would be revealed or if released information could lead to identification. All public reporting shall comply with the Family and Education Rights and Privacy Act, 20 U.S.C. §1232g, 34 CFR §99.1 et seq.

The AYP report shall include the AYP determination for all groups in each school and LEA on: the Mathematics Achievement Index, the ELA Achievement Index, the Academic Indicator applicable to the grade span of the school or LEA and the Participation Rate. In addition, the identification status, including the number of years identified for improvement and the level of consequences, of each school and LEA, shall also be reported.

**Rule 2560     **Identification of Schools and LEAs Not Making AYP for Two Consecutive Years****

Except as may be necessary to conduct Small School Reviews, a school or LEA shall be identified for school improvement if the All Student Group or any other group of statistically reliable size does not make AYP for two consecutive years in the same Achievement Index or in the Participation Rate. For the All Student Group, the school or LEA shall also be identified if the Academic Indicator criterion is not met for two consecutive years. All other AYP groups of statistically reliable size must also meet the Academic Indicator if AYP is met through the "safe harbor" calculation or the one-year exceptional growth calculation

**Rule 2565     **Required Actions for Identified Schools and LEAs****

The Commissioner shall send written notification of the actions that the school or LEA is required to institute to address those areas that caused the identification.

**Rule 2568 Appeal of Identification and/or Required Actions**

To appeal the Commissioner's determination that a school or LEA has not met AYP or has been identified for improvement or other consequences, the school board chair shall submit a written request to the State Board within 45 calendar days of receiving notification thereof. Proceedings before the Board shall be governed by State Board Rule 1230. A school board aggrieved by an order of the State Board may appeal in accord with the Vermont Rules of Civil Procedure.

**Rule 2570 Exiting Identification after Two Consecutive Years of Making AYP**

Any school or LEA that meets AYP for two consecutive years, in the element(s) on which they were identified, shall exit formal identification status.

**Rule 2575 Commissioner's Recommendations to the State Board for Schools or LEAs Not Making AYP for the Fourth Consecutive Time**

If the school or LEA does not make AYP for the fourth consecutive year in the relevant elements, the Commissioner shall recommend to the State Board actions consistent with state and federal law.

**Rule 2575.1 State Board Action on Commissioner's Recommendations and Appeal of State Board Decision**

After the opportunity for hearing, the State Board shall order that one or more of the actions consistent with state and federal law be taken. The action ordered by the State Board shall be the least intrusive, consistent with the need to provide students attending the school or in the LEA with substantially equal educational opportunities.

A school board aggrieved by an order of the State Board may appeal in accord with the Vermont Rules of Civil Procedure.

**Rule 2580 School and LEA Public Recognition**

Any school or LEA that either closes the achievement gap between AYP groups for two or more consecutive years in a statistically significant way or exceeds their adequate yearly progress for two or more years shall receive public recognition by the State Board.

The criteria and process for such recognition shall be included in the Operations Manual.

**Rule 2585    Effective Date**

These rules shall be effective on September 1, 2004.

## Appendix B

### *16 V.S.A. §165: Standards of quality for public schools; equal educational opportunities*

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities which are substantially equal in quality, each Vermont public school, including each technical center, shall meet the following school quality standards:

(1) The school shall, through a process including parents, teachers, students and community members, develop, implement, and annually update a comprehensive action plan to improve student performance within the school. The plan shall include goals and objectives for improved student learning and educational strategies and activities to achieve their goals. The plan shall also address the effectiveness of efforts made since the previous action plan to ensure the school maintains a safe, orderly, civil and positive learning environment which is free from harassment, hazing and bullying. The school shall assess student performance under the plan using a method or methods of assessment developed under subdivision 164(9) of this title.

(2) The school, at least annually, reports student performance results to community members in a format selected by the school board. In the case of a regional technical center, the community means the school districts in the service region. The school report shall include:

(A) information indicating progress toward meeting standards from the most recent measure taken;

(B) information about the health and social well-being status of children in the school district;

(C) information indicating progress toward meeting the goals of an annual action plan;

(D) any other statistical information about the school or community that the school board deems necessary to place student performance results in context;

(E) information about early reading instruction provided under subsection 2903(c) of this title;

(F) early care and education opportunities available to children;

(G) community support available to families;

(H) a description of how the school ensures that each student receives appropriate career counseling and program information regarding availability of education and apprenticeship program offerings at technical centers;

(I) if the school is a secondary school, data describing student participation in technical education, regional job opportunities and the number of graduates from the previous year who have entered postsecondary education, the military and the job market;

(J) information and supporting data presented in a manner designed to protect student confidentiality on the following:

(i) student attendance, including unexcused absences;

(ii) student discipline; and

(iii) if the school is a secondary school, dropout and graduation rates; and

(K) data provided by the commissioner which enable a comparison with other schools, or school districts if school level data are not available, for cost-effectiveness. The commissioner shall establish which data are to be included pursuant to this subdivision and, notwithstanding that the other elements of the report are to be presented in a format selected by the school board, shall develop a common format to be used by each school in presenting the data to community members. The commissioner shall provide the most recent data available to each school no later than October 1 of each year. Data to be presented may include student-to-teacher ratio, administrator-to-student ratio, administrator-to-teacher ratio, and cost per pupil.

(3) The school substantially meets standards adopted by rule of the state board regarding conditions, practices and resources of schools. The standards shall address those aspects of the following which are most closely associated with improving student performance:

(A) school leadership, staffing and support services;

(B) instructional practices and curriculum leadership, content and coordination;

(C) educational materials and school facilities;

(D) access to current technology.

(4) The school shall provide for and the staff shall use needs-based professional development designed to improve the quality of education provided to the students and directly connected to standards for student performance established by the state board and any other educational performance goals established by the school board.

(5) The school uses staff evaluation to advance educational performance objectives.

(6) The school ensures that students receive appropriate career counseling and program information regarding the availability of education and apprenticeship program offerings at technical centers. In addition, the school, if it is a secondary school, offers a genuine opportunity to access technical education programs.

(7) The school ensures that students are furnished educational services in accordance with any state or federal entitlements and in a nondiscriminatory manner.

(8) The school maintains a safe, orderly, civil and positive learning environment, which is free from hazing, harassment and bullying, and based on sound instructional and classroom management practices and clear discipline policies that are consistently and effectively enforced.

(b) Every two years, the commissioner shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the commissioner determines that a school is not meeting the quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the

standards or make sufficient progress by the end of the next two-year period, the commissioner shall recommend to the state board one or more of the following actions:

- (1) continue technical assistance;
- (2) adjust supervisory union boundaries or responsibilities of the superintendency;
- (3) assume administrative control only to the extent necessary to correct deficiencies; or
- (4) close the school and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title.

(c) The state board, after offering the school board an opportunity for a hearing, shall either dismiss the commissioner's recommendation or order that one or more of the actions listed in subsection (b) of this section be taken. The action ordered by the state board shall be the least intrusive consistent with the need to provide students attending the school substantially equal educational opportunities. A school board aggrieved by an order of the state board may appeal the order in accordance with the Rules of Civil Procedure.

(d) Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by students in the same or any other school district. Further, nothing herein shall create a private right of action.

(e) If the commissioner determines at any time that the failure of a school to meet the school quality standards listed in subsection (a) of this section is severe or pervasive, potentially results in physical or emotional harm to students or significant deprivation of equal education opportunities, and the school has either unreasonably refused to remedy the problem or its efforts have proved ineffective, he or she may recommend to the state board one or more of the actions listed in subsection (b) of this section. The state board shall then follow the procedure of subsection (c) of this section.

(f) In order to be designated an independent school meeting school quality standards, an independent school shall participate in the school quality standards process of subsection (b) of this section. An independent school shall receive technical assistance in accordance with the provisions of subsection (b), but shall not be subject to subdivisions (b)(2)-(4) of this section. The school shall be an independent school meeting school quality standards unless the state board, after opportunity for hearing, finds that:

- (1) the school has discontinued its participation in the school quality standards process; or
- (2) two or more years following a determination that the school is not meeting the quality standards or that the school is making insufficient progress in improving student performance, the school fails to meet the standards or make sufficient progress toward meeting the standards. (Added 1969, No. 298 (Adj. Sess.), § 16; amended 1981, No. 151 (Adj. Sess.), § 6; 1987, No. 97, § 5, eff. June 23, 1987; 1989, No. 44, § 3, eff. June 1, 1990; 1997, No. 60, § 4, eff. July 1, 1998; 1997, No. 71 (Adj. Sess.), § 82, eff. March 11, 1998; No. 138 (Adj. Sess.), § 4, eff. April 27, 1998; 1999, No. 113 (Adj. Sess.), § 1b; No. 120 (Adj. Sess.), § 4; 2001, No. 8, § 2; 2003, No. 68, § 46, eff. June 18, 2003; 2005, No. 54, § 1.)