



Exclusionary Discipline in Vermont: Early Childhood

Executive Summary

The 2021 passage of Act 35,ⁱ which prohibits exclusionary discipline (broadly defined as suspension and expulsion) for children under age 8, has led to an increase in the attention to the use of exclusionary discipline as well as prevention and mitigation strategies in early childhood settings. Building Bright Futures has produced this exclusionary discipline brief in light of Act 35, in recognition of the importance of high-quality early childhood education settings for children's social emotional development and readiness for learning, and given the increases in acuity and frequency of mental, emotional, and behavioral health related incidents.ⁱⁱ Using evidence and data to inform policy is critical to ensuring an integrated continuum of comprehensive, high-quality services that is equitable, accessible, and will improve outcomes for each and every Vermont child in the prenatal period through age 8 and their families.ⁱⁱⁱ To that end, this brief outlines (1) the existing data for children under age 9, (2) limitations and challenges, and (3) policy considerations for Vermont's Early Childhood System.

The data in this brief is not published or reported elsewhere and therefore has not yet been used to inform decision-making and implementation on this critical topic.

Data Findings

Data provided by the Agency of Education across school years 2018 and 2021 show that:

- + Quantitative data on exclusionary discipline incidents for children under 5 years through the annual reporting cycle are not publicly reportable due to extremely small numbers.
- + For children ages 5 through 8, the number of reported suspensions decreased annually from 643 in 2018 to 238 in 2021.
- + On average, students ages 5 through 8 who experienced an exclusionary action were suspended two times for each school year from 2018 to 2021 with an average length of suspension of one day.
- + There are disproportionate impacts on two vulnerable student groups across school years 2018 through 2021:
 - + Students eligible for free and reduced lunch (185% of the Federal Poverty Level) make up 35% of the student population, but account for an average of 72% of suspensions.
 - + Children receiving special education services through an Individualized Education Plan (IEP) make up 15% of the student population, but account for 36% of suspensions.

- + In addition, historically marginalized students make up an average of 82% of suspensions in children ages 5 through 8.
- + The Universal Prekindergarten Education Accountability and Continuous Improvement System (UPK ACIS) captured a total of 63 violations, 27 incidents (43%) involved exclusionary discipline practices including both suspension and expulsion for children ages 3-5. Of these, 14 incidents (52%) involved children with disabilities on an IEP.

Limitations to the data include:

- + Extremely small numbers make data unreportable on the following:
 - + Suspension for children under age 5
 - + Specific vulnerable populations
 - + Expulsion and alternative placement for children under age 9
- + The impact of the COVID-19 pandemic on educational settings and data collection
- + Inconsistent and incomplete reporting

Implementation challenges include:

- + Inconsistent communication and guidance for Universal Prekindergarten Education (UPK)
- + Timing of evaluations for additional supports
- + Barriers to implementing preventative approaches to exclusion
- + Act 35 implementation and monitoring

Five **policy considerations** regarding exclusionary discipline for young children have resulted from the data, limitations, and challenges:

1. Clear and consistent communication about current definitions and guidance
2. Family, community, and professional-informed decision-making
3. Specific consideration for vulnerable populations
4. Investment in preventive and supportive approaches
5. High-quality data to inform decision-making and implementation

Thank you to the Vermont Agency of Education Data Division and Early Education Team for providing the data to inform this brief.



The findings of this brief do not necessarily indicate the views of the State of Vermont.



Vermont's Early Childhood Data & Policy Center

Vermontkidsdata.org

Vermont's Early Childhood Data and Policy Center is a hub of the most high-quality, up-to-date data and information on the status of children and families across sectors. It is a critical tool for answering policy questions by centralizing data from Vermont's complex early childhood system including a data dashboard; a robust collection of Vermont-specific and National publications, policy briefs, and webinars; and a page dedicated to early childhood policy in Vermont. Vermontkidsdata.org



Building Bright Futures (BBF) is Vermont's early childhood public-private partnership, charged under Vermont Title 33 § Chapter 46 and the Federal Head Start Act (Public Law 110-134) as Vermont's Early Childhood State Advisory Council (SAC), the mechanism used to advise the Governor and Legislature on the well-being of children in the prenatal period through age 8 and their families. BBF maintains the vision and strategic plan for Vermont's early childhood system. BBF's Network infrastructure includes 12 Regional Councils, seven VECAP Committees, and the State Advisory Council. Buildingbrightfutures.org



Introduction

Research has consistently demonstrated the importance of high-quality early childhood education settings for children’s social emotional development and readiness for learning.^{iv} One barrier to ensuring the full participation of each and every child is the use of exclusionary discipline practices.^v Recent concerns about exclusionary discipline practices have been elevated, especially focused on children with disabilities and children eligible for free and reduced lunch due to: (1) the passage of Act 35ⁱ which prohibits exclusionary discipline^{vi} (broadly defined as suspension and expulsion) for children under age 8, and (2) the increase in both the acuity and frequency in mental, emotional, and behavioral health related incidents.ⁱⁱ

In Vermont, the early childhood period is designated as prenatal through age 8. Therefore, *this brief includes data and policy considerations for children through the age of 8 in regulated child care settings, prequalified prekindergarten education programs (public and private),¹ and kindergarten through third grade.*

The purpose of this data brief is to document the data available on exclusionary discipline for children under the age of 9, identify limitations and challenges, and outline considerations for early childhood policy.

Existing data on exclusionary discipline for Vermont children under the age of 9

The exclusionary discipline data in this brief is for children under the age of 9 for school years 2018 through 2021. Existing data on exclusionary discipline (defined broadly as suspension and expulsion) for Vermont children under the age of 9 is managed by the Vermont Agency of Education (AOE). Quantitative data are collected by school districts and submitted to the AOE on an annual basis. Reports contain information on the student (from which demographic indicators and characteristics can be retrieved for aggregate reporting), incident type, disciplinary actions resulting from the incident, length of the suspension (as appropriate), and the provision of interim educational services (as appropriate).

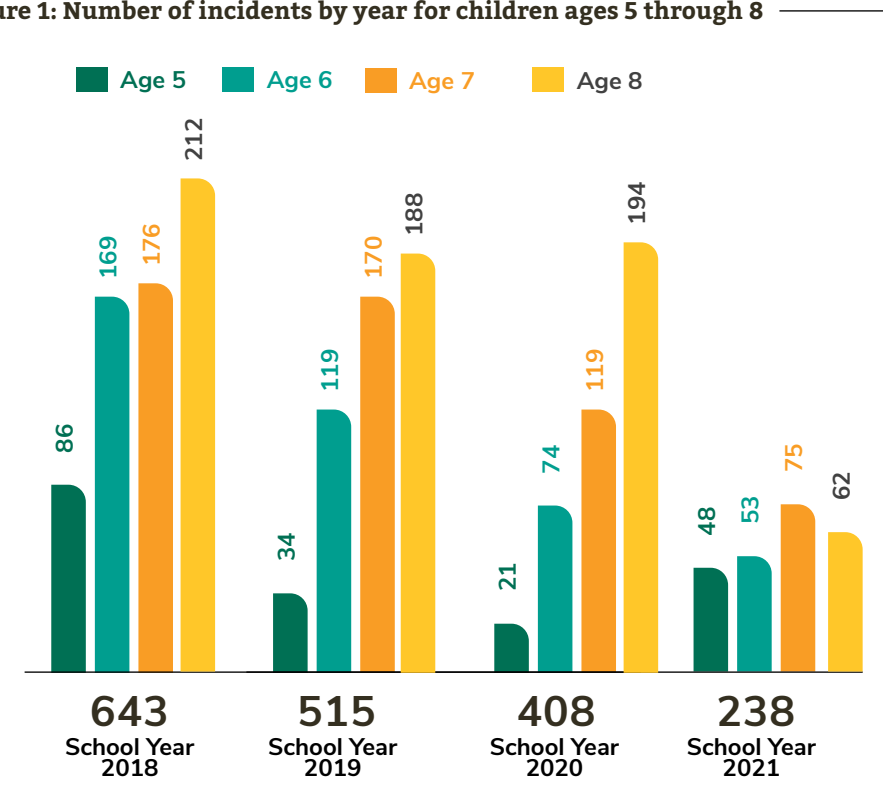
The majority of the quantitative data included in this brief focuses on children ages 5 through 8, as quantitative data on exclusionary discipline for children under 5 years are not publicly reportable due to extremely small numbers and the legal requirements under the [Family Educational Rights and Privacy Act](#) (FERPA) related to sensitive data in order to protect the privacy of individual students. See limitations on page 6 for more details.

Incidents of suspensions

Figure 1 below shows the number of incidents of suspension for children ages 5 through 8 for school years 2018 through 2021. It is important to note that the COVID-19 pandemic likely impacted the data for 2020 and 2021, discussed further in the limitations section on page 6. For example, in the last quarter of 2020, no suspensions were recorded, due to the absence of in-person learning for a period of time.^{viii} Three trends emerge from these data:

¹ A prequalified prekindergarten education program is a public or private program that meets quality criteria set forth in the Act 166 administrative rules.^{vi}

Figure 1: Number of incidents by year for children ages 5 through 8



Three trends emerge from these data:

- + The total number of suspensions and the total number of missed days decreased annually between 2018 and 2021. Because the average length of suspension was one day, the total number of suspensions and the total number of missed days are the same.
- + Suspensions appear to increase as the age of students increases.
- + Between 2020 and 2021, the number of suspensions decreased for students aged 6, 7, and 8, while the number of suspensions for 5-year-olds more than doubled.

Duration and recurrence of suspensions

In addition to the total number of suspensions, it is important to understand how often an individual child is excluded from their education setting, as well as the length of time they are suspended from that setting.

- + On average, students from ages 5 through 8 who experienced an exclusionary action were suspended two times during each school year from 2018 through 2021.
- + The average length of each suspension across all years was one day.
- + The total number of missed days for children between ages 5 through 8 decreased each year from 2018 through 2021, ranging from 648 total days in 2018 to 239 total days in 2021.

Suspensions for Vermont’s vulnerable populations

It is critical to examine how incidents of suspension impact Vermont’s most vulnerable populations. Table 1 shows the total number of children ages 5 through 8 who have experienced at least one suspension by demographic indicators and characteristics of students.^{ix} There are disproportionate impacts on several vulnerable student groups. In particular:

- + Students eligible for free and reduced lunch (185% of the Federal Poverty Level) make up 35% of the student population, but account for an average of 72% of suspensions.
- + Children with disabilities receiving special education services through an Individualized Education Plan (IEP) make up 15% of the student population, but account for 36% of suspensions.
- + Historically marginalized students are those who have been historically underserved by educational institutions for any one, or more than one, characteristic including ethnic and racial minorities, English Language Learners, students with Free and Reduced Lunch, students with disabilities, and students who are migrant, foster, or homeless. Historically marginalized students make up an average of 82% of suspensions in children ages 5 through 8.

Table 1: Total number of children ages 5 through 8 experiencing at least one suspension by student demographics and characteristics by year (2018-2021)

	2018	2019	2020	2021
Race & Ethnicity				
American Indian/Alaskan Native	18 (3%)	***	***	***
Asian	***	***	***	***
Black or African American	39 (6%)	31 (6%)	37 (9%)	15 (6%)
Native Hawaiian and Other Pacific Islander	***	***	***	***
White	569 (88%)	450 (88%)	345 (85%)	208 (87%)
Hispanic/Latino	14 (2%)	11 (2%)	21 (5%)	***
Free and Reduced Lunch (FRL) Eligible†	468 (73%)	351 (69%)	292 (72%)	181 (76%)
English Language Learner (ELL)	***	16 (3%)	23 (6%)	***
Children on an Individualized Education Plan (IEP)††	215 (33%)	166 (32%)	160 (39%)	104 (44%)
Children on a 504 Plan	41 (6%)	18 (4%)	38 (9%)	***
Historically Marginalized Children	529 (82%)	393 (77%)	335 (82%)	202 (85%)
Total	643	511	408	238

*** Data were suppressed because the number of incidents was under 11

† Disproportionate impact with 35% of students accounting for 71% of suspensions across all years

†† Disproportionate impact with 15% of students accounting for 35% of suspensions across all years

Exclusionary discipline for children enrolled in Universal Prekindergarten Education (UPK)

As previously described, annual reporting of quantitative data on exclusionary discipline incidents for children under age 5, including children eligible for Universal Prekindergarten Education (UPK), is not publicly reportable for individual school years 2018 through 2021 in order to protect student privacy. However, the low number of exclusionary discipline incidents reported by UPK programs may not accurately reflect the full picture for Vermont children and families.

The AOE Early Education Team has been monitoring UPK program compliance under Act 166^{vii} on an ongoing basis since spring 2020 through the Universal Prekindergarten Education Accountability and Continuous Improvement System (UPK ACIS). The UPK ACIS monitors all violations for prequalified UPK programs. Complaints of a suspension or expulsion for a child under the age of 5 may be reported by any of the following mechanisms or individuals: families/caregivers, school districts, special educators and service providers, as well as licensing violations through the Child Development Division. Memoranda from the AOE were released in 2018^x and 2021,^{xi} along with the AOE UPK Program Requirements website,^{xii} to clarify suspension and expulsion reporting requirements for all UPK programs.

Since spring 2020, the UPK ACIS monitoring team has investigated 63 incidents of violations (of all kinds) across prequalified UPK programs. 27 of those incidents (43%) involved exclusionary discipline practices including both suspension and expulsion. Of these, 14 incidents (52%) involved children with disabilities on an Individualized Education Plan (IEP).^{xiii}



Data limitations and implementation challenges

Collectively, the factors below inhibit Vermont's ability to ensure that each and every child is able to fully and equitably participate, and to receive the highest quality services, resources, and supports.

Data limitations

Extremely small numbers often yield unreportable data. The first, and arguably most challenging data limitation is that data are not publicly reportable at this time on: (1) Vermont children under age 5, (2) several vulnerable populations, and (3) for permanent expulsion and alternative placement. In order to comply with the [Family Educational Rights and Privacy Act](#) (FERPA), Vermont does not report data when there are fewer than 11 students in a category (cell).^{xiv} In Vermont, for each year between 2018 and 2021, there were fewer than 11 cases of suspension reported for children under age 5, for English Language Learners (ELL), and for students identifying as American Indian/Alaskan Native, Asian, or Native Hawaiian and Other Pacific Islander for children under 9. Likewise, data on permanent expulsions and alternative placements are not publicly reportable at this time. These are extremely small numbers of incidents by any measure. Because they are so small, using them statistically is not methodologically sound.

Impacts of the COVID-19 pandemic. The COVID-19 pandemic has not only impacted the experiences of children, but the data for years 2020 and 2021. Children's experiences and learning environments during these school years were not "normal." Suspension data and apparent trends for these years may be outliers.

Inconsistent and incomplete reporting. While progress has been made in UPK monitoring through the Universal Prekindergarten Education Accountability and Continuous Improvement System (UPK ACIS), there is agreement across the AOE Early Education team and early childhood stakeholders that reporting is inconsistent and incomplete, across both PreK-12 annual collection and the real time UPK ACIS.

Implementation Challenges

Inconsistent communication and guidance for UPK. Act 166 requires school districts to offer 10 hours of publicly funded prekindergarten education (PreK) per week for 35 weeks of the school year. PreK may be offered in prequalified school-based or private PreK programs. Memoranda from the Vermont Agency of Education were released in 2018^x and 2021^{xi} to clarify suspension and expulsion reporting requirements for UPK programs.

However, stakeholders perceive the lack of clear communication and guidance from the AOE and the AHS as the most consistent concern related to exclusionary discipline, which is believed to contribute to documentation and implementation challenges. Early childhood stakeholders have reported inconsistencies in guidance, definitions, and understanding of required implementation, and uneven application of consequences. Specific concerns include: discrepancies between verbal and written guidance, inconsistent definitions of exclusionary discipline incidents (including soft suspensions and expulsions), and lack of clarity on the best practices, supports, and variances.

Timing of evaluations for additional supports. Additional supports and approaches are available to children on an Individual Family Services Plan (IFSP),^{xv} or an IEP, 504, or EST plan to ensure their Free Appropriate Public Education (FAPE).^{xvi} However, it can take up to 45 days for the implementation of an IFSP for children under 3 from the initial referral.^{xvii} For children 3 and older, the timeline is 60 days for an initial evaluation to be conducted from the date of referral and parental consent.^{xviii} During this time, approaches and supports that may prevent exclusionary discipline remain unavailable to support the child, family, and early childhood program.

Barriers to implementing preventative approaches to exclusion. Vermont’s early childhood stakeholders have identified an urgent need for preventative interventions and supports to reduce the escalation of challenging behaviors that may result in the use of exclusionary discipline outlined in policy consideration 4 below. Challenges to implementation of such practices include:

- + Inadequate funding: Given the rise in the frequency and acuity of mental and behavioral health conditions,ⁱⁱ early childhood stakeholders report an inability to access or implement alternative approaches, limiting their capacity to support the needs of each and every child’s full and equitable participation.
- + Workforce shortage: Potential alternative approaches to supporting children with additional behavioral needs may require additional staff. For example, to implement Early Multi-Tiered System of Supports (Early MTSS) to fidelity, practice-based coaching along with classroom staffing to allow for teacher planning time. However, this is increasingly a challenge given the workforce challenges, with 1,200 fewer professionals working in regulated child care settings in Vermont in 2020 compared to 2018, particularly acute for aides and substitutes.^{xix}

Act 35 implementation and monitoring.

- + Challenges in the monitoring and implementation of Act 35 - Age vs. grade: Act 35 uses age rather than grade for the prohibition of exclusionary discipline. Children in second and third grade range in age, typically being between ages 7 and 9. Practically, this means the law may allow one child to be suspended or expelled, while classmates within the same classroom and grade are not allowed to be suspended or expelled for the same incident solely due to their age.
- + Challenges in the monitoring and implementation of Act 35 - Settings: As mentioned above, UPK takes place in a mixed-delivery system. Currently, Act 35 (2021) disallows suspension or expulsion for children under the age of 8 enrolled in public schools, including school-based PreK programs, but does not include private UPK programs.² Implementing Act 35 differently across public and private settings raises equity concerns.
- + Limited Task Force Recommendations on exclusionary discipline in early childhood education: In addition to the prohibition of exclusionary discipline for children under age 8, Act 35 established a Task Force on Equitable and Inclusive School Environments focused on PreK through grade 12 system. Due to the broad scope of the task force and age ranges included, recommendations dedicated specifically to early childhood education were limited.^{xx} In addition, the Task Force found notable variations and a lack of a standard definition for early childhood education when reviewing the statute, rules, and AOE/AHS guidance. Consequently, this lack of a clear definition of the age period and/or settings for which Act 35 is applicable made it “impossible to delineate developmentally appropriate recommendations.”

Program and policy considerations

Reducing preventable exclusionary discipline incidents by adding staffing and structural resources to create inclusive and supportive environments is an urgent priority for children under the age of 9 and the early childhood educators supporting their early education and social emotional development. Considerations for policy, implementation, and investments are outlined below.

1. Clear and consistent communication about current definitions and guidance
2. Family, community, and professional-informed decision-making
3. Specific consideration for vulnerable populations
4. Investment in preventive and supportive approaches
5. High-quality data to inform decision-making and implementation

² The AOE requires documentation of exclusionary discipline practices for all UPK programs in the mixed delivery system.^x

1. Clear and consistent communication There is an immediate need for clear definitions, consistent guidance, aligned vision and messaging, and clarity on the best practices, supports, and resources from the Agency of Education, Agency of Human Services Child Development Division, and the Department of Mental Health. This is only possible with strong leadership and additional capacity to facilitate strong stakeholder-informed decision-making, new guidance documentation, and professional development to align with national best practices.

2. Family, community, and professional-informed decision-making Early childhood educators, stakeholders, families, and experts should be engaged and consulted during the creation of communication, guidance, and legislation to ensure that this guidance is consistent with best practices for what constitutes a high-quality early childhood education environment. Given the unique and varying developmental needs of young children, careful consideration should be given when determining requirements for exclusionary discipline for children under age 9.

3. Specific consideration for vulnerable populations The data above shows a disproportionate impact of suspension on children eligible for free and reduced lunch, and children on an Individualized Education Plan (IEP). Further investigation and development of strategies to increase equitable access for vulnerable children should be developed and implemented when considering the implementation of guidelines for exclusionary practices.

4. Investment in preventive and supportive approaches One best practice for supporting the emotional or self-regulation for young children is to reduce their overstimulation by intentionally structuring or altering their environment.^{xxi} Since 2018, there have been repeated recommendations to meet the needs of children and early childhood educators and prevent suspension and expulsion to support the social emotional development of children. Recommendations from Vermont's Early Childhood State Advisory Council,^{xxii, xxiii} alongside the Early Childhood Mental Health Task Force,^{xxiv} and most recently, the Task Force on Equitable and Inclusive School Environments,^{xx} have called for significant investment in prevention and supportive approaches including:

- + Early Multi-Tiered System of Supports (Early MTSS) and practice-based coaching
- + Special Accommodations Grants (SAG)
- + Early Childhood and Family Mental Health (ECFMH) consultation
- + Strengthening Families Protective Factors Framework
- + Universal developmental and social determinants of health screenings

While limited investments in each of these areas has led to progress, further financial and personnel resources are required, along with leadership to champion these preventative interventions to fully realize their benefits and implement or deliver services to fidelity.

5. High-quality data to inform decision-making and implementation Using evidence and data to inform policy is an essential strategy for supporting each and every young child and family's full and equitable participation in line with Vermont's Guiding Principles. The data in this brief is not published or reported elsewhere and therefore has not been used to inform decision-making and implementation on this critical topic. This is in part due to the data limitations listed above, but more importantly, due to the limited capacity of individuals and systems throughout the early childhood data cycle and a lack of awareness about what data currently exists.

In order to increase Vermont's capacity to understand and monitor the current landscape of early childhood education, Vermont's Early Childhood State Advisory Council recommends that Vermont "commit to early childhood data integration and governance through sustained funding, dedicated staffing, data infrastructure, and data-driven accountability at all levels of the system: executive, legislative, and agency leadership." More specifically, they call for "sustained funding for personnel to ensure high quality data through the following activities: simplify data management and reporting activities; training and TA to support quality collection, analysis, and reporting; engagement in data integration meetings and visioning; and continuous quality improvement."^{xxiii}

Data Tables

Table 1: Total number of children ages 5 through 8 experiencing at least one suspension by student demographics and characteristics by year (2018-2021)

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† Disproportionate impact with 35% of students accounting for 71% of suspensions across all years

†† Disproportionate impact with 15% of students accounting for 35% of suspensions across all years

Table 2: The number of suspension incidents for children ages three through eight by age and year (2018-2021)

Age	2018	2019	2020	2021
Age 3	***	***	***	***
Age 4	***	***	***	***
Age 5	86	34	21	48
Age 6	169	119	74	53
Age 7	176	170	119	75
Age 8	212	188	194	62
Total	643	511	408	238

*** Data were suppressed because the number of incidents was under 11

Table 3: Time spent out of early childhood education settings for children ages 5 through 8 by year (2018-2021)

	2018	2019	2020	2021
Average number of incidents per student	2	2	2	2
Average length of suspension	1 day	1 day	1 day	1 day
Total days missed	643	511	408	238

*** Data were suppressed because the number of incidents was under 11



References

- ⁱ [Vt. Stat. Ann., tit. 16 V.S.A. § 1162 \(2021\)](#).
- ⁱⁱ Vermont State Interagency Team. [Vermont System of Care Report 2022](#).
- ⁱⁱⁱ Building Bright Futures State Advisory Council. [Vermont Early Childhood Action Plan 2020 \(VECAP\)](#).
- ^{iv} Zinsser et al. [A Systematic Review of Early Childhood Discipline](#).
- ^v Vermont Agency of Education, Building Bright Futures, et al. [Guiding principles](#).
- ^{vi} The Vermont Agency of Education [Exclusionary Incidents Dashboard](#) details definitions of exclusionary discipline and incident type, practices relating to suppression and data privacy and actionable data for school administrators.
- ^{vii} [Vt. Stat. Ann., tit. 16 V.S.A. § 829 \(2017\)](#).
- ^{viii} Vermont Agency of Education. Data Division. Unpublished.
- ^{ix} U.S. Department of Education (2017). [The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Vermont State Plan](#).
- ^x Vermont Agency of Education. [PreK Suspension and Expulsion Data Collection and Reporting](#).
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- ^{xii} Vermont Agency of Education. [Universal Prekindergarten Program Requirements](#).
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- ^{xvi} U.S. Department of Education, Individuals with Disabilities Education Act. [Free appropriate public education \(FAPE\) Part 300 \(Part B\), Subpart B, Section 300.101](#).
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- ^{xix} Vermont Department for Children and Families. Vermont Early Childhood and Afterschool Professionals Workforce Report. Awaiting publication.
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- ^{xxi} Rosanbalm, K.D., & Murray, D.W. [Promoting Self-Regulation in Early Childhood: A Practice Brief](#).
- ^{xxii} Building Bright Futures (2021). [2020 Recommendations of the Building Bright Futures State Advisory Council](#).
- ^{xxiii} Building Bright Futures (2022). [2021-2022 Policy Recommendations of the Vermont Early Childhood State Advisory Council Network](#).
- ^{xxiv} Building Bright Futures (2020). [Early Childhood and Family Mental Health: 2020 Task Force Report](#).