

EDUCATION

Seeking an appropriate education, Vermont families battle lawyers, the Legislature and a lack of staff

“The whole system is designed to not educate a certain subset of the population,” said one parent of a child with autism.

By Ethan Weinstein

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Chris and Pallas Ziporyn with their sons at their home in South Burlington on Monday, June 10. Photo by Glenn Russell/VTDigger

If anyone could navigate Vermont's special education system, it was Chris and Pallas Ziporyn — or so they believed.

Chris, once a teacher, received a master's degree with a focus on special education. As a teenager, Pallas served on her local school board, making her one of the youngest members in the country in 2006.

So when the couple's eldest of three children, Noah, received an autism diagnosis at age 5, they thought themselves capable of advocating for his rights under federal and state law within the public school system. (VTDigger is using a pseudonym for Noah.)

Yet three years in, after struggling through tense meetings and dizzying legal challenges, the Ziporyns are less optimistic about what is possible. Contracts, they've learned, only mean so much. And politics, perhaps, trump common sense education policy.

Noah hasn't been able to safely and effectively access public education in the classroom. The homeschooling suggested by the school district proved more a trap than a fix. Alternative schools, with yearslong waitlists, weren't a viable option — and they've dwindled in number year after year, in part due to a recent state law that put a moratorium on public funding for new independent schools.

The Ziporyns and other families like theirs have found that regulations requiring that public school districts provide a "free appropriate education" are inaccessibly complicated and expensive to navigate. The law, they say, protects in theory but not always in practice.

Noah's experience with school has thrown the family into crisis. Chris has left the workforce, and Noah's siblings feel the weight of their brother's strife. The Ziporyns say they've lost sleep, lost money and lost friends.

"The whole system is designed to not educate a certain subset of the population," Pallas said, "and I think the worst part of it is we're invisible."

‘Why would you build me this way?’

Noah, who’s now 8, developed speech slower than his peers. But he didn’t show all of the signs of autism as a younger child, Pallas said. A diagnosis took years, in no small part due to wait times to see specialists.

“I did not know I was raising a kid with such significant challenges for quite some time,” she said. “It was kind of a discovery process for us.”

Noah began kindergarten at South Burlington School District’s Rick Marcotte Central School in 2021. Already, he had an individualized education plan, or IEP, in place.

Though he faced a significant transition, Noah experienced early “successes” in school, Pallas said. His teachers remarked on his particular passion for music and the outdoors.

“He is so fast at recess,” one note reads, “his friends tend to follow him.”

But by winter, Noah encountered more challenges at school. He was bolting from class, running into the street. He refused to come to school and would fight, scratch and bite to avoid the classroom. Pallas and Chris heard Noah’s screams as they left him at the school’s entrance.

His ability to participate independently in class dwindled. In February, an hour in the classroom became a point of celebration, and the educational value of Noah attending school seemed to evaporate.

Around the same time, the Ziporyns first heard their son consider self-harm.

“My brain is broken,” Noah’s parents remember him saying. “Why would you build me this way?”

The school began to focus on Noah’s unique autism diagnosis, which Pallas said is called pathological demand avoidance. **The profile describes people** with a highly sensitive nervous system that goes into fight or flight mode easily when they feel they can’t meet the demands of their environment. For example, when asked a question he doesn’t know the answer to, Noah might flee the classroom, and afterwards, he feels shame about his actions, Pallas added.

But it wasn't enough. His parents felt Noah's safety was at risk, and his learning was suffering.

In March 2022, both the district and the family agreed to take a break from school, though Noah remained enrolled. A short stay at home, they thought, might help Noah better his mental health before a more thoughtful return to school down the line.

Instead, as the Ziporyns hit one dead-end after another — home visits that never happened, proposed outplacements at oversubscribed therapeutic schools — Noah's time away from the classroom stretched to two years.



Noah, right, described by his parents as a spirited child who follows the beat of his own drum. Courtesy the Ziporyn family.

In a detailed written statement, Kristin Romick, executive director of educational support services for South Burlington schools, told VT Digger that privacy laws restricted her from discussing the specifics of Noah's case. She said the district is committed to providing all students the support they need by recruiting and retaining qualified staff, contracting with

experts as needed and collaborating with organizations experienced in helping students with specialized needs.

“Some students are unable to access their education within the public school setting and require an alternative setting to meet their needs,” she wrote, noting that some students “need to be educated at a therapeutic school” to receive an appropriate education. Due to program closures, Romick said South Burlington developed its own program last school year thanks to “amazing and experienced staff” and a supportive superintendent.

“Nonetheless, the need for therapeutic schools in Vermont far outweighs the availability,” she said.

Stuck at home

When Noah stopped attending school as a kindergartener, his parents and the school agreed on the goal: figure out a way to go back to class that worked for Noah’s disability.

Agreement, though, became ever less frequent after that.

The school and the Ziporyns initially planned for a future with more one-on-one support for Noah, perhaps at home, working toward a “reverse inclusion plan” that would bring Noah gradually back into the classroom. With a trusted adult, he could learn, Noah’s parents observed.

Documented conversations show that both parties indicated an interventionist would spend time at home with Noah at the start of first grade in 2022. His IEP required two hours per day at home, plus additional weekly time with specialists. Yet as the school year started, Noah wasn’t receiving services, Pallas said. In fact, the IEP team said the district hadn’t yet hired a 1-on-1 for those two hours.

Three weeks into the new school year, the tenor of communication changed.

Romick, the district’s educational support leader, said that extensive home education services couldn’t happen, meeting minutes show. She suggested outplacement to a specialized

independent school for Noah. However, the district noted none of the schools had immediate openings.

Instead, what the district could provide was a \$3,000 homeschooling stipend to pay for a tutor while the Ziporyns waited for a placement.

While battling for Noah to receive an education, the Ziporyns met parents in similar situations. Their kids, like Noah, were waiting for outplacements and floundering at home.

“There are waiting lists all over the place. For mental health services, for alternative placements,” said Karen Price, director of family support in education for the Vermont Family Network. “It’s a huge concern, a huge concern with families.”

The lack of local options pushes some families to choose residential programs out of state, she said, which cost in excess of \$100,000 per year, typically on the state’s dime.

Cammie Naylor, a staff attorney at Vermont Legal Aid who has helped families navigate special education law for about seven years, said she works regularly with parents of kids left without an education while waiting for an outplacement.

“I think that’s pretty common right now,” she said, also noting an “uptick” in out-of-state placements, perhaps due to a lack of local options.

‘A serious impediment’

How could so few therapeutic school options exist, Pallas wondered. Only a couple of years ago, there were more.

While the various school closures across the state were caused by a variety of different factors, one in particular — a 2023 law that put a moratorium on state funding for newly formed independent schools — made it impossible to even try to fill the gap. The Ziporyns know this firsthand.

Pallas noticed how the options for students in Chittenden County had dwindled. A Howard Center program appeared to be the only option for elementary-aged youth in the county,

according to a list of approved schools kept by the Vermont Agency of Education. Centerpoint, a Chittenden County program that worked with many older students, **closed last summer**. Mosaic, another therapeutic school option for Vermont families, shut its doors last year as well.

By the start of what should have been Noah's second grade year, the Ziporyns had not received an outplacement offer. So Pallas wondered, could she help open a new therapeutic school?

"I saw the potential, and I saw how much the lack of options affect families in this area, so I felt like I had no choice," Pallas recalled. "It never would have crossed my mind if we hadn't been put in this situation."



Noah on his first day of kindergarten. Courtesy the Ziporyn family

Through her family's experience up to that point, she knew experts in special education and served on the board of a nonprofit she believed was well-placed to open a school. She spoke to leaders of former and existing therapeutic programs, learning what such an endeavor would entail.

Pallas also needed help from the state to navigate the therapeutic school approval process.

After weeks of attempting to reach the Vermont Agency of Education, she said she finally got a reply. They had bad news: A new state law prevented the creation of new therapeutic schools approved to receive public money.

Pallas couldn't believe lawmakers had constructed a barrier to make it harder for kids like Noah to receive an education. "That really felt like a final straw for me. For a couple of days I was convinced I needed to leave the state," she said.

In 2023, the **Legislature passed a moratorium** preventing the agency of education from approving new private schools to receive public money. That prohibition included therapeutic schools, the specialized institutions that often provide unique and intensive programs for students who need something different than what public schools offer.

As the concept for the moratorium first developed that session, lawmakers in the House Education Committee crafted a version **with a carveout for therapeutic** schools.

Yet despite that idea, the ban wound up in that year's budget without the same exclusion.

The legislation arose after **the fallout from *Carson v. Makin***, the Supreme Court case that opened up the floodgates of public money to religious schools, Senate President Pro Tempore Phil Baruth, D/P-Chittenden Central, told VTDigger in June.

Banning new independent schools "across the board" — therapeutic and otherwise — was "equitable and fair," according to Baruth.

"We believed we had enough coverage in the independent school area, and we could afford a moratorium," he said.

Rep. Peter Conlon, D-Cornwall, chair of the House Education Committee, told VTDigger recently that he'd heard from those concerned about the ban on new, approved therapeutic schools.

"I suspect we'll need to address it early on in the next session," he said.

Due to the unique nature of the schools, their programs aren't cheap. Annual tuition in excess of \$50,000 or even \$100,000 is common, sums unaffordable for most parents to pay out of pocket. Residential programs outside Vermont can cost five times that.

The moratorium "has been a serious impediment," Price, the family network advocate, said, "because several therapeutic schools did close."

Romick, the South Burlington educational support systems leader, agreed.

"This shortage will continue to impact students state-wide given the moratorium on approval of new independent schools approved to receive public funding," she told VTDigger.

Due process?

In fall of 2023, the district and the Ziporyns began planning for Noah to start receiving speech-language pathology sessions back in the school building, a possible gateway to inclusion in the classroom.

The family had thought an outplacement spot would open up by then, but now, with it failing to materialize, they decided to try the elementary school again in moderation.

In preparing for that transition, Pallas caught wind of the district's concerns regarding Noah's previous "elopements," or bolting from the school. If he were to run away from the campus, the district would call the police, communications shared with VTDigger show.

The Ziporyns were stunned. The threat of police "was quite shocking," Pallas said, especially because her son is biracial. The family felt the school wasn't interested in getting Noah back into the classroom. "That was the moment, the turning point," Pallas called it.

The legal system might get their son the education he deserved, the family decided.

"We'd prefer not to take a litigious approach and increase conflict," Pallas said. Plus, initial quotes suggested hiring a lawyer could require at least \$60,000 out of pocket.

Parents have three primary methods of challenging local special education decisions on the state level: administrative complaints, due process complaints and mediation.

The Ziporyns' conflict-averse attitude is common. "Parents are usually loath to engage in their parental rights for all sorts of reasons. It's a lot of paperwork. They want to maintain a good relationship with the school," said Price, the family network advocate.

Administrative complaints are often the most accessible to families, though advocates say they can be the least effective. They are filed with the state Agency of Education. Parents fill out a form in plain language alleging some legal violation — perhaps services on the child's IEP aren't being delivered, or the child requires additional services — and the agency can choose to investigate.

If the agency ultimately corroborates violations, it issues corrective action, describing how the local school district should address the problem at hand.

Due process is the most serious — and complicated — route for parents to pursue.

"The due process complaint is one that parents are seldom able to access, because it is legal," Price said.

Mediation occurs when mutually agreed to by a family and its school district. Unlike the other complaint processes, mediation is entirely voluntary, allowing both parties to work toward an agreement without agency or judicial involvement.

Parents who can afford it rely on lawyers, even for mediation, often racking up tens of thousands of dollars in legal fees, according to Price. But just finding a lawyer is a challenge. Few take on special education cases, the result, Price said, of an early 2000s exodus of attorneys focused on education law.

Naylor, the Legal Aid attorney, called it "very challenging" for parents to navigate a due process complaint without representation.

Despite knowing these challenges, the Ziporyns opened a due process complaint in March 2024, taking on the legal battle with help — but not complete representation — from an

attorney. In their filing, they alleged the South Burlington district had failed to provide a free appropriate public education and appropriate education services.

Immediately, there were surprises.

The Agency of Education missed deadlines by “weeks,” according to Pallas, and both she and the district were forced to work on Pacific time, where a contracted case officer was located, not starting until near noon and working into the evening.

The Ziporyns fielded what they called “fireballs” from the district’s attorney — procedural legal arguments seeking to dismiss the case. These arguments cited Vermont’s special education rules and case law.

Due process typically involves a dispute resolution period, during which both parties try to reach an agreement outside of the legal setting.

So South Burlington School District’s leaders and the Ziporyns met repeatedly for hours, trying to reach some kind of solution with the due process complaint looming. The family said they encountered sticking points, like whether they could bring their due process complaint again, and whether the district would have the power to amend a settlement agreement in the future.

“The due process regulations in Vermont require very fast timelines and they require a lot of work,” Naylor said.

If the economic challenges weren’t intimidating enough, families can be held liable for the district’s legal fees, Naylor noted, a further discouragement for pursuing due process.

‘Everything is a fight’

Even when any of the three avenues results in a decision in parents’ favor, positive change isn’t certain. Price said she’s seen cases in which school districts don’t follow through with ordered corrective action.

In those cases, parents say the law appears toothless.

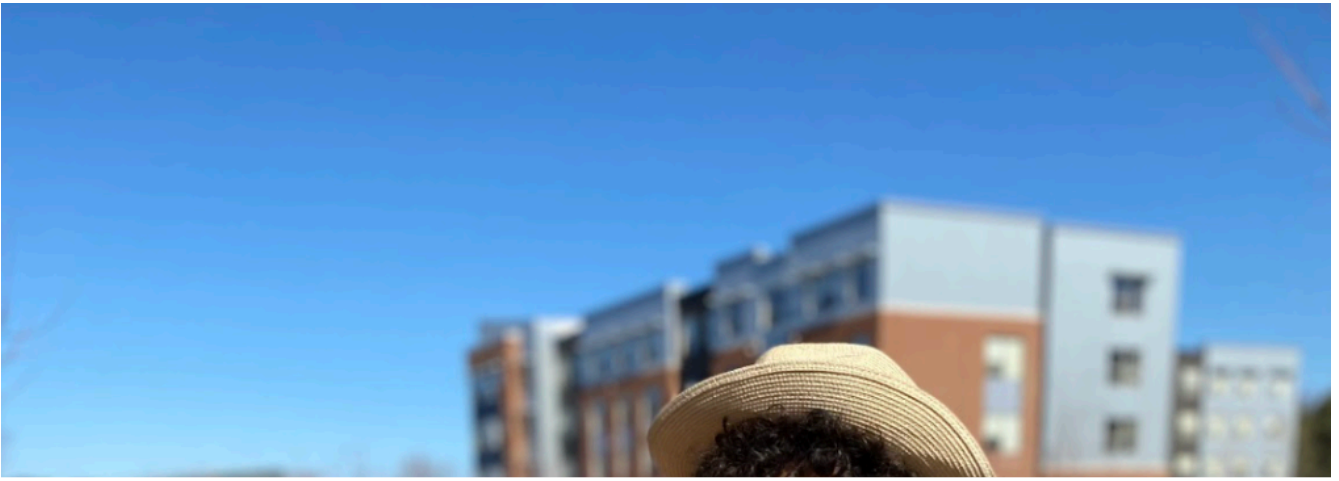
Megan Rinder-Goddard's children have gone through the Mount Abraham Unified School District in Addison County. But now, after navigating the administrative complaint process, she's moving out of state to Georgia, where she hopes to find better special education for her daughter.

"I 1000% refuse to put another child in this school district," she said. "My daughter will have a full-time aid. It's just better. We didn't have to fight for everything," she said.

Rinder-Goddard's complaint highlights the challenges facing her 4-year old daughter, who has Down Syndrome and hearing impairment. In her complaint, the Bristol parent alleged Mount Abraham was failing to follow her daughter's IEP and provide a free appropriate public education.

Advocating for more one-on-one support for her daughter, who needs assistance toileting and eating, Rinder-Goddard grew frustrated.

"The district goes into these IEP meetings like you've done something wrong," she recalled. "Everything is a fight."



Noah pictured at the playground. Courtesy the Ziporyn family.

After investigating the complaint, the agency sided with Rinder-Goddard. In findings and conclusions signed by former interim Education Secretary Heather Bouchey, the agency found that “the IEP team shall convene and amend the IEP to include additional 1:1 personal care hours to cover the 8:00 to 3:00 school day.”

Yet Mount Abraham has taken the state to court, arguing that the Agency of Education overstepped by ordering the district to change the student’s IEP in a specific way.

Such prescriptive corrective action is anomalous — and illegal, according to the district’s lawyer, Marilyn Mahusky.

“It’s unusual to see corrective action that directs the IEP team to take specific action to amend an IEP,” she said in an interview. “The decision to amend an IEP is limited to the IEP team or an order of a hearing officer.”

Rinder-Goddard described the district’s move to sue the state as “ballsy,” but it won’t affect her. She and her family are headed south.

When districts fail to provide services due to staffing shortages, no dispute resolution method can necessarily rectify the situation.

And staffing shortages impede public and therapeutic schools alike, advocates acknowledge.

“There’s a lack of staff in school, and there’s a lack of staff in these programs,” Naylor, the Legal Aid lawyer, noted.

That is another challenge the Ziporyns have experienced firsthand. At the start of first grade, Noah finally began working with an interventionist — a young man in his late teens — at home about a month into the school year, typically for an hour per day.

“We cannot overstate how well things have been going,” Pallas wrote in an email to district officials during that time. “But an hour a day is not nearly enough.”

The one-on-one services were far from perfect: The interventionist was often absent, according to the Ziporyns, and he didn’t have much specialized training. Still, the relationship showed

promise.

But in November of Noah's first grade year, the young man resigned. The district informed the Ziporyns in an email that "With the loss of (the interventionist) on the staff, we do not have someone for (Noah's) interventionist services."

Staffing shortages in particular are difficult to fix.

"If it really is a situation where they cannot find a body, then you know, we are just stuck," Price, the family network advocate, said. "A complaint isn't necessarily going to make a body appear."

'People need to be aware'

Two years after Noah took a "break" from kindergarten, the family and the district signed a dispute resolution in April 2024. It provided for daily in-home tutoring for Noah, weekly work with a speech-language pathologist, and music therapy. Noah's future, it acknowledged, could be in public school or at a therapeutic school.

The agreement, Pallas said, contained both "great" and "deeply flawed" elements, but it served as a "written acknowledgement of (Noah's) needs." The document also maintained the Ziporyns' right to bring back their due process complaint, which gave the family an additional bargaining chip.

Yet the agreement hasn't solved everything — far from it.

"I am in the position of chasing people down constantly," Pallas said in an early July interview. She felt the district requires excessive reminders to follow through on its promises.

The South Burlington school district, for its part, said it's committed to "open and effective communication with all families and guardians," noting that a wide range of school staff help keep families informed.

The Ziporyns don't plan to let up. Across Vermont, the status quo, according to Noah's mother, is not working for families, and she fears the situation is getting worse.

“Our dream is for Noah to go to school in a place where he is safe and supported – be it at our local elementary school with the appropriate accommodations or at an alternative option within a reasonable distance of our home,” Pallas said. “Being told that we are on our own to educate our son because nothing exists for our kid is not an option we can accept.”

Earlier this summer, the Ziporyns attended **Camp Kaleidoscope**, a summer getaway in Starksboro for kids with autism and their families. For four days, Pallas saw a different possibility from the one Noah had found in school.

“If our kid is being really loud, or running around the dining hall, nobody bats an eye,” she said. “If I’m in a space where everybody tolerates difference, we can all just sit in peace.”

At camp, families related to each other’s struggles in Vermont’s public schools. The idea that Noah hasn’t been in class for years was a familiar story, Pallas found. People understood what she and her family were going through. That’s not what she’s encountered elsewhere.

“People need to be aware of the problem, and I don’t think they are,” she said. “We feel totally invisible to the rest of the world.”