



# VERMONT EDUCATION

— OPPORTUNITY FUND —



# Education Opportunity Fund (EOF)

## Roadmap for Legislative Review

*This document presents a proposed framework for the design and implementation of the Education Opportunity Fund (EOF) within Vermont's existing constitutional and statutory education structure. It outlines a lawful, practical approach to expanding educational access while maintaining stability, transparency, and alignment with current systems.*

*The analysis, structural design, policy reasoning, and implementation pathways reflected in this roadmap were developed through independent research, policy analysis, and collaborative discussion. The document synthesizes legal, fiscal, and administrative considerations to support informed legislative review.*

*This roadmap is offered as a good-faith policy resource for legislators, staff, and stakeholders seeking a careful, lawful, and workable path forward for Vermont's education system. It is intended to support legislative understanding and discussion and does not constitute legal advice, formal legislative language, or an official position of any governmental entity.*

*Questions, comments, or requests for additional materials may be directed to:*

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*This work is offered with deep respect for Vermont's constitutional commitments, its public schools, and the families and communities they serve. The goal is to contribute constructively to a stable, transparent, and lawful path forward for educational access and governance in the state.*

# EXECUTIVE SUMMARY

Vermont's education system is in the middle of significant reform. Act 73 reflects a serious effort to control costs, streamline governance, and bring greater consistency to a system under strain. Those goals are widely shared.

At the same time, the present moment carries **real legal and fiscal urgency**. As tuitioning pathways narrow and alternatives become harder for ordinary families to reach, **meaningful educational access is beginning to diverge along lines of income and geography**. When real options exist for some families but not for others, the gap between **equal opportunity in theory and equal opportunity in practice** widens.

This tension is not only educational. **Rising education taxes, limited fiscal visibility, and unevenly experienced benefits** are also placing growing pressure on the system itself. When **public costs are difficult to trace and access is experienced unevenly, fiscal strain and constitutional vulnerability begin to converge**. **Litigation has already begun to emerge**, signaling that these pressures are no longer hypothetical.

Vermont has faced a similar constitutional crossroads before. In *Brigham v. State*, the Vermont Supreme Court held that the education funding system violated the Constitution because it **failed to provide children with equal educational opportunity in practice**. Just as importantly, *Brigham* confirmed that while the Constitution requires the state to ensure education, **it does not bind the state to any single delivery model**. The duty is to **educate children equitably, not to preserve particular institutions**.

Federal constitutional principles reinforce this boundary. In *Pierce v. Society of Sisters*, the United States Supreme Court recognized the **protected liberty of parents to direct the education of their children** and warned against **state action that effectively coerces families into a single school system**. When practical alternatives disappear, **coercion can arise not by mandate, but by structure**.

Vermont's **uniquely centralized education tax and increasingly opaque fiscal pathways** heighten this risk. When families are required to fund **a single dominant system** while **meaningful alternatives remain financially or geographically unreachable**, ordinary taxpayer frustration can begin to take on **constitutional dimension**, including potential concerns under the **Fourteenth Amendment**. These pressures are emerging despite **clear good-faith efforts by policymakers** to stabilize the system.

The **Education Opportunity Fund (EOF)** is offered as a **narrow, constitutionally grounded access and fiscal governance mechanism** designed to **relieve this pressure within the Legislature's existing authority**.

EOF is **not structured as a traditional school-choice or voucher program**. Instead, it functions as a **stabilizing public delivery mechanism** that allows families to **guide educational access within a lawful, state-governed framework** operating alongside **existing public schools and current legislative reform**.

By shifting the **delivery structure toward family-guided access while preserving public oversight**, EOF enables the state to **more faithfully meet its constitutional obligations under both *Brigham and Pierce***. It **restores meaningful access** where access has become constrained, **introduces clearer fiscal visibility**, and **relieves growing pressure created by tax opacity** before taxpayer concern matures into a **potentially legitimate claim of constitutional wrongdoing**. At the same time, it **protects the stability of existing public education infrastructure**.

In this way, EOF serves as a **lawful stabilizing relief valve** and an **internal correction rather than an external disruption**. It **allows Act 73 to proceed**, **preserves legislative authority**, **reduces constitutional exposure**, and **addresses emerging access, fiscal, and taxpayer-equity pressures before they deepen into broader conflict**.

This document explains **how EOF functions**, **why it is constitutionally sound**, **how it complements Act 73**, and **how it may be implemented carefully, transparently, and under full legislative control**.

Vermont now has an opportunity to **respond to rising fiscal strain and narrowing access with clarity rather than crisis**, **modernizing the tools of educational opportunity before constitutional correction is again required from outside the democratic process**.

# Legislative Framework and Roadmap

This document is organized to support multiple points of entry. Some readers will want to begin with the broader context and constitutional framing. Others may prefer to focus immediately on specific questions related to cost, district impact, special education, or administration.

That flexibility is intentional.

The framework is presented in two parts:

1. **A structured narrative** that explains the problem, the design of the Education Opportunity Fund (EOF), and how it fits alongside Act 73.
  2. **A set of targeted appendices** that allow readers to explore particular issues in greater detail, without requiring agreement on every component at once.
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## Part I: Core Framework

The main body of this document is organized as follows:

### I. Context and Problem Definition

1. **Act 73 and the Education Opportunity Fund**
2. **When Equity Becomes a Legal Problem**

This section explains the reform context, the access pressures that have emerged, and why those pressures raise constitutional and practical concerns.

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### II. What the Education Opportunity Fund Is

3. **The Education Opportunity Fund: Core Design**
4. **How EOF Works in Practice**
5. **Why This Structure Differs from Vouchers**

This section describes EOF's basic structure, how it operates day to day, and why it differs fundamentally from voucher or debit-card models.

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### III. Legal and Structural Fit

6. **EOF and Existing Tuition Law (Act 828)**
7. **Implications for New and Alternative Providers**

This section explains how EOF operates alongside existing law, preserves district authority, and creates lawful on-ramps for providers without reopening tuition statutes.

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## **IV. System Stability and Public Infrastructure**

### **8. System Stability and Disruption Safeguards**

### **9. Local Control and Community Responsiveness**

### **10. Anchor Schools and Public Infrastructure**

This section addresses district stability, large comprehensive schools, and safeguards to prevent community disruption.

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## **V. Transparency, Accountability, and Legislative Control**

### **11. State Oversight and Accountability**

This section explains how oversight, transparency, and legislative authority are preserved and strengthened.

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## **VI. Funding Design and Fiscal Stability**

### **12. Funding Design and the Foundation Formula**

This section outlines how EOF uses the existing foundation formula, manages cost trajectory, and maintains fiscal control.

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## **VII. Implementation Without Disruption**

### **13. Launching EOF Carefully and Gradually**

This section explains phased rollout, default enrollment, and why change is expected to be gradual rather than sudden.

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## **VIII. Legislative Control, Adjustment, and Exit Ramps**

### **14. Legislative Control, Adjustment, and Exit Ramps**

This section clarifies how EOF can be adjusted, capped, paused, or revised over time, preserving full legislative discretion.

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## Part II: Appendices (Reference by Topic)

The appendices are designed to be read independently, based on the reader's questions or responsibilities.

If you are looking for **overarching context**:

- **Why does this matter, and why now?**  
→ **Appendix F: Why the Education Opportunity Fund Matters**  
*(Provides the constitutional rationale, alignment with Act 73, and the broader case for EOF as a stabilizing mechanism.)*

If you are looking for answers to **specific, practical questions**:

- **How much control does the Legislature retain? Who decides who can participate?**  
→ **Appendix B: State On-Ramp for New and Alternative Providers**
- **What does this cost? How is it funded? Can growth be capped, slowed, or paused?**  
→ **Appendix G: Foundation Formula and Fiscal Design Options**
- **What happens to districts, anchor schools, and large high schools?**  
→ **Appendix D: Anchor School Protections and Transition Supports**
- **Does this change special education obligations or shift responsibility for high-cost students?**  
→ **Appendix E: Special Education and Layered Funding**
- **Why use a portal? What does the state gain in terms of visibility and control?**  
→ **Appendix H: EOF Portal Design and Functions**
- **How are transportation and access barriers handled, especially in rural areas?**  
→ **Appendix C: Transportation and Access Supports**
- **How does EOF work at a glance?**  
→ **Appendix A: EOF at a Glance**  
*(One-page schematic showing fund flow, roles, default enrollment, and oversight.)*

# I. Context and Problem Definition

## Act 73 and the Education Opportunity Fund

Act 73 represents a serious legislative effort to address rising education costs, declining enrollment, and administrative inefficiencies. Its emphasis on consolidation, uniform governance, and fiscal restraint reflects a shared goal: **long-term stability for Vermont’s public education system.**

At the same time, the system is under intensifying fiscal and public pressure.

Education property taxes have risen sharply, per-pupil spending remains among the highest in the nation, and shrinking enrollment has increased the burden of fixed costs carried by districts and communities. These conditions are not the result of bad faith. They reflect the growing difficulty of managing a complex statewide system in which the connection between **taxation, spending, and real student opportunity** has become increasingly difficult to see clearly.

When costs rise faster than understanding, **public trust erodes.**

Opacity becomes more than an administrative concern. Over time, it becomes a **governance risk** and, ultimately, a **constitutional risk.**

Vermont has confronted this kind of moment before.

In *Brigham v. State*, the Vermont Supreme Court held that the education funding system violated the Constitution because it failed to provide **equal educational opportunity in practice**, regardless of legislative intent or structural design. The enduring question was simple:

### **Do children actually have equal, real opportunity to learn?**

That constitutional standard remains unchanged.

Any system that, in practice, limits meaningful educational access—whether through wealth, geography, or structural constraint—risks falling short of the state’s duty.

As Act 73 proceeds, several pressures are becoming more visible.

Centralized governance and narrowed tuitioning pathways have reduced the number of meaningful educational options available to many families. For families with financial means, alternatives often remain reachable. **For families without those means, choice may exist only in theory.**

This gap creates tension between Vermont’s commitment to equity and the lived experience of parents. Under state law, education is a **fundamental right**, and the obligation to provide equal educational opportunity focuses on **real access**, not preservation of a single delivery system. Federal precedent likewise protects the role of parents in directing their children’s education and cautions against structures that leave families with **no practical alternative.**

A further pressure is emerging within the **structure of education funding itself.**

Because Vermont finances education through compulsory statewide taxation, constitutional protections against **opacity, arbitrariness, and unequal distribution of public benefit** apply directly to how the system operates. Reforms intended to stabilize costs must therefore avoid obscuring tax burdens,

redistributing opportunity unevenly, or effectively penalizing families who pursue different educational paths. When **taxation, access, and opportunity drift apart**, the constitutional concerns identified in *Brigham* can re-emerge even within well-intentioned reform.

Taken together, these dynamics create a moment of **quiet but genuine legal exposure**.

Not because policymakers are acting improperly, but because **structural inequity can develop gradually inside responsible reform**. When such tensions remain unresolved, courts historically intervene. The more prudent course is **legislative correction before constitutional conflict hardens into litigation**.

## **The Role of the Education Opportunity Fund**

The Education Opportunity Fund is offered in response to this convergence of **fiscal strain, narrowing access, and constitutional risk**.

EOF does not begin as a theory of choice.

It begins as a mechanism of **visibility, accountability, and equal access**.

By assigning education funding at the student level and routing payments through a single, state-administered system, EOF allows Vermont to see clearly:

- how public resources are allocated,
- where student need is concentrated, and
- whether opportunity is being delivered in practice.

Transparency becomes operational rather than aspirational.

Fiscal stewardship becomes measurable rather than assumed.

Legislative control becomes more precise because policy can respond to evidence rather than inference.

EOF is designed to operate **alongside Act 73**, not replace it.

Public schools remain the default. Consolidation remains intact. Most families would experience **no immediate change**.

Instead, EOF provides a **narrow, stabilizing access mechanism** that restores meaningful educational opportunity where Act 73 alone cannot—allowing the state to relieve constitutional pressure, rebuild public trust, and manage long-term costs responsibly.

In this way, EOF functions as a **structural safeguard**.

It helps Act 73 succeed by addressing the access, equity, and funding-clarity concerns that consolidation alone cannot resolve—**before correction is forced from outside the democratic process**.

## When Equity Becomes a Legal Problem

Vermont has long said that equity is a core value in education. The goal has been to ensure that every child, regardless of income or location, has access to a meaningful education.

But equity can be applied in different ways.

When equity is treated as **uniform participation in a single system**, rather than **equal access to real options**, it can begin to work against the very families it is meant to protect.

That is the risk Vermont is now facing.

Under current reforms, families are increasingly assigned to one educational path based on geography and income. Alternatives still exist, but often only in theory. Families with financial means can move, pay privately, or assemble workarounds. Families without those means cannot.

This creates a gap between Vermont's stated commitment to equity and the lived experience of many parents.

That gap matters legally.

Under Vermont law, education is a fundamental right, and the state has an obligation to provide **equal educational opportunity** (*Brigham v. State*). That obligation focuses on access, not on preserving a single delivery system. When opportunity becomes tied to wealth or location, equal access is strained.

There is also a federal dimension. Longstanding Supreme Court precedent recognizes that parents have a protected role in directing their children's education and that the state may not structure education so that families are effectively forced into one model (*Pierce v. Society of Sisters*). While the state may regulate education, it may not exercise that power in a way that leaves families with no realistic alternatives.

Taken together, these principles point to a common harm:  
**a system that is neutral on paper, but unequal in practice.**

It is sometimes argued that families always have the option to leave the system entirely — through private schooling or homeschooling — and that this satisfies parental liberty. In practice, this is insufficient.

Leaving the system often requires:

- significant financial resources,
- the ability to forgo income,
- or access to private alternatives that are out of reach for many families.

Online or remote homeschooling options, while valuable for some, are not a realistic or appropriate substitute for in-person education for all students, particularly younger children or those with additional needs. A constitutional obligation to provide access **for all students** cannot be met solely by pointing

families toward options that, while appropriate for some, are impractical, unaffordable, or unsuitable for large segments of the population.

When the only meaningful choice left is to exit entirely, liberty exists in theory but not in fact.

This is not a question of intent. Vermont's reforms are aimed at stability and sustainability. But as access narrows, the state risks drifting from its constitutional mission — not by acting too boldly, but by applying its authority too narrowly.

The Education Opportunity Fund is offered in response to this risk.

EOF is not an expansion of state power. It is a correction in how that power is exercised. By restoring **equity of option** in limited, controlled circumstances, EOF is arguably the **cleanest and most faithful interpretation in practice** of Vermont's constitutional duty to ensure equal educational opportunity while respecting parental liberty.

EOF addresses the harm directly, without dismantling public education, undoing Act 73, or forcing families or districts into change.

## II. What the Education Opportunity Fund Is

### The Education Opportunity Fund: Core Design

The Education Opportunity Fund (EOF) is a **state-administered access and funding mechanism** designed to preserve **equal educational opportunity, fiscal clarity, and constitutional stability** while maintaining the core structure of Vermont's public education system.

EOF does not change whether the state provides education or who remains responsible for it. Instead, it changes **how educational access and funding are delivered and seen**, allowing the state to meet its constitutional obligations in practice while strengthening transparency, accountability, and long-term fiscal stewardship.

At its core, EOF redirects the focus of education funding **from systems alone to students themselves**, ensuring that public resources are aligned with real opportunity rather than structural assumption.

Under EOF:

- **the student is the point of funding and access,**
- **families may direct educational placement within state-approved options,** and
- **the state retains full authority over funding levels, rules, oversight, and accountability.**

Public education remains the **default and central provider**.

Most families are expected to remain where they are, especially in early years. EOF is therefore **not a replacement system**, but a **stabilizing mechanism operating alongside Act 73**.

### How EOF Works in Practice

EOF is administered through a **single, state-run portal** that:

- assigns each student a defined education allocation based on the existing foundation formula and applicable funding layers,
- allows families to view **approved educational providers**,
- directs **state-controlled payments** to those providers, and
- ensures **continuous transparency, auditing, and compliance**.

Funds do **not** pass through families.

All payments remain **state-managed and fully visible**, preserving fiscal control and public accountability.

If a family takes **no action**, funding remains with the student’s current public or anchor school. Continuity, not disruption, is the default condition.

## Why This Structure Matters

EOF is intentionally designed as a **gradual and optional mechanism**, not an abrupt structural shift.

Stabilizing features include:

- **Default enrollment**  
No change occurs unless a family chooses it.
- **Gradual participation**  
Movement happens individually over time, not system-wide at once.
- **Transition and hold-harmless protections**  
Districts are shielded from sudden revenue loss as enrollment patterns adjust.
- **Strong state oversight**  
Funding, reporting, and compliance remain centrally governed.

Because of these safeguards, EOF differs fundamentally from **traditional voucher or debit-card models**.

It preserves **state control, fiscal discipline, and public accountability** while restoring meaningful access where access has narrowed.

## Relationship to the Broader Framework

EOF is not a single policy lever but a **governance mechanism** that:

- operates alongside **Act 73**,
- respects existing **tuition law and district authority**, and
- allows the Legislature to **adjust, narrow, expand, or pause participation** as conditions evolve.

Detailed operational, legal, and fiscal considerations are addressed in the sections and appendices that follow so lawmakers may evaluate specific components **without treating EOF as an all-or-nothing reform**.

## II. Legal and Structural Fit

### Why EOF Fits Within Existing Tuition Law (Act 828)

Act 828 governs when and how school districts may pay tuition to schools outside the district system. It regulates **district decision-making**, including which schools are eligible to receive **district-funded tuition**.

Act 828 does **not** define the full scope of the state's **constitutional obligation to provide access to education**, nor does it prohibit the Legislature from creating a **state-administered mechanism that delivers educational access directly to students**. This distinction is central.

EOF does **not** alter district tuition authority, expand district obligations, or modify Act 828's eligibility limits. Districts continue to operate under **exactly the same tuition law** that governs them today.

Instead, EOF addresses a different constitutional question: **how the state ensures meaningful access to education when the district-based system alone cannot reasonably meet a student's needs**.

Under EOF, **the state administers funding, the student is the beneficiary of access**, and providers receive payment **only through a state-controlled system** following a family's lawful choice.

Because EOF functions as a **state-level access mechanism** rather than a **district tuition decision**, it operates **alongside Act 828 rather than inside it**. Existing tuition law therefore remains **fully intact**.

### Implications for New and Alternative Providers

Act 828 currently limits when new schools may receive **district tuition payments**. EOF does **not** attempt to change those limits.

Instead, EOF allows the state to establish a **separate, carefully governed participation pathway** for providers within a **state-administered system**. This pathway can include:

- **clear eligibility standards**
- **phased entry and oversight**
- **legislative control over scope and pace of participation**

In practical terms, **Act 828 continues to govern district tuition**, while **EOF governs student access under state authority**. This separation preserves existing law while allowing Vermont to respond lawfully to **access constraints intensified by Act 73**.

### Why This Structure Matters

By leaving Act 828 untouched, EOF avoids reopening **complex and contentious tuition debates**. At the same time, it prevents district-based tuition law from becoming an **unintended barrier to constitutional access** as the education system evolves.

EOF therefore allows the Legislature to:

- **respect current statutory structure**

- **preserve district authority**
- **meet its constitutional duty to provide equal educational opportunity in practice**

Detailed standards for provider participation and state oversight are addressed in **Appendix B: State On-Ramp for New and Alternative Providers**.

## **IV. System Stability and Public Infrastructure**

### **System Stability and Disruption Safeguards**

A central concern with any education reform is whether it will **destabilize schools, districts, or communities**. The Education Opportunity Fund (EOF) is designed explicitly to **avoid disruption**.

EOF does **not** require families to move students, schools to change operations, or districts to restructure overnight. **Public schools remain the default option**, and most families are expected to continue using them, particularly in the early years.

Key stabilizing features include:

- **default enrollment**, ensuring no change unless a family chooses it
- **gradual participation**, with movement occurring individually over time rather than system-wide
- **transition and hold-harmless protections**, shielding districts from sudden revenue loss
- **phased implementation under legislative oversight**, allowing adjustment before instability emerges

This structure allows change to occur **only where families choose it** and **only at a pace the system can absorb**.

### **Local Control and Community Responsiveness**

Act 73 centralizes many governance decisions at the state level. While this may improve efficiency, it can also reduce **local responsiveness to family needs and student fit**.

EOF helps restore balance by allowing families to **signal educational fit through lawful choice**. This does not weaken public schools. Instead, it strengthens **accountability through responsiveness**, encouraging schools and districts to remain attentive to the communities they serve.

Local control is preserved not by freezing the system in place, but by ensuring families retain a **meaningful voice when the system does not meet a student's needs**.

## Anchor Schools and Public Infrastructure

Many public schools function as **anchor institutions** within their communities. They provide education, employment, transportation networks, facilities, and shared civic space. These roles do not disappear simply because enrollment patterns evolve.

EOF is designed to **protect these institutions, not undermine them.**

Stability measures may include:

- **targeted transition supports** for enrollment changes
- **facilities and maintenance protections** for essential public assets
- **time-limited stabilization funding** that allows responsible district adjustment

These safeguards ensure public schools continue to fulfill their **community-anchoring role** even as access expands gradually.

Large comprehensive high schools, which serve broad geographic regions and provide academic, extracurricular, athletic, and civic functions, are explicitly recognized as **critical public infrastructure**. EOF is not intended to fragment or hollow out these schools. Any enrollment changes are expected to be **modest, gradual, and managed under legislative oversight.**

## Transportation and Real Access

Educational access is not meaningful if students **cannot physically reach available options.**

Transportation is therefore a **practical equity issue**, especially in rural regions and for students with disabilities.

EOF addresses transportation and related access barriers **directly and transparently**, rather than leaving families to navigate uneven or informal solutions. Potential supports may include:

- **targeted transportation assistance** where distance creates barriers
- **coordination with existing district transportation systems**
- **state-administered access supports** applied under clear eligibility rules

By addressing transportation explicitly, EOF helps ensure that **access is practical rather than theoretical**, while avoiding **unfunded mandates on districts.**

## Special Education and High-Need Students

EOF does **not** weaken Vermont's obligations to students with disabilities or specialized needs.

All students continue to receive access to a **base level of educational support**, with **additional funding layers** applied for documented higher-cost needs. This layered structure:

- **preserves federal IDEA obligations**
- **prevents cost-shifting onto families or providers**

- **ensures choice does not disadvantage vulnerable students**

Responsibility for compliance and service delivery **remains with the state**, maintaining continuity and legal protection regardless of where a student is educated.

## **A Stabilizing Role for the State**

Throughout EOF, the **state remains firmly in control**.

EOF does not outsource responsibility or reduce public accountability.

The state continues to:

- **set standards and eligibility rules**
- **oversee provider participation and compliance**
- **manage funding and layered supports**
- **adjust guardrails as conditions evolve**

This ensures that **stability, equity, and public stewardship remain intact** while access is restored in a controlled and lawful manner.

## **V. Transparency, Accountability, and Legislative Control**

### **State Oversight and Fiscal Visibility**

A central concern in any education reform is whether it weakens **public oversight or legislative authority**.

EOF is designed to strengthen both.

Rising education costs make **clear fiscal visibility** essential.

When public dollars cannot be traced to **student need, services, and outcomes**, cost control becomes reactive and public trust erodes.

Transparency is therefore a **governance requirement**, not an administrative preference.

EOF provides that visibility within a **single state-governed structure**.

### **Unified Transparency Through the State Portal**

EOF operates through a **single state-managed portal** that integrates:

- funding allocation,
- provider participation,
- core program information, and
- comparable cost and outcome visibility.

Information that is currently fragmented across districts and systems becomes **visible, auditable, and governable in one place**, enabling deliberate fiscal stewardship.

### **Accountability Based on Results and Fiscal Integrity**

Providers participate only if they meet **state-defined eligibility, reporting, and audit requirements**. Because all funds flow through the state portal, misuse can be **detected and addressed quickly**.

Accountability therefore centers on:

- **financial transparency**,
- **baseline compliance**, and
- **outcome-informed oversight**,

rather than uniform regulation of educational approach.

### **Continuous Legislative Authority**

EOF remains fully subject to **legislative design, adjustment, and review**.

The Legislature retains authority over:

- participation rules and guardrails,
- funding levels and growth limits,
- reporting and audit standards,
- stabilization and transition measures, and
- future modification, pause, or sunset.

No element of EOF operates outside **continuing legislative control**.

### **Clarity for Families, Policymakers, and Communities**

EOF improves decision-making by providing:

- families with clearer visibility into **educational options and outcomes**, and
- policymakers with system-wide insight to guide **evidence-based governance**.

This transparency supports **public schools, taxpayers, and students alike**.

### **State Responsibility Preserved**

EOF does not transfer authority away from government.

The state continues to:

- set participation standards,
- enforce compliance and student protections,

- safeguard public funds, and
- adjust policy as conditions evolve.

Public responsibility is therefore **strengthened, not reduced**.

## VI. Funding Design and Fiscal Stability

### Funding Design and the Foundation Formula

Any discussion of educational access must also address **fiscal stability and taxpayer responsibility**. Vermont's public schools carry real and continuing costs, including facilities, transportation, staffing, and federally required services that do not disappear simply because enrollment patterns change.

Vermont's current strain is not driven only by funding levels.

It is also shaped by **limited visibility into how costs accumulate across a fragmented system**.

Without clear, student-level insight into spending and outcomes, lawmakers are left with blunt structural tools to control growth. Those tools may slow costs, but they cannot by themselves ensure **equal opportunity, public trust, or constitutional durability**.

EOF introduces a different form of fiscal stewardship—one grounded in **transparent allocation, observable cost patterns, and legislative adjustability before instability emerges**.

### Building on the Existing Foundation Formula

EOF does **not** replace Vermont's foundation formula or require the Legislature to redesign statewide education funding.

Instead, it applies a familiar structure:

- a **per-student base allocation** defined by the state
- **additional funding layers** reflecting student need and circumstance
- continued funding for **public schools serving enrolled students**

EOF changes **how funding is delivered and seen**, not how the state defines its educational commitment.

This preserves continuity while allowing **greater transparency, flexibility, and control**.

## Protecting District Stability During Enrollment Shifts

Large public schools face declining enrollment alongside **significant fixed costs**. EOF is designed to prevent sudden or destabilizing revenue loss through:

- **hold-harmless protections** that smooth funding over time
- **transition grants** that allow responsible district adjustment
- **phased implementation** so change occurs gradually rather than abruptly

These tools allow districts to plan deliberately rather than react defensively, preserving **educational continuity and community stability**.

## Managing Fixed Costs and Public Infrastructure

EOF does not assume schools can shrink overnight. Facilities, transportation networks, and long-term obligations require **careful fiscal planning**.

The framework allows the state to:

- **recognize fixed costs explicitly**
- **support maintenance of essential public assets**
- **avoid premature closures or destabilizing cuts**

This is especially important in **rural communities and regional anchor schools**, where public education infrastructure carries broader civic significance.

## Fiscal Visibility and Constitutional Taxpayer Risk

Because Vermont finances education through **compulsory statewide taxation**, the structure of education funding carries **constitutional implications beyond ordinary policy disagreement**.

When taxpayers cannot clearly see:

- how funds are allocated among students and providers,
- which costs drive system growth, and
- whether public investment produces **equal real educational opportunity**,

concerns shift from fiscal frustration to **potential constitutional exposure**.

Under the Fourteenth Amendment, statewide taxation tied to the **uneven or opaque distribution of public educational benefit** may raise claims that extend beyond traditional taxpayer grievance.

These risks do not arise from bad faith.

They emerge when **cost burden, transparency, and equal opportunity drift apart over time.**

EOF reduces this exposure by making funding:

- **student-centered,**
- **fully visible,** and
- **legislatively adjustable in real time.**

In this way, fiscal clarity becomes not only a budgeting tool, but a form of **constitutional risk management.**

## **Cost Trajectory, Legislative Guardrails, and Control**

EOF is **not an open-ended financial commitment.**

Total program cost depends on:

- the number of participating students,
- funding levels set by the Legislature, and
- any transition protections applied to public schools.

The Legislature retains full authority to:

- **cap participation or expenditures**
- **limit year-over-year growth**
- **adjust base funding or layers prospectively**
- **pause or refine program elements**
- **respond to fiscal or demographic change**

Growth occurs **only within legislative parameters,** ensuring continued **taxpayer protection and fiscal discipline.**

## **Stability, Stewardship, and Long-Term Durability**

EOF does not promise automatic savings or system-wide transformation.

Instead, it creates conditions where:

- **costs become visible rather than inferred,**
- **opportunity can be evaluated alongside investment,** and

- **policy can adjust before instability or litigation emerges.**

By pairing **student-level transparency** with **strong legislative guardrails**, EOF balances: **access, stability, and fiscal responsibility.**

This alignment allows Vermont to modernize education funding while preserving **public infrastructure, constitutional compliance, and taxpayer trust** over time.

## **VII. Implementation Without Disruption**

### **Launching EOF Carefully and Gradually**

The Education Opportunity Fund (EOF) is designed to be introduced **without disrupting daily school life** for families, schools, or districts.

EOF does **not** assume rapid movement, mass participation, or immediate structural change. Instead, it is built on a principle of **continuity first**, with participation expanding only as the system demonstrates stability and families choose to engage.

For most students and schools, **nothing changes at launch.**

- Students remain enrolled where they are.
- Schools continue operating as they do today.
- Funding continues to support existing public education, now delivered through a **clearer, state-managed structure.**

EOF therefore functions first as an **administrative modernization**, not a forced shift in enrollment or governance.

### **Building the System Before Inviting Change**

Implementation begins with the **state**, not with families.

Before meaningful participation occurs, the state:

- builds and tests the **central portal and payment systems**,
- establishes **clear rules, guardrails, and oversight procedures**,
- confirms which providers are **approved to participate at launch**, and
- ensures reporting, auditing, and compliance systems are fully operational.

This sequencing creates a **stable operational foundation** before any new decisions are introduced.

### **Gradual Provider Entry and Readiness**

EOF is not opened as an immediate or unlimited marketplace.

Provider participation may be **phased in deliberately**, beginning with a limited and clearly defined group of approved options.

This approach:

- prevents confusion or rushed decision-making,
- reduces pressure on families and schools, and
- allows the Legislature to **observe real-world effects before expansion**.

Additional providers may be added only through a **controlled state on-ramp** and **legislative review**.

### **Choice Occurs at Predictable Intervals**

To preserve stability for schools and communities, enrollment changes occur only at **defined and limited transition points**, such as between school years.

Mid-year changes are restricted to **necessary circumstances**, including:

- student safety concerns,
- significant changes in educational need, or
- documented hardship.

This mirrors existing enrollment practices and allows schools to **plan responsibly**.

### **Participation Grows Only Through Family Decision**

Experience in comparable systems shows that **most families do not move** when new options become available.

Movement occurs gradually and only when families perceive a clear need.

EOF is designed around that reality:

- most families remain in their current public schools,
- some explore nearby public or regional options,
- a smaller number seek alternative providers.

Because decisions are **individual, voluntary, and phased**, participation expands **slowly rather than suddenly**, preserving overall system stability.

### **Monitoring, Adjustment, and Legislative Control**

As EOF is introduced, the state continuously monitors:

- participation levels,

- enrollment patterns, and
- fiscal impact.

The Legislature retains full authority to:

- **pause or slow expansion,**
- **adjust guardrails or eligibility,**
- **refine participation rules,** and
- **respond to unforeseen effects.**

Implementation therefore evolves through **evidence and oversight**, not trial and error.

## **Universal Administrative Application Without Forced Change**

EOF applies **administratively to every student**, but it does **not require action from any family**.

When a student remains enrolled in a public school:

- education continues unchanged,
- funding remains with that school, and
- the state delivers payment through the **same centralized mechanism** used across the system.

When a family directs funding to another approved provider:

- the same base and layered funding follows the student,
- payment remains **state-controlled and transparent**, and
- oversight and reporting requirements remain fully in place.

In both cases, the **student is treated consistently**, the **state remains the payer**, and the **system operates through a single, visible structure**.

## **Why Gradual Implementation Matters**

Gradual implementation protects:

- **students**, by preserving continuity of learning;
- **schools and districts**, by preventing sudden financial disruption; and
- **taxpayers**, by allowing legislative adjustment before large-scale fiscal change occurs.

EOF therefore introduces reform in a manner that is **orderly, observable, and reversible**, ensuring stability at every stage.

## **How EOF Applies to Every Student**

The Education Opportunity Fund applies universally and automatically to all students. EOF is not triggered by movement, hardship, or special application. Every student is assigned an education benefit through the state, whether or not a family ever chooses to direct that benefit elsewhere.

For most students, nothing changes in practice.

When a student remains enrolled in their public school, that school continues to educate the student as it does today. The difference is administrative, not experiential. The state, through the EOF portal, pays the public entity for that student's education, including the base allocation and any applicable funding layers.

Public schools remain the default provider. Families are not required to make a choice, and most will not. EOF simply becomes the mechanism through which the state accounts for and delivers education funding on a per-student basis.

When a family does choose to direct a student's EOF benefit to another approved provider, the funding follows the student through the same portal. Payments are made by the state, under state rules, with the same transparency and oversight. This ensures that movement, when it occurs, is orderly and visible rather than informal or fragmented.

In both cases, the student is treated consistently. The state remains the payer. The portal becomes the common accounting layer. Whether a student stays or moves, the system operates the same way.

## **Why Universal Application Benefits the State**

Universal application does more than ensure equity of access. It allows the state to simplify and modernize how education is funded, monitored, and understood.

By applying EOF to every student, the state replaces a fragmented system of district payments, tuition arrangements, exceptions, and workarounds with a single, coherent structure. Whether a student remains in a public school or directs their benefit elsewhere, funding flows through the same mechanism, under the same rules, with the same visibility.

This consolidation matters for oversight. The portal becomes the state's primary tool for understanding how education dollars are being used across the system. Funding levels, layered supports, and provider participation are no longer spread across disconnected reports and accounting systems. They are visible in one place.

Over time, this structure also allows outcomes and investments to be viewed together. The state can see not only where funds are going, but what services are being provided and how students are being supported. This creates a clearer picture of where resources are well aligned and where gaps remain, without requiring new mandates or constant rule-making.

For schools and providers, this visibility creates a constructive form of accountability. Funding, services, and results are linked transparently, rather than inferred indirectly. For families and communities, it offers clearer information about how public resources are being used to support students.

EOF does not require the state to adopt new performance regimes or incentive programs. It simply provides the infrastructure that makes informed stewardship possible. In this way, universal application strengthens the state's ability to manage education responsibly, transparently, and over time.

## **How the Foundation Formula Operates Through EOF**

The Education Opportunity Fund does not replace Vermont's foundation formula. It uses it.

Under EOF, the state continues to set a per-student base allocation and apply existing funding layers to reflect student needs and circumstances. Every student is assigned this benefit through the state, whether or not a family ever chooses to direct it elsewhere.

For students who remain in their public schools, nothing changes instructionally. The student stays enrolled, and the public school continues to provide education as it does today. The difference is administrative: the state pays the public entity for that student through the EOF portal, including the base amount and any applicable layers.

If a family chooses a different approved provider, the same base and layered funding flows through the portal to that provider, under the same state oversight and reporting rules. The foundation formula remains the anchor in both cases.

### **What About School Costs That Do Not Move With Students?**

Student-level funding has never been the sole source of support for public schools. Buildings, grounds maintenance, transportation systems, administration, and federally required services do not disappear when enrollment patterns shift.

EOF does not assume that per-student funding alone should absorb these costs. That is why the system includes hold-harmless provisions, transition funding, and anchor school supports. These mechanisms allow districts time to adjust responsibly and ensure that essential public infrastructure remains funded as enrollment evolves.

In practice, this means public schools continue to receive stable support for students they serve, while the state manages enrollment changes gradually rather than through sudden budget shocks.

Districts and schools will interact with the state portal for funding, reporting, and stabilization supports, replacing multiple existing processes with a single system.

Detailed funding scenarios, transition mechanisms, and fiscal guardrails are addressed in Appendix D (Anchor School Protections and Transition Supports) and Appendix G (Foundation Formula and Fiscal Design Options).

## VIII. Legislative Control, Adjustment, and Exit Ramps

The Education Opportunity Fund is a legislative mechanism, not a self-executing mandate. The Legislature retains full authority over whether, how, and to what extent EOF operates over time.

EOF allows lawmakers to more fully meet Vermont's constitutional obligations while modernizing how education is administered. By assigning education funding to students universally and managing it through a single state system, the Legislature fulfills its duty to provide equal educational opportunity, as required under *Brigham*, while respecting parental liberty interests recognized under *Pierce*. At the same time, EOF allows additional educational providers to enter the system gradually under state oversight, expanding available options and encouraging cost discipline, quality improvement, and responsiveness to family needs. Access is preserved without forcing families into a single delivery model and without dismantling public education.

By consolidating payment, oversight, and reporting into a single state-managed structure, EOF simplifies and clarifies how education is funded and monitored. Public dollars, layered supports, and educational outcomes are visible in one place, reducing fragmentation and allowing the state to more effectively steward the system it is entrusted to provide and safeguard.

Nothing in EOF removes policymaking discretion. Lawmakers retain the ability to set participation caps, adjust funding levels, refine guardrails, modify implementation timelines, or pause specific components of the system based on evidence and experience. Because EOF operates alongside existing district and school structures rather than replacing them, adjustments can be made without disruption to schools, families, or communities.

If elements of EOF do not function as intended, the Legislature may narrow, revise, or unwind those elements while preserving the broader public education system. In this way, EOF combines constitutional fidelity, system modernization, and legislative control within a single, adaptable framework.

# Appendix A: EOF at a Glance

## What EOF Is

The Education Opportunity Fund (EOF) is a **state-administered access and funding mechanism** assigned to every student. It uses Vermont’s existing funding logic (base amount plus layers) and delivers funding through a **single state portal**.

Public schools remain the default provider. Families may direct funding to another approved provider, but only if they choose.

---

## The Three Roles

### The State (payer and regulator)

- sets the base amount and funding layers
- runs the portal and makes payments
- sets standards, guardrails, and oversight rules
- monitors fiscal impact, participation, and outcomes

### Families (direct the benefit)

- do nothing and the student remains funded at the public school by default
- or choose an approved provider through the portal during defined windows

### Providers (deliver education)

- public/anchor schools are included by default
  - alternative providers may participate if approved through the state on-ramp
  - receive payment only through the portal and must meet reporting requirements
- 

## Default Path (Most Students)

If a family takes no action:

1. Student remains enrolled in their current public/anchor school
2. Funding stays with that school
3. The state pays the public entity through the portal
4. Base and applicable layers are included

**Result:** No disruption for families or schools. EOF is an administrative modernization, not a forced shift.

---

## **Choice Path (If a Family Opt In)**

If a family chooses another provider:

1. Family selects an approved provider in the portal
2. The state pays that provider through the portal
3. Base and applicable layers follow the student
4. Reporting and compliance remain under state rules

**Result:** Choice is allowed, visible, and controlled. Funds do not go to families.

---

## **Funding Structure (Simple)**

EOF uses a consistent structure for every student:

- a **base amount**
- **additional layers tied to student need**
- payment delivered through the **same state system**

Public schools receive funding for students they serve.

When enrollment shifts occur, EOF includes **transition tools** (hold-harmless, anchor supports) to avoid sudden budget shocks.

---

## **Why the Portal Matters**

The portal is the state's single mechanism for:

- assigning benefits
- listing approved providers
- managing payments
- tracking base and layers
- ensuring transparency, audits, and compliance
- showing comparable reporting and outcomes

It consolidates what is currently fragmented across districts and reporting systems.

---

## **Implementation Principles**

EOF is designed to launch without disruption by ensuring:

- default enrollment remains in place
- change happens only when families choose it
- provider participation can expand gradually
- switching occurs at predictable times
- the Legislature retains control to adjust, cap, pause, or refine

# APPENDIX B: STATE ON-RAMP FOR NEW AND ALTERNATIVE PROVIDERS

## Purpose of the On-Ramp

The Education Opportunity Fund (EOF) allows for the careful, phased participation of new and alternative education providers within a state-managed system. The purpose of the state on-ramp is to expand meaningful educational access for families while preserving stability, safety, fiscal discipline, and legislative control.

The on-ramp is intentionally designed to avoid two failures Vermont has experienced in the past:

- unrestricted expansion that destabilizes public infrastructure, and
- nominal access that exists in statute but not in practice.

The goal is **guardrails, not blocks**.

---

## Relationship to Existing Law and Constitutional Constraints

The state on-ramp operates alongside existing tuition law, including Act 828, and does not expand or alter district authority to pay tuition. Act 828 remains fully in effect and continues to govern district tuition decisions.

EOF addresses a separate question: how the state fulfills its constitutional obligation to ensure equal educational opportunity when district-based tuition mechanisms cannot reasonably meet a student's needs.

Because EOF is administered by the state and centers student access rather than district payment decisions, it operates parallel to Act 828 rather than within it. This distinction allows Vermont to preserve existing tuition law while addressing access constraints intensified by Act 73.

**Because EOF does not amend, suspend, or replace Act 828, existing district tuition law remains fully operative regardless of whether EOF is expanded, adjusted, paused, or discontinued, preserving a clear statutory baseline at all times.**

At the same time, the on-ramp must be administered consistently with federal constitutional requirements. When a state creates a generally available education benefit, it may not structure participation in a way that excludes otherwise eligible families or providers based on religious status, or that renders access merely theoretical (Espinoza; Carson).

Accordingly, participation standards must be:

- neutral and generally applicable,
  - focused on safety, accountability, and fiscal integrity, and
  - administered in a manner that preserves real, not illusory, access.
- 

## **Phased Entry With a Presumption of Expansion**

Provider participation through the on-ramp is phased by design. Initial implementation is intentionally narrow to ensure readiness, oversight, and system stability.

However, phasing is not intended to freeze the system in place.

The on-ramp is structured with a **presumption of expansion**, subject to legislative review at defined intervals. Expansion is the expected path unless the Legislature affirmatively determines that additional participation would materially undermine fiscal stability, student safety, or system integrity.

Initial participation may be limited by provider category, geography, enrollment caps, or readiness criteria. These limits are designed to manage capacity, not to serve as permanent barriers.

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## **Defined Review and Expansion Triggers**

To prevent delay by inertia or convenience, the on-ramp incorporates clear review obligations.

At regular intervals (e.g., annually), the Legislature reviews:

- demonstrated family demand,
- fiscal impact and cost containment,
- system readiness and administrative capacity, and
- effects on public and anchor schools.

Absent a legislative finding of material risk, additional provider categories or participation capacity are authorized through affirmative legislative action.

Phasing may not be administered in a manner that renders access merely theoretical or that indefinitely delays participation where demand and readiness are demonstrated.

---

## **Eligible Provider Types**

Subject to neutral state standards, providers eligible to seek participation through the on-ramp may include:

- public schools outside a student's home district,
- approved independent schools,

- new or emerging education providers,
- specialized instructional programs,
- alternative or hybrid education models.

Participation is not automatic. Providers must meet state-defined eligibility and oversight requirements focused on student safety, fiscal responsibility, and compliance with applicable law.

Existing approved independent schools, including religious and specialized schools that currently meet state approval standards, remain eligible to participate and to receive tuition through EOF on the same neutral and generally applicable basis as other providers. Participation does not require a change in institutional mission, religious character, or educational approach, provided applicable health, safety, and accountability requirements are satisfied.

---

## **Scope of State Standards and Oversight**

The state's oversight role is limited to areas within its lawful authority and responsibility. Appropriate requirements may include:

- enrollment verification and attendance reporting,
- health and safety standards,
- background checks where applicable,
- financial transparency and audits,
- facilities safety and suitability.

The state may not require providers to adopt specific instructional methods, curricular content, or pedagogical approaches beyond generally applicable disclosure requirements. Oversight functions as quality assurance, not standardization.

---

## **Guardrails, Not Blocks**

Phasing and oversight mechanisms are designed to support stability and accountability, not to function as permanent gatekeeping tools.

The on-ramp may not be used to:

- indefinitely delay participation,
- arbitrarily favor or exclude provider categories, or
- restrict access without legislative review.

This ensures that oversight protects the system without quietly narrowing access over time.

---

## **Tuition Levels and Real Access**

To ensure access is practical rather than symbolic, the Legislature may establish tuition caps or reimbursement limits aligned with the EOF base benefit and layers.

Such limits are intended to:

- preserve equitable access across income levels,
- prevent public benefits from disproportionately subsidizing only high-cost options, and
- maintain fiscal discipline.

Tuition policy should expand access rather than narrow it, while remaining neutral with respect to provider type.

Some approved providers may maintain tuition levels above the foundation allocation and therefore may elect not to participate, or may limit enrollment to families able to supplement the difference. This outcome does not undermine the on-ramp's purpose. Over time, the presence of additional participating providers operating within EOF funding parameters is expected to broaden practical access, introduce cost discipline, and encourage programmatic innovation and quality improvement consistent with an open and responsive education system.

---

## **Legislative Authority to Pause, Adjust, or Narrow Participation**

The Legislature retains full authority over the scope and pace of provider participation.

Based on observed outcomes or fiscal conditions, lawmakers may:

- pause approval of new providers,
- narrow participation criteria,
- adjust enrollment caps, or
- revise oversight requirements.

Nothing in the on-ramp framework creates an entitlement to participation or limits legislative authority to modify the system over time.

---

## **Relationship to Public and Anchor Schools**

Public and anchor schools remain the default providers within EOF.

The gradual entry of additional providers is designed to complement, not undermine, public infrastructure. Transition and stabilization mechanisms protect districts and communities as participation evolves.

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## **Summary**

The state on-ramp establishes a controlled, transparent pathway for new and alternative providers to participate in EOF. It starts carefully, expands deliberately, and cannot be quietly stalled.

By restoring neutral and generally available access through a state-administered structure, the on-ramp also reduces the structural conditions that give rise to recurring litigation over tuition eligibility, taxpayer equity, and family access to educational choice.

# Appendix C: Transportation and Access Supports

## Purpose

Access to education is not meaningful if students cannot physically reach educational options. Transportation is a real barrier in many parts of Vermont, particularly in rural areas and for students with disabilities.

The Education Opportunity Fund recognizes transportation and related access costs as practical barriers that must be addressed explicitly and transparently, rather than ignored or handled through informal or uneven processes.

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## Transportation Within EOF

EOF does not assume that transportation responsibility shifts automatically when a student exercises choice.

Public and anchor schools continue to provide transportation for students they serve, consistent with existing practices and legal requirements. When families choose alternative providers through EOF, transportation considerations are addressed separately from instructional funding, under state-defined rules.

EOF does not mandate a single transportation model or impose new obligations on districts by default.

---

## Existing Law and Access Flexibility

Current Vermont law already provides flexibility in how transportation and access supports may be addressed, particularly where distance, geography, or student needs create barriers to attendance. EOF does not replace or narrow that discretion.

Instead, EOF provides a clearer and more consistent mechanism for identifying and addressing access barriers when they arise.

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## Access-Barrier Supports Through EOF

Where transportation or related access costs prevent a student from meaningfully exercising educational options, access supports may be addressed through EOF as a distinct layer.

Subject to legislative design and available funding, families may seek access-barrier support through the EOF portal. Requests are reviewed under state-defined criteria and limits, allowing access needs to be handled transparently, consistently, and equitably.

**Access-barrier supports are subject to legislative appropriation, defined caps, and prioritization criteria, ensuring that transportation assistance remains targeted and fiscally bounded.**

Access supports are intended to remove practical barriers, not to create a general transportation entitlement.

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## **State Role in Supporting Access**

Transportation and access supports under EOF are administered by the state, not negotiated informally between families and providers.

This allows the state to:

- assess access barriers consistently,
- avoid placing undue burdens on families,
- prevent transportation costs from becoming a de facto barrier to choice,
- and protect districts from unfunded mandates.

**Eligibility criteria, review standards, and approval thresholds for access supports are established by statute or rule, not by ad hoc negotiation, ensuring consistency and predictability across cases.**

The state retains discretion to adjust access-support policies as participation patterns and system capacity evolve.

---

## **Avoiding Disruption and Inequity**

EOF is designed to prevent transportation from becoming:

- a barrier that only wealthier families can overcome, or
- a destabilizing obligation placed on districts without support.

**By administering access supports through a single, state-managed process, EOF reduces disparities that arise when families with greater time, resources, or advocacy capacity are better able to navigate informal systems.**

By addressing access explicitly and centrally, EOF helps ensure that opportunity is practical rather than theoretical, while preserving stability for schools and communities.

---

## **Oversight and Adjustment**

Transportation and access supports are subject to:

- state oversight,
- defined eligibility and limits,
- and legislative adjustment based on observed need and fiscal impact.

Nothing in EOF requires automatic approval of access supports or limits the Legislature’s authority over funding levels or program design.

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## **Relationship to Other Appendices**

Transportation and access supports operate in coordination with:

- **Appendix D** (Anchor School Protections and Transition Supports),
  - **Appendix E** (Special Education and Layered Funding),
  - **Appendix H** (EOF Portal Design and Features).
- 

## **Summary**

Transportation is a necessary component of meaningful access. EOF addresses transportation and related access barriers through a transparent, state-administered mechanism that builds on existing law, preserves stability, and allows solutions to evolve responsibly over time.

# Appendix D: Anchor School Protections and Transition Supports

## Purpose

Public schools serve as anchor institutions in their communities. They provide education, employment, transportation hubs, facilities, and shared civic space. These roles do not disappear simply because enrollment patterns change.

The Education Opportunity Fund (EOF) is designed to protect this public infrastructure while allowing access to expand gradually where families choose different options. Anchor school protections and transition supports ensure that schools and districts are not destabilized by enrollment shifts.

---

## Anchor Schools Within EOF

Under EOF, public schools remain the default providers for students.

Most students are expected to remain enrolled where they are, especially in the early years. Anchor schools continue to receive funding for students they serve, delivered through the EOF portal under the same base and layered funding structure.

EOF does not treat public schools as one provider among many. They remain central to the system and are explicitly protected as community infrastructure.

**Large comprehensive high schools**, which serve broad geographic regions and provide academic, extracurricular, athletic, and civic functions, are explicitly recognized as critical anchor institutions. EOF is not designed to fragment or hollow out these schools. Enrollment shifts affecting large anchor schools are expected to be modest and gradual, and transition supports are calibrated to preserve program continuity and community stability.

---

## Why Transition Supports Are Necessary

School costs do not adjust instantly with enrollment.

Facilities, transportation systems, staffing structures, and federally required services involve fixed or semi-fixed costs that remain even when student numbers change. Sudden funding reductions tied directly to enrollment movement can create instability and force reactive decisions that harm students and communities.

EOF recognizes this reality and incorporates transition mechanisms to allow districts time to adjust responsibly.

---

## Types of Transition and Stabilization Supports

Transition and anchor protections may include, subject to legislative design:

- hold-harmless provisions that smooth funding over time as enrollment changes,
- transition funding that allows districts to plan, right-size, and adapt gradually,
- anchor school supports that recognize the essential role certain schools play in their communities,
- facilities and maintenance support to prevent deterioration of public assets.

These supports are designed to be **targeted and time-limited**, not permanent entitlements.

---

## **Illustrative Transition Timeline**

To clarify how transition supports function in practice, the following example illustrates a typical adjustment period:

### **Year 1:**

Modest enrollment shifts occur. Anchor schools continue to receive full foundation funding for enrolled students, supplemented by hold-harmless support to address fixed costs. District operations and programming remain largely unchanged.

### **Year 2:**

Enrollment patterns stabilize. Transition funding steps down in a predictable manner, allowing districts to adjust staffing, scheduling, or facilities planning through normal budget cycles.

### **Year 3 and beyond:**

Transition supports sunset or narrow to targeted adjustments where warranted. Schools operate on a stable footing aligned with updated enrollment levels.

This phased approach avoids sudden disruption while preventing permanent duplication of funding.

---

## **Interaction With Student Movement**

When students remain enrolled in their public schools, funding continues as expected.

When some students choose alternative providers through EOF, transition supports prevent immediate or destabilizing funding losses. This allows districts to respond thoughtfully rather than react abruptly.

EOF does not assume or incentivize mass movement. Enrollment shifts are expected to be gradual, voluntary, and uneven. Transition mechanisms exist to manage that reality responsibly while preserving the viability of the public system as a whole.

---

## **State Administration and Oversight**

Anchor and transition supports are administered by the state as part of EOF implementation, under rules established by the Legislature and Agency of Education.

The state retains discretion to:

- define eligibility for supports,
- set duration and limits,
- adjust mechanisms based on observed impact.

### **Monitoring and Early Intervention**

As part of EOF implementation, the Agency of Education monitors enrollment shifts and fiscal impacts at the district and school level.

If patterns emerge that suggest unintended destabilization, the state may adjust transition supports, slow additional participation, or modify implementation parameters to protect educational continuity and community infrastructure.

These supports operate alongside, not instead of, existing district governance and accountability structures.

---

### **Relationship to Fiscal Design**

Anchor protections and transition supports do not replace the foundation formula. They operate in coordination with it.

Detailed funding scenarios, timing, caps, and fiscal guardrails are addressed in **Appendix G: Foundation Formula and Fiscal Design Options**.

---

### **Summary**

Anchor school protections and transition supports ensure that EOF expands access without undermining public education infrastructure. They provide stability during change, preserve community institutions, and allow districts time to adjust responsibly as enrollment patterns evolve.

# Appendix E: Special Education and Layered Funding

## Purpose

The Education Opportunity Fund is designed to preserve and strengthen Vermont’s obligations to students with disabilities and higher-cost educational needs. EOF does not weaken special education protections, shift responsibility to families, or create incentives to exclude high-need students.

This appendix explains how special education and other high-need funding layers operate within EOF’s student-centered framework.

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## State Responsibility for Special Education

Under EOF, responsibility for ensuring appropriate services for students with disabilities **remains with the state**, consistent with federal and state law.

EOF does not transfer special education obligations to families, districts, or providers. The state continues to:

- enforce IDEA requirements,
- ensure access to appropriate services,
- and oversee compliance across participating providers.

**Provider participation under EOF does not alter or fragment IDEA accountability.** Regardless of where a student is educated, the state remains responsible for ensuring that required services are delivered and that legal obligations are met.

EOF changes how funding is delivered and tracked, not who is responsible.

---

## Layered Funding Model

EOF uses a layered funding structure.

Each student receives a base education benefit. For students with documented higher-cost needs, additional funding layers are applied to reflect required supports and services.

These layers may include, subject to legislative design:

- special education services,
- related therapies,
- specialized instructional supports,
- or other documented needs.

Layered funding is assigned at the student level and administered by the state, ensuring that higher-cost needs are recognized and funded transparently rather than absorbed informally by individual schools or families.

---

### **Students Who Remain in Public Schools**

When a student with disabilities remains enrolled in their public or anchor school:

- services continue as they do today,
- funding layers remain attached to the student,
- and the state pays the public entity through the EOF portal.

From the family’s perspective, nothing changes instructionally or procedurally. EOF does not interrupt service delivery, alter IEP processes, or shift responsibility.

---

### **Students Who Choose Other Providers**

When a family directs a student’s EOF benefit to another approved provider:

- the base funding and applicable layers follow the student,
- payment is made by the state through the portal,
- and providers must comply with state-defined requirements related to student protections and service delivery.

EOF does not permit providers to opt out of serving students with disabilities or to selectively exclude higher-cost students. Participation through EOF carries obligations related to nondiscrimination, service provision, and compliance with applicable law.

---

### **Preventing Incentives to Exclude High-Need Students**

EOF is structured to avoid incentives that could disadvantage students with disabilities.

Because funding layers follow documented needs and remain under state administration:

- providers are not penalized for serving higher-cost students,
- families are not pressured to self-fund required services,
- and public schools are not left absorbing uncompensated costs for students they no longer serve.

The state retains authority to monitor participation patterns and intervene if exclusionary behavior, service gaps, or cost-shifting emerge.

---

## Coordination of Services and Cost Responsibility

EOF is designed to prevent fragmentation of responsibility across providers.

When specialized services are required, the state coordinates funding and oversight to ensure continuity and compliance. The EOF portal provides visibility into funding layers, service provision, and participation status, allowing the state to ensure that obligations are met regardless of instructional setting.

This centralized coordination ensures that special education responsibilities remain coherent, enforceable, and aligned with existing legal requirements.

---

## Oversight and Compliance

Special education services delivered through EOF remain subject to:

- state oversight,
- federal compliance requirements,
- and reporting and accountability rules enforced through the portal.

The state may adjust funding layers, participation requirements, or provider standards based on observed outcomes, compliance data, or emerging needs.

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## Relationship to Other Appendices

Layered funding operates in coordination with:

- **Appendix G** (Foundation Formula and Fiscal Design Options), which explains base and layered funding mechanics,
  - **Appendix D** (Anchor School Protections and Transition Supports), which addresses district stability,
  - **Appendix H** (Portal Design and Features), which describes how layered funding is tracked, coordinated, and administered.
- 

## Summary

EOF preserves Vermont's obligations to students with disabilities by keeping special education funding **layered, state-administered, and visible**.

It ensures that access, services, and accountability remain intact, prevents cost-shifting and exclusion, and allows funding to be delivered more transparently and consistently across the system—without weakening IDEA or placing new burdens on families or public schools.

# Appendix F: Why the Education Opportunity Fund Matters

## Purpose

### Appendix F: Why the Education Opportunity Fund Matters

Vermont's education system is undergoing significant structural change.

Act 73 reflects a serious effort to control costs, stabilize governance, and preserve public education infrastructure under conditions of fiscal and demographic strain. Those goals are widely shared and remain essential.

At the same time, rising education taxes, limited fiscal visibility, and narrowing practical access for some families are beginning to converge in ways that create **potential constitutional exposure**, not merely ordinary policy disagreement. When public cost burden, transparency, and real educational opportunity drift apart, the state faces risks similar in character to those addressed in *Brigham v. State*, even where reforms are pursued in good faith.

This moment therefore presents a dual responsibility:

- to **preserve and stabilize the public education system**, and
- to **ensure equal educational opportunity remains real in practice**.

These obligations are not in conflict, but they require tools capable of addressing **access, fiscal clarity, and taxpayer equity simultaneously**.

The Education Opportunity Fund (EOF) provides such a tool.

EOF does **not** replace public education, halt consolidation, or mandate private enrollment.

Public schools remain the default and central providers, and most families are expected to remain where they are.

Instead, EOF operates as a **state-administered access and fiscal governance mechanism** that:

- preserves **real educational access** where access has narrowed,
- introduces **transparent, student-level fiscal visibility**, and
- maintains **continuous legislative authority and adjustment**.

By aligning access, transparency, and funding within a single state structure, EOF reduces the likelihood that fiscal strain or unequal access will evolve into **constitutional conflict or recurring litigation**. It allows Vermont to address emerging pressure **deliberately and democratically**, rather than through external correction after instability occurs.

Just as importantly, EOF protects what Vermonters value most:

- **stable public schools that anchor communities**,
- **responsible stewardship of taxpayer resources**, and

- **fair access to meaningful educational opportunity for every student.**

In this way, EOF is not a departure from Vermont's educational commitments.

It is a **measured modernization of how those commitments are fulfilled** under present conditions.

The question before the Legislature is therefore not whether to preserve the current system unchanged or replace it entirely.

It is whether to adopt a **controlled, reversible mechanism** that relieves emerging fiscal and constitutional pressure **before instability or litigation compels change from outside the democratic process.**

EOF offers that mechanism.

# Appendix G: Foundation Formula and Fiscal Design Options

## Purpose

The Education Opportunity Fund (EOF) is designed to work within Vermont's existing education funding framework. It does not replace the foundation formula or require the Legislature to reinvent how education is funded statewide.

The purpose of this appendix is to explain how EOF uses the foundation formula as its base, how funding layers are applied, how costs behave as participation changes, and how fiscal stability and legislative control are maintained over time.

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## Building on the Existing Foundation Formula

Under EOF, the state continues to define a per-student base level of education funding. Existing weighting concepts and funding layers may continue to apply to reflect student needs, grade bands, and circumstances.

EOF changes how funding is delivered and accounted for, not how it is fundamentally calculated.

For every student:

- a base education amount is assigned,
- additional layers are applied where appropriate,
- and funding is delivered through the state-administered portal.

The foundation formula may continue to reflect grade-band cost differences, recognizing that instructional costs vary between elementary, middle, and secondary education. These adjustments are applied through the same portal-based system.

This approach preserves continuity while allowing greater flexibility, transparency, and oversight in delivery.

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## Cost Trajectory and Growth Management

EOF is designed to produce a **predictable and observable cost trajectory**.

Because funding remains anchored to the existing foundation formula, per-student costs do not increase solely due to participation in EOF. Total program cost is a function of:

- the number of participating students,
- the base amount and applicable layers established by the Legislature,
- and any transition protections applied to public and anchor schools.

This structure allows the Legislature to model costs in advance, monitor fiscal impacts in real time, and adjust program parameters as participation patterns evolve.

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### **Funding for Students Who Remain in Public Schools**

When a student remains enrolled in their public or anchor school:

- the student remains counted for funding purposes,
- the school continues to provide education as it does today,
- and the state pays the public entity through the EOF portal.

From the school’s perspective, instructional operations remain unchanged. The difference is that funding is tracked and delivered through a clearer, centralized system that improves visibility and accountability.

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### **Funding for Students Who Choose Other Providers**

When a family directs a student’s EOF benefit to another approved provider:

- the same base and layered funding follows the student,
- payment is made by the state through the portal,
- and providers are subject to the same transparency and reporting requirements.

EOF does not create a separate, elevated, or preferential funding stream for alternative providers. The foundation formula remains the anchor in all cases.

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### **Tuition Limits and Equitable Access**

To ensure that EOF provides **practical rather than symbolic access**, the Legislature may establish tuition caps or reimbursement limits aligned with the EOF base amount and applicable layers.

Such limits may be used to:

- preserve equitable access across income levels,
- prevent public benefits from disproportionately subsidizing only high-cost options,
- and maintain fiscal discipline.

Providers may elect to accept EOF funding as payment in full for covered services or participate subject to legislatively defined limits. Tuition policy must remain neutral with respect to provider type and structured to expand, rather than narrow, access.

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## Managing Fixed Costs and Enrollment Shifts

Public schools have real fixed and semi-fixed costs, including:

- facilities and maintenance,
- transportation systems,
- staffing structures,
- and federally required services.

EOF does not assume these costs disappear when enrollment shifts occur.

To prevent destabilization, fiscal design options may include:

- hold-harmless provisions that smooth funding over time,
- transition grants that allow districts to adjust responsibly,
- phased implementation to avoid sudden revenue changes.

These tools give districts time to plan and adapt while maintaining educational quality and community stability.

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## Cost Containment and System Efficiency

EOF allows the state to better observe and manage system-wide costs.

Because funding flows through a single system:

- per-student expenditures are visible,
- cost differences across providers can be understood,
- and opportunities for efficiency can be identified.

EOF does not assume or promise savings. However, in some cases, alternative providers may deliver education at lower cost than traditional models. EOF allows the state to recognize such differences transparently, without forcing change or mandating participation.

Any efficiencies or savings that emerge remain subject to legislative decision-making and are not automatic or pre-committed.

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## Legislative Guardrails and Fiscal Control

EOF is **not** an open-ended financial commitment.

The Legislature retains authority to:

- set annual or cumulative caps on participating students,

- establish limits on total EOF expenditures,
- constrain year-over-year growth rates,
- limit or phase provider participation,
- adjust base amounts and funding layers prospectively,
- modify or sunset transition supports,
- and respond to fiscal or demographic changes.

Participation does not expand automatically. Growth occurs only within parameters set by the Legislature and may be slowed, paused, or adjusted based on observed outcomes.

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## **Relationship to Other Funding Streams and Special Services**

EOF does not alter federal funding rules or obligations.

Federal funds continue to flow as required by law, including funding related to special education and other federally mandated programs. EOF coordinates with, but does not replace, these funding streams.

EOF does not shift federally required obligations away from public entities, but allows student-level funding and service provision to be tracked and coordinated more transparently.

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## **Summary**

EOF uses Vermont's existing foundation formula as its fiscal anchor. By delivering funding through a centralized, transparent system and pairing student-level funding with transition protections and legislative guardrails, EOF balances access, stability, and fiscal responsibility.

This design allows the Legislature to modernize education funding, preserve control, protect public infrastructure, and adapt responsibly over time.

# Appendix H: EOF Portal Design and Functions

## Appendix H: The State Education Portal

The Education Opportunity Fund is administered through a **single, state-managed education portal** that serves as Vermont’s central mechanism for **provider oversight, fiscal governance, public transparency, and outcome visibility**.

The portal is not merely a payment tool.

It is the state’s primary instrument for ensuring that education funding remains **traceable, accountable, and aligned with equal educational opportunity in practice**.

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## State Oversight and Provider Onboarding

All participating providers enter EOF through the portal’s **state-administered approval and compliance system**.

This structure allows the Agency of Education to:

- review and approve providers under **neutral eligibility standards**,
- monitor **health, safety, and legal compliance**,
- require **financial reporting and transparency**, and
- enforce **ongoing accountability** within a single unified framework.

The portal therefore replaces fragmented supervision with **continuous, visible state oversight**.

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## Fiscal Governance and Transparency

All education funding delivered through EOF flows **directly through the portal**.

This enables the state to:

- assign **student-level base funding and layered supports**,
- track **allocations, payments, and provider budgets**,
- observe **cost patterns across the system**, and
- ensure **public visibility of how taxpayer resources are used**.

Funding that is currently dispersed across disconnected systems becomes **transparent, auditable, and governable in real time**.

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## Public Access to Educational Options

The portal serves as a **public-facing gateway to approved educational providers**.

Families can view:

- all participating schools and programs,
- neutral descriptions of educational approach and structure,
- transparent tuition or program cost information, and
- eligibility or enrollment parameters where applicable.

Access therefore becomes **practical and visible**, rather than theoretical or dependent on private knowledge.

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## Educational Outcomes and System Performance

Beyond finance and enrollment, the portal provides **comparable visibility into educational outcomes** across providers.

This may include:

- graduation and completion metrics,
- proficiency or assessment indicators,
- student progress and achievement data, and
- other outcome measures required under state law.

Outcome transparency strengthens **quality accountability** while preserving **provider independence in curriculum and pedagogy**.

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## A Unified Alternative to Fragmented or Opaque Funding Models

Because all approvals, payments, reporting, and outcomes are visible within a **single state system**, the portal avoids the opacity historically associated with **voucher-style or ESA-style funding mechanisms**.

Public resources remain:

- **state-controlled**,
- **fully traceable**, and

- **continuously accountable to taxpayers and lawmakers.**

In this way, the portal advances both **constitutional compliance** and **public confidence**.

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## Summary

The state education portal is the operational core of EOF.

It unifies **oversight, finance, access, and outcomes** within a single transparent system that:

- strengthens **state governance**,
- protects **taxpayer visibility**,
- preserves **provider diversity**, and
- supports **equal educational opportunity in practice**.