

**TO:** Vermont State Board of Education Members  
**FROM:** Sarah Buxton  
**RE:** Common Concepts for Deliberation: Rules 2000 and 2200  
**DATE:** January 3, 2024

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This list summarizes topics for consideration that are relevant to Rule 2000 and 2200. It includes issues raised through public comment, as well as other relevant matters for discussion that have surfaced since the rules were proposed. The aim of the joint January 4, 2024 working group session is for members to discuss each of the matters listed below and either:

- Decide how you would like the matter addressed,
- Identify what additional information you might need in order to reach a decision, or
- Provide consensus guidance on what you do feel strongly about (as it relates to each topic) so I can draft one or more options for your future consideration.

### **1. Implementation Deadline**

- The VSA has recommended that the Board select one effective date (suggested July 1, 2025) for Rule 2000 to support consistency in messaging and avoid confusion. Does the Board agree? Should the same approach be utilized in Rule 2200?

### **2. Alignment between 2000 and 2200**

- The Board is exercising its rulemaking authority to apply the principles of Act 1 to both sets of rules using language that is mirrored in both rules. The Board has also indicated an interest in doing so in other areas where it makes sense, like the nondiscrimination requirements and language referencing common requirements (e.g. requirement to retain records, comply with federal laws, etc.). Is the Board interested in striving to use common language, section headings, and organizational style between the two rules to the extent possible?
- In response to comments calling for application of EQS to approved independent schools, the EQS committee has proposed this response for consideration, edited slightly by the 2200 committee:
  - *Title 16 directs the Board to regulate public and independent schools through different statutory provisions (16 VSA 165 and 16 VSA 166, respectively). By law, EQS applies only to public schools and independent schools choosing to participate in EQS. In exercising its authority under both provisions, the Board is achieving the intended outcome that the principles of Act 1 apply to both public and approved independent schools. The Board's proposed modifications of the Rule remain consistent with this provision of the law.*

Does the Board have further feedback on this response?

### 3. Reporting

- The Board received public comment that schools should be required to conduct annual survey of parents and guardians, using standard format and method set by AOE and make it available to the public.
  - Accountability to parents/guardians is slightly different under the two rules. In Rule 2200, parent/guardians can elect to enroll their child elsewhere if they are dissatisfied. They can also file complaints related to compliance. In EQS, parents and community members are involved in continuous improvement plans and receive reports on progress made under those plans, from local school boards. There is nothing to prevent a community from requiring local surveying in its plan. What is the Board's view?

### 4. Discrimination

- The Board received some public comment in support of keeping the proposed language in EQS and other public comment cautioning that the language exceeds federal and state law and may have unintended consequences if left unchanged.
  - The Board has announced an intention to mirror language to prohibit discrimination in both rules, within parameters of state and federal law, and to include additional detail related to bias and systemic discrimination. The following is an option to consider:

#### Vermont's Policy of Nondiscrimination and Inclusion

*It is the policy of the State of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Discrimination, including harassment, hazing, and bullying, have no place and will not be tolerated in Vermont schools. No student or school employee should feel threatened or be discriminated against while enrolled in or employed by a Vermont School.*

*Schools shall create a welcoming, inclusive, bias-free environment for learning. Students shall be included and invited to participate in the general life or activities of a school, regardless of their actual or perceived protected class status, socioeconomic status, housing status, citizenship or immigration status, birth or other hereditary class, home language, social or geographic origin, or social identity.*

*Individuals can be impacted by discrimination expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations. Schools shall implement efforts to identify and reject participation in any activity which results in unlawful discrimination and interferes with any student's access to or enjoyment of the educational opportunities provided to them.*

#### Nondiscrimination Requirement for Schools

*No student shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity as the result of, or based upon, the student's race, gender, color, creed, national origin, marital status, sexual orientation, gender identity, or disability, or any other reason set forth in state or federal non-discrimination requirements.*

### Nondiscrimination Compliance

*Every school shall maintain a statement of nondiscrimination that is consistent with state and federal law. It shall be displayed on its website and included in the school's application materials. The school shall abide by its nondiscrimination policies in all aspects of the school's recruitment, enrollment, operation, and employment activities.*

*In addition to schools maintaining and enforcing anti-discrimination policies pursuant to 16 VSA 570 and 16 VSA 166(e), every Vermont public school and approved independent school shall submit an annual assurance to the Agency that it complies with the nondiscrimination laws and regulations of the State of Vermont. The Agency, in consultation with the Attorney General's Office, shall develop a standardized method to assess a school's compliance with nondiscrimination provisions of state and federal law and it shall provide clear indicators of compliance that can be readily understood. This method shall be made available to schools for their ongoing self-assessment.*

What is the Board's view?

## **5. Definitions**

- The Board received numerous comments about the definitions of ethnic group and ethnic studies. Some advocated that the Board adopt the more expansive definitions proposed in EQS while others argued that the Board lacks authority to adopt definitions different than those passed by the legislature. As a general matter, administrative bodies lack the power to change the meaning of words the legislative body has already defined. Consider restating legislative definition in appropriate context. Does the Board agree?
- The Board should also address additional concerns with the current definitions:
  - Many contain value statements that should be included in the body of the rules to have impact.
  - Consider describing the term or concept in the body of the rule, using plain and ordinary language, rather than defining it. Rules are easier to follow if practitioners do not have to flip back and forth between sections of a rule to discern what is permissible and what is not.
  - Ensure that definitions comport with legislative definitions. This includes words like Personalized Learning Plan, Education Support Team, etc.
  - Words need not be defined if they are not used.

Does the Board agree with this approach? If so, I will go through both sets of rules to identify any value statements that are currently contained in a definition, move content to the relevant section where it will provide greater clarity and utility to practitioners, ensure defined terms are aligned with any legislatively defined terms, and delete defined terms if they are not used.

- There are opportunities throughout the rules where the substance of the definitions can be directly inserted into the rules, giving the words greater weight and impact, and eliminating the need to define a term. In the “Curriculum Content” ( or “Learning Content Area” as suggested below) section, for example, there is an opportunity to insert some of the values embedded in the definitions section. Consider lifting the value statements from some of the defined words into these sections to give them impact and make them more understandable to the user. Craft language that can be mirrored in both.
  - **Example:** (Speaks to the curriculum itself): *The curriculum shall be rigorous, relevant, comprehensive, and evidence based. Across learning content areas, the curriculum shall be designed to incorporate knowledge and perspectives of diverse cultures, backgrounds, and languages.*
  - **Example:** (Speaks to how the curriculum is delivered): *Learning environments, content, and instruction shall be ethnically, racially, socially, and linguistically inclusive and be responsive to student needs and experiences. All educational opportunities shall be fully accessible to all students, including neurodivergent learners, to enable them to gain and demonstrate proficiency in the required content areas.*
  - **Example:** (Speaks to community and family involvement \*\*relevant to EQS) *The experiences and diversity of families, teachers, students, and community members shall be considered and reflected in developing and delivering the content of the school’s curriculum.*

Does the Board agree with this approach? If so, I will go through both sets of rules, identify any value statements that are currently contained in a definition, and move it to the relevant section where it will provide greater clarity and be actionable.

## 6. Instructional Strategies; Professional Staff and Resources

- The Board received public comment suggesting that school educators and administrators do not have the right tools and training to combat antisemitism and racism. The Board also received public comment noting that the lack of diversity in schools means that students aren’t exposed to other cultures, ethnicities, and ideas.
- The Board might consider that the current “Instructional Strategies” and “Professional Staff” and “Professional Resources” sections in both rules provide areas to address these concerns.
  - There may be an opportunity to rework “Instructional Strategies” to reflect what *approaches, methodologies, and specific actions* are required of instructors as they teach and expand “Professional Resources/Needs Based Professional Learning to

*detail the types of training and resources that schools are required to provide for instructors.*

Would the Board like to address these comments using this approach?

- Also, there may be opportunities to incorporate statements from select definitions into “Instructional Strategies,” as appropriate, and eliminate the need to define the word.
  - **Example:** *Instructors shall employ practices and activities that promote deep understanding, mutual respect, and foster willingness to learn about the cultures of all people, especially those who have been marginalized, silenced, or undervalued or underrecognized in society.*
  - **Example:** *Subjects shall be examined and taught from multiple academic perspectives, encouraging students to engage with and to synthesize diverse perspectives and narratives, including those from lived experiences, at a developmentally appropriate level, into a coherent understanding or analysis.*

Does the Board agree with this approach?

## **7. Curriculum & “Learning Content Areas”**

- The Board received numerous requests to mandate curricula addressing the history and experiences of Jewish people, including teaching about the Holocaust.
  - Currently both rules require that students demonstrate proficiency in “ethnic and social equity studies.” Consider using a more specific description of “ethnic and social equity studies” where it is referenced in the learning content area.
    - **Example:** *“understanding the historical contributions, lived experiences, and perspectives of nondominant groups of people who have been marginalized, persecuted, subjected to genocide, or denied basic human rights.”*

Does the Board agree with this approach?

- In general, it may be helpful to clarify who is responsible for developing curricula, as applied to each rule. To align with this, consider replacing “Curriculum Content” with “Learning Content Areas,” which is the term used by AOE in guidance documents referencing this section.

Does the Board agree with this approach?