

**From:** "Samuelson, Jennifer" <[Jennifer.Samuelson@vermont.gov](mailto:Jennifer.Samuelson@vermont.gov)>  
**Date:** March 6, 2023 at 10:57:44 AM EST  
**To:** "Kolbe, Tammy" <[Tammy.Kolbe@vermont.gov](mailto:Tammy.Kolbe@vermont.gov)>, "Gleason, Kimberly G" <[Kimberly.G.Gleason@vermont.gov](mailto:Kimberly.G.Gleason@vermont.gov)>  
**Cc:** "Lovett, Tom" <[Tom.Lovett@vermont.gov](mailto:Tom.Lovett@vermont.gov)>, "Brown, Patrick" <[Patrick.Brown@partner.vermont.gov](mailto:Patrick.Brown@partner.vermont.gov)>, "Lucci, Gabrielle" <[Gabrielle.Lucci@partner.vermont.gov](mailto:Gabrielle.Lucci@partner.vermont.gov)>  
**Subject:** Re: EQS

Good morning! I spent the weekend reviewing the attached draft of the updates to Rule Series 2000 and wanted to, first, thank each one of you for the time that you have each invested in crafting these changes and for the thoughtfulness with which you have approached the task. It is exciting to me to track your progress and I agree that we are close to being ready to begin the official APA rulemaking process. With that in mind, I am submitting my comments, questions, and suggestions to the EQS Subcommittee for your consideration. In addition, I have the following overarching observations and suggestions:

1. As you will note, I modified reference to "all students" and "all schools" because the Rule 2000 Series does not apply to all students and all schools. For instance, a recognized school may set up an admissions process that does not comply with the PAA (and, by extension, these Rules) and an approved independent school may be unwilling or unable to comply with the special education provisions that will be required effective July 1<sup>st</sup> pursuant to Act 173 as a condition of receiving public funds. I'm also aware that the standards that apply to independent schools is an issue that is under active consideration by the General Assembly and that changes may be forthcoming by the time the legislative session concludes later this spring. I tried to craft edits that recognize these realities while providing room for statutory changes in a way that will not derail the good work that you have done on the Rule 2000 Series.
2. I am sure that you are aware of this, but the latter part of the EQS rules are inconsistent with the Quality Assurance rules that have been drafted by the Agency.
3. I think it would be helpful to review the proposed changes to the Rule 2000 Series through the lens of Act 1 to ensure that the amendments are consistent with the General Assembly's directives to both the Working Group and the SBE. For example, Act 1 Sec. 1(g)(1) of the Act directs the Working Group to "recommend to the State Board updates and additional standards to recognize fully the history, contributions, and perspectives of ethnic groups and social groups" and provides six specific areas to be considered. It would be helpful to review the proposed updates to the Rule Series to ensure that the updates do not fall beyond our authority to act within the confines of legislative intent. 16 V.S.A. §164(7). To the extent that any proposed changes exceed the scope of Act 1, Act 1 Sec.1(g)(2) allows the SBE to recommend to the General Assembly proposed statutory changes that further the Act's goals in a few clearly delineated areas.
4. Finally, I think it would be helpful to know what the legal effect of these rules are. For instance, the definition of discrimination is broader than that provided in either federal or state law. Is this permissible? Is it actionable? Further, as noted in the Statement of Purpose, the Rules do not create a private cause of action; what is the practical effect, then, if a school either does not comply with the Rule 2000 Series or if someone believes that a school is violating some provision of the Rules? I understand that there is a process

to ensure Quality Assurance, but what recourse (for example) would someone have if they felt that they were being discriminated against based upon their socio-economic status?

I offer these questions in the spirit of trying to anticipate wrinkles that may arise as we continue with the rulemaking process. The Subcommittee has done a tremendous job, and I deeply appreciate what I know is a shared commitment to recognizing those who have been historically marginalized and to promoting equity in our schools.

Kind regards,  
Jennifer