

TO: State Board Members  
FROM: State Board Committee on Rule 2200 Rulemaking  
SUBJECT: Summary of Public Comment and Committee Recommendations  
DATE: January 18, 2022

## Summary of Public Comment

The Committee used the spreadsheet titled “Comments on Rule 2200 at the End of Public Comment Period” to list each substantive request for change to the proposed 2200 Rule Series . The spreadsheet displays multiple individual rows of commentary from each person who submitted oral or written public comment. It includes a column for the committee’s recommendation for a response from the Board. It also summaries whether the recommended response would accept or reject the individual’s request for change to a proposed rule. In total, there are 81 individual comments requesting a change to the proposed rules. At this time, there are 21 unresolved comments, which the committee will be able to resolve after receiving updated consensus language developed by members of the Act 173 Advisory Group.

## Committee Recommendations to Reject Comments

The committee is recommending that many comments and associated requests for changes to the proposed rules should be rejected. The reasons for these recommendations can be summarized as follows:

- Many comments request action that is outside the authority of the State Board.
    - One comment states that the Council of Independent Schools (CIS) should not have a role in the revocation/suspension of approvals. The committee concluded that the SBE is constrained by 16 V.S.A. §166(d), a statute that takes precedence over any SBE rule and specifically requires the Secretary to seek the input of CIS.
    - Many comments asked for changes that conflict with the specific terms of Act 173. The State Board is bound by the provisions of Act 173 in rulemaking.
  - Many comments requested a different approach to rate setting (Rule 2232) than was reached through compromise of stakeholder groups and vetted by the Act 173 Advisory Group during the rule drafting phase.
    - The committee sought further input from the Act 173 Advisory Group as to whether its approach should be changed or the language clarified in response to public comment. The Act 173 Advisory Group recommended that the rule should not be amended further, and that the terms of the compromise between stakeholder groups should be maintained.
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- See rows 56 – 74 for examples of comments and proposed responses related to Rule 2232.

### **Committee Recommendations to Accept Comments**

The committee is recommending several amendments to the proposed rules in response to public comment. These items display as a yellow “D” in the tracking spreadsheet column labeled “Resolved” because they will result in new or amended language in the draft that the subcommittee has already crafted and that will be incorporated into the rules for the Board’s approval at its February meeting. These proposed changes can be summarized as follows:

- Several comments requested stronger language requiring approved independent schools to comply with the Public Accommodations Act. The committee agreed and asked AOE to draft a new approval requirement to be added to Rule 2226 and Rule 2227:

“2226.6 Demonstration that the school substantially complies with all statutory requirements for approved independent schools, with documentation of the following:

- (1) A statement of nondiscrimination, posted on the school’s website and included in the school’s application materials, that is consistent with the Vermont Public Accommodations Act, Title 9 Vermont Statutes Annotated, Chapter 141.
- (2) An assurance, signed by the Head of School, that the school complies with the Vermont Public Accommodations Act in all aspects of the school’s admissions and operations.
- (3) A description of physical facilities including plant, materials, and equipment and assurances that the facilities meet all applicable State and federal requirements.”

“2227.8 The school substantially complies with all statutory requirements for approved independent schools and the Board’s rules for approved independent schools including nondiscrimination in admissions and operations and requirements relative to its facilities, fire drills, and the immunization of its students against disease.”

- Several comments requested clarification to the proposed rule that the committee determined is non-substantive and would make the rules easier to read and understand.
- One comment requested a statutory requirement be added to Rule 2227, making it clear that, in order to be approved, a school must comply with the requirements of 16 V.S.A. § 255 relating to criminal record checks for employees. The committee agreed.
- One comment requested a change to the postsecondary accreditation timeline in Rule 2243.3. The committee agreed to allow a postsecondary school to receive renewal of certification if it obtains accreditation within the first 10 years of operation.
- Several comments were identified by the AOE independent schools team for small clarifications that will improve internal administration of approval and renewal processes.



