



219 North Main Street, Suite 402  
Barre, VT 05641 (p) 802-479-1030 | (f) 802-479-1835

## Independent School Approval Process in our Neighboring States of Maine, Connecticut, Massachusetts, New York and New Hampshire

### Maine:

1. Maine's law explicitly prohibits private schools from discriminating on the basis of disability. Both the law and regulations provide for a complaint and investigation by the Maine Human Rights Commission. Maine defines "unlawful educational discrimination" as:

*2. Unlawful educational discrimination on the basis of physical or mental disability. It is unlawful educational discrimination in violation of this Act solely on the basis of physical or mental disability to:*

*C. Deny admission to any institution or program or fail to provide equal access to and information about an institution or program through recruitment; or [1987, c. 478, §4 (NEW).]*

2. In Maine's law, "educational institution" is defined as:

*2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program. For purposes related to disability-related discrimination, "educational institution" also means any private school or educational program approved for tuition purposes. [1995, c. 393, §4 (AMD)].*

3. Maine requires schools to be approved prior to receipt of tuition. In Maine, the process is similar to Vermont, either through accreditation by recognized entity (i.e., NEASC) or State Accreditation (site review process through phases and over time--up to 5 year process) by Maine's DOE. The State Accreditation Standards are set by Rule. See attached DOE Rule 05-071, Chapter 138.

### Connecticut

1. In CT, the State Board of Education can approve "an incorporated or endowed high school academy which meets the requirements of public high schools.
2. Connecticut requires schools to be approved prior to receipt of tuition.
3. CT is currently debating a bill that would require independent schools that receive public dollars to give a seat on their boards to districts that pay them tuition.

## New York

1. New York law provides for registration of nonpublic/private schools. Some public funding is permissible via grants including:

- 21<sup>st</sup> Century Community Learning Centers (federal funds for programs during non-school hours, high poverty, low performing schools)
- Academic Intervention for Nonpublic Schools (AIS)—100% state funded grant created to assist teachers and administrators of nonpublic schools administer English Language Arts and Math exams—grants were for professional development.
- Comprehensive Attendance Policy (CAP)—state reporting requirements and policy requirements where a nonpublic school may receive funding for compliance with this mandate.
- Learning Technology Grant—competitive state grant for sustained professional development; given to public schools who are required to include all nonpublic schools in their boundaries opportunity to participate.
- Mandated Services Aid—state reimbursement program for nonpublic schools that participate in state mandates regarding data reporting, pupil testing and evaluation. In order to be eligible for reimbursement, nonpublic school must comply with section 3204 of the Education Law, require students to attend full time according to section 3205 of Education law, not be recipients of other state or local aid directly or indirectly; and be a not-for-profit. (There are 17 state level mandates eligible for reimbursement under this program.)

2. Nonpublic school students in New York are entitled to some publicly funded services, which are either provided by the school district in which the student resides or the district within which the nonpublic school is located. State-funded programs and services include: Health Services, Homebound Instruction, Textbook Loan Program, Computer Software Loan Program, School Library Materials Loan Program, Transportation (students must reside within 15 miles of the nonpublic school), Special Education Services, Dual Enrollment Programs, and Mandated Services Reimbursement (MSA).

3. New York does require registration for nonpublic schools in certain circumstances:

- The commissioner of education governs the registration of nonpublic high schools. 8 *Codes, Rules and Regulations of the State of New York (CRR-NY)* §13.1.
- Nonpublic schools are permitted to register. Only registered nonpublic high schools may issue diplomas and administer Regents Examinations. 8 *CCR-NY* 100.2(p).

- A nonpublic school may be registered as a nursery school and/or kindergarten. Change in ownership nullifies the registration. 8 CCR-NY 125.10. Requirements for those schools are found in 8 CCR-NY Part 125.
  - Registration may be placed under review when students in a registered nonpublic school scores are below the criteria list in 8 CCR-NY 100.2(p)(13).
  - A nonpublic school must submit information and allow an on-site visit to the school by a staff member in the New York State Education Department's Bureau of School Registration in order to register with the Board of Regents per [New York State Education Department Manual for New Administrators of Nonpublic Schools, State Requirements and Programs](#).
3. Discrimination—religious schools are permitted to limit enrollment based on religion; single sex schools are also permitted. However, all other nonpublic schools must publish a nondiscrimination policy/notice as follows:
- The M school admits students of any race, color, national and ethnic origin to all the rights, privileges, programs and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.”*
4. Special education is provided by the district of residence for nonpublic school student. The provision of services requires coordination as to location (at public or nonpublic location depending on funding source and sectarian nature/non-sectarian nature); state and local funds may not be used to provide services at a sectarian school.

### **Massachusetts**

1. Massachusetts, by constitutional amendment, prohibits state aid to private and religious schools.

*Section 2. No grant, appropriation or use of public money or property or loan of credit shall be made or authorized by the Commonwealth or any political subdivision thereof for the purpose of founding, maintaining or aiding any infirmary, hospital, institution, primary or secondary school, or charitable or religious undertaking which is not publicly owned and under the exclusive control, order and supervision of public officers or public agents authorized by the Commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public*

*money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society. Nothing herein contained shall be construed to prevent the Commonwealth from making grants-in-aid to private higher educational institutions or to students or parents or guardians of students attending such institutions.*

2. Massachusetts does permit public funding of special education to a nonpublic school under certain circumstances. If appropriate, publicly funded eligible students with disabilities requiring special education may be placed in a public or approved private special education program in accordance with 603 CMR 28.09 (1). *Mass. Gen. Laws c. 71B, §10.*

School committees may authorize the prepayment of tuition of a publicly place student with disabilities, for a period not exceeding three months, to any approved private school. *Mass. Gen. Laws c. 71, §71D.*

Eligible students with disabilities who attend private school at private expense are entitled to special education designed to meet their needs. The school district where the student with disabilities is a resident must provide genuine opportunities to participate in the public school special education program consistent with the state constitutional limitations. Eligible students are entitled to an individualized education program (IEP). Services provided or arranged for by the district pursuant to an IEP, if paid for with state or local funds, must be provided in a public facility or other public or neutral site. If services are funded only with federal monies, they may be provided on private school grounds. Administrative Advisory SPED 2007-2: IDEA-2004 and Private School Students (Updated July 2008).

3. Nonpublic schools in Massachusetts are approved, for compulsory education requirements, by the local educational agency. The school committee/school board where the private/nonpublic school is located is the approval authority.

### **New Hampshire**

1. The New Hampshire State Board of Education, like Vermont's SBE has an approval process for private or nonpublic schools through accreditation or State Board approval. The New Hampshire Board approval process involves different levels of approval: approved, conditionally approved, preliminarily approved, delay in full compliance, and denial of approval.
2. Special Education and students with disabilities: Like Vermont, by New Hampshire law, no state or federal money may be paid to a nonpublic school serving students with disabilities unless the private/nonpublic school is approved by the State Board. Unlike Vermont, in New Hampshire, by law, all educational programs are approved, monitored and issued corrective action by the State Board including private/nonpublic schools:

*The state board of education shall adopt rules establishing a process and standards for the approval and monitoring of programs of education that are maintained by school districts, regional special education centers, and private organizations or state facilities for the benefit of children with disabilities, including chartered public schools, home-based programs and alternative schools or programs; except, however, that approval of education programs for the special district established in RSA 194:60 shall be pursuant to the standards set forth in the interagency agreements between the department of corrections and the department of education.*

3. Corrective action by the State Board in New Hampshire can include withdrawal of approval for operation and “in the case of a private provider of special education or other non-school district based program, ordering all school districts with students placed in the private provider of special education to relocate the students for whom each district is responsible to other programs or facilities that are in compliance with state and federal law.” RSA § 186-C:5.
4. First time approval requires budget submission: First year budget indicating:
  1. Anticipated expenses which shall include but not be limited to:
    - (i) Facility acquisition;
    - (ii) Facility maintenance and operations;
    - (iii) Insurance;
    - (iv) Salaries and benefits; and
    - (v) Equipment and supplies;
  2. Anticipated revenues; and
  3. Sources of revenue;
5. Renewal applications require:
  - (f) The nonpublic school shall provide the following information relative to its physical and financial resources:
    - (1) A description of the school's physical facilities and any off-campus facilities used for the program;
    - (2) A copy of the school's current approved operating budget and operating statement, which shall clearly demonstrate the availability of resources to support the program as described above; and
    - (3) A description of the way the operating budget is developed and approved.