

Rules 2200 Series Timeline

DATE	ACTION
2013/2014	SBE Strategic Plan/Goals
November 17, 2015	SBE voted to initiate review of 2200 series rules; adopted resolution (Tab A)
December 15, 2015	AOE presented SBE with proposed timeline for adoption of revised rules (Tab B)
January-July 2016	Internal AOE review and drafting
March 2, 2016	Memo to CIS (Mark Tashjian and Michael Livingston) to review issues (Tab C) Antiquated Language; Fiscal accountability; equal opportunity Equity; use of external evaluators and Special Education
March 28, 2016	CIS meets at AOE to discuss IS issues as requested
April/May 2016	Secretary meets with IS representatives
June 30, 2016	SBE hires independent counsel
July 1, 2016	AOE conducts survey of Superintendents and Special Education Directors—statewide (responses from 39 Supts and 43 special education directors) (Tab D)
June-July, 2016	AOE solicits written feedback on rules from VISA, CIS, VSBA, HRC, ACLU
July 29, 2016	SBE votes to approve draft rules Approves AOE to prefile at ICAR
July 29, 2016	2200 Series prefiled with ICAR; 7320 (accrediting agencies) also prefiled with ICAR for August 8 meeting of ICAR;
August 5, 2016	AOE requests to pull records from ICAR’s August agenda
August 29, 2016	Chair SBE request 2200 series be placed on September ICAR agenda
September 12, 2016	ICAR moved 7 rules from September agenda to the October ICAR agenda, 3 from SBE, including 2200, 7320 and Act 46 alternative structures; chair of the Board did not object
October 3, 2016	Chair requests to pull remove 2200 series from the October agenda
November 4, 2016	Election
November 14, 2016	ICAR opposes filing the rule and moves to return rules to the SBE for an AG opinion letter, cost estimates for economic impact and maximizing public input; (Tab E)
November 15, 2016	SBE votes to continue rulemaking process
November 21, 2016	SBE Chair requests AG opinion on Board’s rule-making authority
November 23, 2016	SBE Chair requests AG opinion on applicability of VT Public Accommodations Act to IS

DATE	ACTION
November 23, 2016	SBE sent invitations to every IS in the state with notice of stakeholder meetings (both approved and recognized schools)
December 6, 2016	Stakeholder meeting at Burr & Burton
December 12, 2016	Stakeholder meeting at St. Johnsbury Academy (there was a 6X6 pre-meeting with stakeholders)
December 19, 2016	AG Opinion affirming SBE's rule-making authority
January 20, 2017	2200 Series Subcommittee meets and revises rules
January 31, 2017	Discussion Draft of Rules Issued
February 9, 2017	AG Opinion affirming applicability of VT Public Accommodations Act to IS
February 16, 2017	2200 Series Subcommittee meets and reviews rule changes
March 21, 2017	At March meeting, new board chair reappoints subcommittee members; invites new board member to consider joining subcommittee; issues directive to subcommittee to meet prior to the Board's regular meeting in April to return with a process for moving the rule-making process forward
April 11, 2017	Subcommittee meeting is warned and scheduled



**State of Vermont**  
219 North Main Street, Suite 402  
Barre, VT 05641  
[education.vermont.gov](http://education.vermont.gov)

[phone] 802-479-1280  
[fax] 802-479-1835

*State Board of Education*

November 13, 2015

**Initiation of a Comprehensive, Periodic Review of the  
2200 Series of the SBE Rules and Practices**

Whereas, the state board rules concerning the “evaluation of private education programs” (2200 series) have not been revised since 2001, and

Whereas, a broad number of changes have occurred in society and in education during that time, and

Whereas, many rules and practices may now be inadequate or antiquated; and

Whereas, Goal Two of the state board’s strategic plan calls for a review and updating of state board rules; and Goal One calls for identifying the magnitude and causes of the achievement gap;

The state board of education requests the Secretary of Education to recommend to the state board revisions to these rules and practices in order to modernize, and make them more efficient.

Specifically, the board provides the following guidance to the secretary and requests her recommendations on --

- Updating antiquated language - The board requests the secretary’s recommendations on updating the language and the system, in whole and in part.
- Fiscal Accountability – The law requires the state board to assure that each school has adequate resources. The board considers the current rules insufficient to meet this statutory requirement. The board requests that independent school financial data and budgets be submitted annually in a common statewide electronic format, that GAAP procedures be employed, and that independent auditors be periodically employed.
- Equal Opportunity and Equity – Currently, the provisions for assuring equal access and admission to private schools are not sufficient. It is the view of the state board that equal opportunities must be available to all in admissions, program availability and discipline; and that the rules explicitly address these issues.



- The Use of External Evaluators – The Board considers a robust external evaluation system to be essential for independent private schools which draw down public funds. The board requests that independent schools be evaluated periodically using a NEASC system.
- Special Education – Approved independent schools shall provide special education services reasonably equivalent to those that would normally be provided in a traditional public school. The board realizes that certain schools may specialize in providing services for certain handicapping conditions, and that circumstances will vary.

The board requests an update on progress at the December 2015 meeting and a draft of proposed rule revisions at the January 2016 meeting. Further activities and calendar markers will be determined in January 2016.



AGENCY OF EDUCATION  
Barre, Vermont

**TEAM:** School Finance

**ITEM:** Timeline for Review of SBE Rule Series 2200 Independent School Program Approval

**BACKGROUND INFORMATION:**

1. At the November 17, 2015 meeting the State Board of Education requested that the Secretary of Education prepare a timeline for the review of the 2200 series of the SBE Rules and Practices.
2. Below is the proposed timeline for the rule revision process:

Meetings AOE internal and AOE with external parties	December 2015 – May 2016
Present Draft to SBE	June 2016
Prefile with ICAR	July 2016
File with ICAR	August 2016
Publishing Notice	August 2016
Public hearing and Comment Period	September / October 2016
Final Proposed Rule to SBE	November 2016
Final Proposed rule filing with LCAR	November 2016
Legislative Review and Final Rule	December 2016

**STAFF AVAILABLE:**

Cassandra Ryan, School Finance  
(802) 479-8545

March 2, 2016

Michael Livingston  
The Sharon Academy  
P.O. Box 207  
Sharon, VT 05064

Mark Tashjian  
Burr & Burton Academy  
P.O. Box 498  
Manchester, VT 05254

Dear Michael and Mark,

As you know, the State Board of Education wants to review and update its rules related to the “evaluation of private education programs” (2200 series).

Specifically, the SBE asked me to recommend rule changes that address the following SBE goals (quoted from a request presented at the November SBE meeting):

- Updating antiquated language - The State Board requests the Secretary’s recommendations on updating the language and the system, in whole and in part.
- Fiscal Accountability – The law requires the State Board to assure that each school has adequate resources. The Board considers the current rules insufficient to meet this statutory requirement. The Board requests that independent school financial data and budgets be submitted annually in a common statewide electronic format, that GAAP procedures be utilized, and that independent auditors be periodically employed.
- Equal Opportunity and Equity – Currently, the provisions for assuring equal access and admission to private schools are not sufficient. It is the view of the State Board that equal opportunities must be available to all in admissions, program availability and discipline; and that the rules explicitly address these issues.
- The Use of External Evaluators – The Board considers a robust external



evaluation system to be essential for independent private schools which draw down public funds. The Board requests that independent schools be evaluated periodically using a NEASC system.

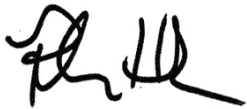
- Special Education – Approved independent schools shall provide special education services reasonably equivalent to those that would normally be provided in a traditional public school. The board realizes that certain schools may specialize in providing services for certain handicapping conditions, and that circumstances will vary.

As the designated leaders of the CIS, I am asking you to please take these guidelines to your members for discussion and comment. When you have comment from your members and it is ready to share, I would like to sit down with you to discuss the comments and hear your input on the proposed revisions to the rules.

I would very much like your input before we put together a draft set of revisions to bring to the State Board of Education.

I would like to schedule the meeting now, so we have it on the calendar, but realize we need to push it out far enough for you to have time to gather robust input from your CIS members. Based on the State Board's announced timeline, I suggest we try to schedule for sometime in mid to late April 2016. Please contact my assistant, Maureen Gaidys at 802-479-1060 or via email at [Maureen.Gaidys@vermont.gov](mailto:Maureen.Gaidys@vermont.gov) with suggested dates/times that may work.

Best,



Rebecca Holcombe  
Secretary of Education

cc: Kevin Ellis, Partner, Ellis Millis  
Mill Moore, Executive Director, VISA  
Laura Pelosi, MMR, LLC



**Preliminary input from superintendents and special education directors in response to SBE proposed changes to Rules Series 2200**

It is critical for independent schools to maintain a rigorous curriculum for students who attend their school. The curriculum should align with the public school curriculum. It is also essential for students to return with a solid transition plan in place and human resource support from the independent school. We appreciate the focus on behavior intervention from independent therapeutic day treatment facilities, but want to ensure students maintain and grow academically as well as socially and emotionally.

7/21/2016 11:39 AM View respondent's answers

Independent Schools receiving public funds should serve all students and be responsible for meeting all student needs. Independent Schools should be required to adhere to the open meeting law provision and public records request statute if they receive public funding.

7/20/2016 12:37 PM View respondent's answers

It can be very contentious when a parent wants an independent school and the sending school has to state that the independent school cannot meet the child's needs. Often the independent school calls us to talk about the child and somehow we become the giver of the news, so it appears we don't feel he can go there when actually the independent school does not want him. Independent schools do not tend to accommodate well or provide supports for students in special ed and if they do take the student and the student struggles, we get called again. Truly, many special education students with disabilities more severe than needing accommodations do not have the same span of choice as students without disabilities.

7/19/2016 3:22 PM View respondent's answers

The level of certification of the teachers needs to match that of public education.

7/18/2016 2:23 PM View respondent's answers

Tech schools are unreasonably restrictive due to funding constraints. We are not able to place students with disability due to pre-entry requirements.

7/18/2016 1:36 PM View respondent's answers

Approval of residential schools in Vermont in order to reduce the number of students placed into out of state residential facilities or whose needs are left unmet because of inadequate level of programming.

7/18/2016 12:52 PM View respondent's answers

Independent schools fill a need. That said, high cost independent schools that serve special populations consume large resources that might otherwise be used to build capacity in the public schools so that fewer students are removed from their local communities.

7/18/2016 12:11 PM View respondent's answers

no

7/18/2016 12:04 PM View respondent's answers

Yes, ensure independent schools have to follow all the rules, regulations, requirements of public schools.

TAB "D"



7/18/2016 11:41 AM View respondent's answers

Most of our secondary students attend Burr and Burton Academy and we have a good relationship with them regarding accepting all students. However, we have four other independent schools in our area and access isn't guaranteed. I struggle with the use of public funds being directed to schools who won't and/or can't accept all students.

7/18/2016 11:33 AM View respondent's answers

Control the cost of tuition. Especially costs associated to special education. The New School's tuition is over \$100,000 per child. They may service the most intensive needs students but at a very high price. Choices of programs for high intensive needs students is limited however, what controls are in place for assuring the tuition is reasonable. Now that special education costs and services are under the SU, the district that has tuition (school choice) for their students pays the SU and the school the student attends via excess cost billing. If the students would attend the middle/high school in their supervisory union the special education costs would not be extra, they are built in to the the SU assessment the district is paying but students are not receiving.

7/18/2016 11:22 AM View respondent's answers

I would suggest that in the spirit of Act 46, independent schools be accountable for educational quality, fiscal effectiveness, high quality staffing, and sustainability.

7/14/2016 10:29 PM View respondent's answers

Independent schools charge significant amounts for special education and 504 services. They are not reasonable. Independent schools need to follow the same process of accounting for special education services and costs for students as do the public schools. In one case, an independent school charges us more than \$9000 plus tuition for a student to attend the learning lab one period a day. In another case, an independent school down the road from us charged us excess costs, the school day is modified, they do not assess student progress, and do not track student data. Independent schools need to play by the same rules as public schools and account for expenditures the same way as public schools. I had one special educator from a private school tell me that they charge more for special education students because they only get the average tuition rate - not their costs. Thank you for asking.

7/14/2016 3:15 PM View respondent's answers

Announced tuition is often distorted. For example, an independent school might announce tuition at \$15,000. What they don't declare for all to know is that students in special education are charged additional moneys, or that the local district will still pay/employ the para-educator that works at the independent school, or that the independent school does zero case management, leaving that to the local district. Independent schools sound like a great deal because they do not disclose their true cost per pupil.

7/12/2016 1:16 PM View respondent's answers

I am confused about why our independent schools in Vermont are not subject to the federal rules of Charter Schools. It seems to me that there is a linkage between our private schools that function as public schools (based on the amount of public tuition they accept) and this set of rules. The provision of

"0" BAT

special education services in independent schools in this state deserves a careful look by the AOE. I would suggest a work group to find a way to ensure that all schools accepting public tuition dollars and serving a general population be required to admit in a blind fashion - similar to tech centers. We continue to need special education specific schools for students who cannot have their LRE needs met in a general education setting.

7/12/2016 1:11 PM View respondent's answers

I have a lot to say. This survey is a great start but does not capture the essence of the strengths and challenges that exist when students are tuitioned out of district. By and large, most of the public schools outside of our SU work hard to meet the needs of our students and charge us reasonable rates for special education services. They do not charge us for 504 services. We partner well and LEAs work through student specific issues. We have 5 independent schools within our SU boundaries, some approved to provide special education services, and others are not. I have worked extensively this year regarding service delivery and costs with the four schools to which the majority of our students attend. This has been a difficult, often frustrating process that has not been completely resolved. I have A LOT to say about specifics related to this, but would rather engage in a conversation than try to capture it here. Part of the confusion comes back to the Agency of Education related to Independent School requirements and Special Education Excess Costs versus Special Education tuition. There is not consistency in the information being communicated and so independent schools feel like they can charge "tuition" for special education services, rather than paying for the excess costs connected to the costs for the special education services. The unreasonable charges for 504 services, that are equivalent to the charges for special education services is another significant issue that we are working hard to address...

7/11/2016 5:22 PM View respondent's answers

There is, I believe, a civil rights problem in my district because students with disabilities are not able to attend the same private schools that non-disabled students can in the choice grades in three of my towns. In addition, there is a huge equity problem because students from low SES families simply do not have the same opportunities to attend private schools or even out of the district public schools that other, wealthier families do. Keep in mind that there is substantial overlap between these two groups. Many students on IEP's are also from low SES households. Ironically, while our middle school has been under school improvement for many years because of low test scores, historically, the most talented students have been skimmed off because of the towns' choice arrangements so almost all of the special ed kids and low SES students from the choice towns end up at our middle school. I believe that some of the "elite" private schools that some of the wealthier families send their kids to under school choice do not accept all students that apply. I believe that the State Board should only allow public money to be used at independent schools that offer the full array of special ed students and that admit any child who applies under public school choice. There remains the problem that many low SES families do not have the means or the inclination to have their children attend these private schools. So long as Vermont continues to embrace choice, it is hard to see how

this part problem is going to be solved.

7/11/2016 10:32 AM [View respondent's answers](#)

I recommend that the AOE somehow distinguish between independent schools that have a quasi-public character (e.g. Thetford Academy) and those schools that are more purely independent and private. I suggest that the criteria for the distinction rest in operations like admissions, special education, and even lunch programs as well as their current or projected contract status with local districts.

7/7/2016 1:33 PM [View respondent's answers](#)

I am concerned that there are some programs within Vermont that schools are using for students eligible for special education. These programs are not approved or recognized by the Vermont Agency of Education, yet schools are being reimbursed for the tuition. One program in particular had questionable costs on the invoice submitted to my district (the student moved in from another district). This program was charging over \$100,000.00 for the student yet didn't have any type of curriculum or specialized instruction. It appeared to be "babysitting". I challenged this program on some of the charges on the invoice. We were also calling an IEP meeting to discuss change of placement. At this point, the parent moved to another district. I will not send any students to this program. They are charging astronomical fees, yet are not recognized or approved. I know other special education directors in my region had similar concerns. I would strongly recommend that the AOE not reimburse districts for programs that are not recognized or approved. Our students deserve high quality programs that meet strict guidelines for becoming approved independent schools.

7/7/2016 12:36 PM [View respondent's answers](#)

Requirements put into place such that independent schools rates are itemized and consistent. Billing for the services in some schools seems to vary and school districts are paying different negotiated rates. Should there be a state-wide contract between the state and the independent schools rather than every school contracting separately with these schools?

7/7/2016 9:59 AM [View respondent's answers](#)

1. Districts/SUs need to be able to evaluate the effectiveness of independent school programs; we invest loads of money (in our District well over 5 million) into independent schools but have no way to provide input on what these schools do for students (special education is a major example).
2. I find the fact that there are independent school lobbyists problematic; they put the needs of independent schools first, not the needs of students. I don't know how that can be controlled/curbed.
3. Independent schools in our area accept all students (almost all), but they don't have to keep them, and can put them out for infractions that would not be considered reasons that public schools could exclude students.
4. In our District, drop out rates are not accurate because independent schools can say they are sending students elsewhere, but no one tracks what happens to kids. That may be something that we should be doing in District, but we may not be able to do it without some kind of data support.
5. There need to be clear guidelines on what responsibilities Districts/SUs have for high school students in cases where students are tuitioned into independent schools -- beyond the special education guidelines.

7/6/2016 8:21 PM View respondent's answers

It is important that when students attend private schools that case management responsibilities are clearly outlined. It is more beneficial to have on-campus staff completing necessary paperwork for special education than the LEA who is removed from the day to day interactions. The LEA needs to be present. A documented process for how LEA responsibilities will be completed and a common agreement across the state for services rendered when students are tuitioned or placed.

7/6/2016 4:48 PM View respondent's answers

A provision, readily accessible, to track public school students success at the high school. Specifically, disaggregated by sending town (and their previous middle school) how students do in high school. For example, all the children who attend Burke K-8 or Lyndon Town School K-8 -- how do they perform on their SATs, NECAPs, ACTs, graduation rates, ASVAB etc.

7/6/2016 1:29 PM View respondent's answers

I think that the SBE considerations are the right one. It appears that there's a focus on equity and accountability to the system and to the students.

7/6/2016 1:20 PM View respondent's answers

I would like the State Board of Education to consider the same requirements for teacher licensure in Independent Schools as they do in public schools, to look at data regarding academics and behavior as they do public schools, and to ensure students in Independent Schools are getting a quality education that leads to success in adulthood.

7/6/2016 1:12 PM View respondent's answers

Consider another model of evaluation besides NEASC.....what about Global Best Practices?

7/6/2016 10:54 AM View respondent's answers

Equitable access for students with all disabilities to all independent schools receiving public funds is essential as is the requirement for all state/federally required testing and public sharing of all student data. As we move to Proficiency Based Graduation Requirements, consideration should be given to comparability with independent schools planning to continue to use Carnegie units. Financial stability and competent administrative management is a crucial consideration for small schools specializing in serving students with disabilities. At one point 3 years ago a school serving 2 of our students was unable to reimburse an overpayment (due to their overcharging the district) in the year of service. The money due back to the district was eventually netted out the following year from tuition due for another student. The tradition of operating on a "shoe string" also creates challenges for the quality of the programming as well as the long term or even short term stability of the independent school. Deeper financial and program monitoring by the AOE is needed.

7/6/2016 10:48 AM View respondent's answers

Independents should have to play by all of the same rules as public schools: licensure, accepting and keeping all students regardless of ability or disability, not dismissing "problem" students.

7/6/2016 10:39 AM View respondent's answers

no



7/6/2016 10:06 AM View respondent's answers

If the state's independent schools are going to continue to receive public funds then they must abide by the Education Quality Standards, accept all students and provide a robust education for every student who receives public funding.

7/6/2016 9:35 AM View respondent's answers

All schools, receiving State education funds, independent or otherwise, need to follow the same rules and regulations.

7/6/2016 8:53 AM View respondent's answers

Independent schools should have guidelines/rules outlining specific triggers for Special Education evaluation. We have seen children who are not performing in independent schools who should have been evaluated and placed on an IEP to receive services. We have seen children who did not receive any type of intervention or remedial services who cannot read, and make great strides after working with our reading specialist. Independent schools who receive funds should have to report on student progress to the state as public schools are required to do.

7/6/2016 8:50 AM View respondent's answers

To continue to monitor their ability their ability to service special education students

7/5/2016 2:46 PM View respondent's answers

I would ask that they are capable of meeting the needs of students with disabilities and that they have strong general education as well as special education offerings. Often students who are sent to independent schools have less access to grade level content.

7/5/2016 1:41 PM View respondent's answers

Discipline policies/procedures for publicly funded students in independent schools should be the same as in public schools--- due process, limits on numbers of days of suspension, and so forth. Review the notion of an "independent center for technology education"-- esp for students generally enrolled in St Johnsbury. All students are not receiving a technical education or experience generally, however tuition is paid as if all students are. There is no system or process for accountability for academic outcomes for publicly funded students in independent schools. In addition to requiring independent schools to have a system for that, can there also be requirements that information regarding systemic and individual student outcomes be sent to the fiscally responsible district? In tuition paying districts, there is no reasonable way to measure or report on the efficacy of choice placements or fulfil a district's obligation to ensure the educational well-being of resident students. The system should probably align with VT's chosen accountability system (SBAC) if it is to be meaningful.

7/5/2016 11:55 AM View respondent's answers

Independent schools that receive tuition from public entities should be held to the same standards as the public schools, including but not limited to assessment systems and special education.

7/5/2016 10:36 AM View respondent's answers

No

7/5/2016 10:13 AM View respondent's answers

I would really like to see some kind of rules/recommendations for how SUs can

work more closely with independent schools when it comes to the delivery of services for special education students. I am responsible for the delivery of services at a local independent school in which a non-operating district has determined to be its home school. As the LEA, I make decisions on the delivery of services, but I have no real "input" into how those services are delivered. I know I can't choose who delivers the service in that the independent school hires the staff, but I have some real concerns about the ability of the personnel to carry out what services need to be delivered, yet I have no say in this. I think it compromises the service delivery to students to whom I am responsible.

7/5/2016 9:07 AM View respondent's answers

The majority of our students attend independent secondary schools, including students receiving special education. Independent schools accept most of our students with special needs, however, establishing a system of accountability for services IEPs are challenging. Our SU is responsible and held accountable for all students receiving FAPE according to special education law, however, independent schools enjoy a large degree of latitude for providing that FAPE. The AOE counsels us that we should work those issues out in the individual excess cost contracts with schools, however, that is unrealistic. Public schools are held to a higher standard for special ed compliance.

7/5/2016 9:06 AM View respondent's answers

Equity. The independent schools that I am familiar with (St J Academy, Lyndon Institute) retain the option to refuse admission to special education students, and they also maintain their right to dismiss (expel) ANY student at any time for any reason. This gives them the ability to "cherry pick" students and leave the responsibility for educating the most difficult students to another independent school that is willing to take them. The problem with this, in my opinion, is that the quality of the programs at the "lesser" independent schools is substandard in comparison to the programs at these two Institutes. St J Academy refuses any responsibility for assessment and case management of special education students who are placed there from one of the sending school choice towns. They do not allow any of their teachers or staff to sign or acknowledge any special education paperwork. In essence, their model of special education support is to provide "special classes" and often students are not being educated in mainstream classes. Teachers are not required to be licensed at independent schools. I can't be assured that my special education students are being taught by teachers who have an understanding of how to teach special needs students.

7/5/2016 8:16 AM View respondent's answers

My concern with independent schools is their ability to get AOE approved tuition rates that are excessive. These rates include far more costs (whole school) than what SUs determine excess cost when servicing sped students from other SUs.

7/5/2016 8:14 AM View respondent's answers

All schools are expected to have a continuum of services and a multi-tiered system of support for all students. There should also be a process that starts with the educational support team and moves through to a potential special education evaluation. This seems to be missing in some independent schools. They only are aware of part of the regulations. The level and quality of support and remediation for 504 and IEP students is severely lacking in some schools. Some

schools believe all of the expense of providing support for students is the responsibility of the home district. All schools need to understand the regulations and implement them uniformly. Cost needs to be clarified. Independent schools charge and "administrative fee" where public schools cannot include administration in their cost. There is definitely a double standard and a variety of contracts with independent schools. It is also very difficult to monitor progress and quality in special education services at independent schools. They are not required to do special education paperwork so the LEA does it and it can be very difficult to assess progress and monitor it. Independent schools need to be required to do the special education paperwork since that is a big part of the accountability in serving special education students.

7/5/2016 8:06 AM View respondent's answers

1. Review of staff licensing if needed and specific to special education. 2. Role of the independent school in working with the public schools on student assessment of state tests.

7/5/2016 7:58 AM View respondent's answers

Nothing new . . . only that independent schools should play by the same rules that the rest of us play under . . . or they should not receive state and federal funding.

7/4/2016 9:42 AM View respondent's answers

It is simply not a level playing field and it should be.

7/4/2016 9:31 AM View respondent's answers

Often the educational and behavior intervention used at private schools are not best practice. The independent schools are not held accountable to provide current best practice and often provide sub standard curriculum. It is a tough decision to send a child to an independent school as a result, yet some students need a different learning environment. Rules that require best practice for behavior, at minimum, PBiS practices, best practices are Applies Behavior Analysis (ABA) standards. As for curriculum, requiring a licensed teachers with the ability to teach specialized instruction with current research based curriculum. The long term outcome for students we send to independent schools is drop out and/or minimal skills for a successful adult life.

7/3/2016 9:39 AM View respondent's answers

There is a need for increased placement availability with a wider range of academic and therapeutic options in Franklin County. This may mean a flexibility with some of the rules. There is a need for increased options at tech centers for students who need "hand's on learning and apprenticeship programs that will also provide adapted academic content. Tech Centers are often very choosy about academic levels in accepting students. We have had several parents ( who are successful electricians) tell us they would never have been accepted into tech centers today. This decreases options for kids who have different learning styles. This may mean increased flexibility with the rules. Residency is becoming very difficult to determine; there are many factors for this. For example, Increasing homelessness; kids moving in and out of custody; school districts creating MOU's with the school of origin and not including the school where the student is now attending; and state placed notifications can be very slow in getting to us. Students may be staying with family members, parents may divorce, keep a PO Box and both live in separate towns. It is unlikely having

districts hire " a residency officer" will be well received. It is likely to be thought of as one more mandate that will increase costs.

7/2/2016 3:40 PM View respondent's answers

If independent schools are receiving public dollars, then they need to be held accountable in all areas that are required of public schools. The SBE's requests are very appropriate in addressing the requirements that independent schools should follow.

7/2/2016 10:08 AM View respondent's answers

If independent schools are taking public money they should be made to have to conform to all rules and regulations that public school must conform to. They are currently only taking the kids that they want to take. This is not fair to the public because it is a misuse of public money for "all kids."

7/2/2016 5:26 AM View respondent's answers

I do not think we should allow public school dollars to go to any independent school that doesn't accept all students. I also don't think we should be sending tuition dollars outside of the country.

7/1/2016 6:53 PM View respondent's answers

Equal access Financial Accountability Quality standards review Educational accountability- same assessments and reporting as required of public schools Some private schools which special on providing services for special education students have questionable quality, limited oversight and insufficient outcomes, again more should be required by state authorities. Concerning moving a privately funded school to independent status, this should not be permitted due to the fact that these schools were built and supported by taxpayers and the resulting independent schools are discriminatory in their practices I.e. North Bennington.

7/1/2016 4:42 PM View respondent's answers

I'm not supportive of lessening the restrictions on the establishment of independent schools.

7/1/2016 3:55 PM View respondent's answers





State of Vermont  
Agency of Administration  
109 State Street  
Montpelier, VT 05609-0201  
[www.aoa.vermont.gov](http://www.aoa.vermont.gov)

[phone] 802-828-3322  
[fax] 802-828-3320

Office of the Secretary

## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES

**To:** Louise Corliss, SOS  
Chris Winters, SOS  
Charlene Dindo, LCAR  
ICAR Members

**Date:** November 15, 2016

**Proposed Rule:** State Board of Education (SBE) Rule 2200 Evaluation of Private Education Programs (Independent School Program Approval), Rule 2200 et seq. through SBE Rule 2230.4  
(State Board of Education)

The following official action was taken at the November 14, 2016 meeting of ICAR.

**Present:** Chair Michael Clasen, John Kessler, Steve Knudson, Clare O'Shaughnessy, Dirk Anderson, and Scott Bascom  
**Absent:** Jenn Duggan  
Diane Bothfeld  
Allan Sullivan – voted electronically  
**Abstain:** Clare O'Shaughnessy and Allan Sullivan

- The Committee has no objection to the proposed rule being filed with the Secretary of State.
- The Committee approves the rule with the following recommendations.
- The Committee opposes filing of the proposed rule.

Motion to return the rule to the State Board of Education for further work on the Economic Impact Statement, specifically the impact on small businesses and local school districts, and special education services as well as maximizing public and stakeholder input.

1. Request an opinion from the Attorney General's Office regarding the State Board of Education's statutory authority to issue this rule.
2. Coversheet #7: Expand on the concise summary in a bulleted list format.
3. Adopting Page #5: Add titles of rules.
4. Economic Impact Statement #3: Provide cost of proposed rule compared to current rule.
5. Economic Impact Statement #4: Provide additional information. What are the benefits of the rule? What are the costs for independent schools, for the workforce and for the parents?
6. Public Input Statement #4: It was suggested to get the names of the people attending the ICAR meeting and allow them to comment on the rule.

cc: Stephan Morse



ACT 166 Timeline

DATE	ACTION
May 28, 2014	Act 166 signed into law; 16 VSA §829
July 2014	Interagency Working Group begins weekly meetings to draft rules (AHS and AOE); Head Start
September 10, 2014	Stakeholder Meeting in Montpelier Pavilion Auditorium
September 16, 2014	Board voted and approved draft PreK rules
October 27, 2014	Transitional Guidance Issued to Field on Act 166
November 2014	AHS Legal review and approval
December 2, 2014	PreK rules prefiled at ICAR
April 3, 2015	Proposed Rules filed with Secretary of State
May 20, 2015	Public Comment Hearing held in with VIT sites at nine (9) locations across the state
June 20, 2015	Public Comment Period ENDS
August 18, 2015	SBE voted and approved FINAL PreK rules

DATE	ACTION
September 14, 2015	FINAL proposed rule filed with Secretary of State
September 15, 2015	FINAL proposed rule filed with LCAR
October 8, 2015	LCAR review
October 22, 2015	Adopted Rule filed with Secretary of State and LCAR
July 1, 2016	Effective Date of the PreK rules

**Outcomes from the Rule 2200 Series Subcommittee Meeting dated April 11, 2017**

**Guiding Principles**

“The right to public education is integral to Vermont's constitutional form of government and its guarantees of political and civil rights. Further, the right to education is fundamental for the success of Vermont's children in a rapidly-changing society and global marketplace as well as for the State's own economic and social prosperity. To keep Vermont's democracy competitive and thriving, Vermont students must be afforded substantially equal access to a quality basic education. However, one of the strengths of Vermont's education system lies in its rich diversity and the ability for each local school district to adapt its educational program to local needs and desires. Therefore, it is the policy of the State that all Vermont children will be afforded educational opportunities that are substantially equal although educational programs may vary from district to district”. 16 V.S.A. §1.

“The Vermont Legislature and the Vermont State Board of Education have consistently encouraged the development of strong independent schools....At present there are a number of independent schools that reflect the variety of needs and educational philosophies that exist in the state. It is through this unique network that special needs and educational alternatives are able to flourish. The Vermont State Board of Education views these schools as an important element of our educational system offering learning opportunities to students in Vermont.” The above is an excerpt from the Agency of Education’s publication, “Independent School Guide”.

“[I]n Vermont the right to education is so integral to our constitutional form of government, and its guarantees of political and civil rights, that any statutory framework that infringes upon the equal enjoyment of that right bears a commensurate heavy burden of justification.” Brigham v. State, 166 Vt. 246, 256, 692 A.2d 384 (1997).

**Re-Affirmation of Principles**

The principles driving the proposed changes are proper accountability of the state’s funds, equality of opportunity, non-discrimination, and updating of language (State Board of Education meeting, November 17, 2015)." Nov 29, 2016

1. Accountability of state's funds

- "The law requires the state board to assure that each school has adequate resources. The board considers the current rules insufficient to meet this statutory requirement. The board requests that independent school financial data and budgets be submitted annually in a common statewide electronic format, that GAAP procedures be employed, and that independent auditors be periodically employed." Nov 2015
- "A financial collapse will place the school in the state's hands, at potentially significant costs, as well as possibly leave students stranded." Nov 29, 2016

## 2. Equality of Opportunity

- "Currently, the provisions for assuring equal access and admission to private schools are not sufficient. It is the view of the state board that equal opportunities must be available to all in admissions, program availability and discipline; and that the rules explicitly address these issues," Nov 2015
- "The State Board seeks to ensure that all children have access to the same school options as their peers." Nov 29, 2016
- "The State Board, as a state entity, is charged with ensuring that state resources are used for the common benefit. Open enrollment policies ensure that state resources are used to create institutions that are equally accessible to all of the public." Nov 29, 2016
- "The provision of a subsidy which can be realized by some families but not others does not provide equality of opportunity"

## 3. Non-discrimination

- "Special Education – Approved independent schools shall provide special education services reasonably equivalent to those that would normally be provided in a traditional public school. The board realizes that certain schools may specialize in providing services for certain handicapping conditions, and that circumstances will vary." Nov 2015
- "The proposed rules would require publicly-supported schools to be willing to serve all areas of disability." Nov 29, 2016 letter
- "Some independent schools are almost entirely publicly funded but do not accept students with disabilities and seek to continue being selective in enrollment in apparent violation of 16 VSA 1." Annual Report to Governor and general assembly January 2017
- "In a state where some regions may soon have no public high schools due to closures, the State Board seeks to protect children by ensuring that students with disabilities have access to the same programs and options as their peers." Annual Report to Governor and general assembly January 2017

## Proposed steps forward for Rule 2200 Series

Affirmation of principles and make a plan: Entire board will review principles and proposed steps forward and adapt them.
The State Board asks input from AOE on the January 31, 2017 draft version of the rules and asks that they incorporate revisions into current draft (this can be done in the phases outlined below)
<b>Phase 1: All the rest</b>  The subcommittee will review the entire document, except those singled out in phase 2,3, and 4. They will revise these sections and then bring the edited document back to the entire board for feedback. The board will decide if it needs work or if it's time to move on to the next phase.
<b>Phase 2: Financial Capacity 2222.1</b>  The subcommittee will work on the sections on financial capacity. They will revise these sections and then bring back the edited document back to the entire board for feedback. The board will decide if it needs work or if it's time to move to the next phase.
<b>Phase 3: Non-discrimination 2222</b>  The subcommittee will work on the sections related to non-discrimination. They will revise these sections and then bring back the edited document back to the entire board for feedback. The board will decide if it needs work or if it's time to move to the next phase.
<b>Phase 4: Special Education 2223, 2224, 2228</b>  The subcommittee will work on the sections related to Special Education. They will revise these sections and then bring back the edited document back to the entire board for feedback. The board will decide if it needs work or if the working draft is now complete.
Final Product: Board Vote
Next Steps: Return to ICAR—restart rulemaking process

\*At the beginning of phase 2, 3, and 4 the subcommittee should review the policies of other New England states.

**\*\*If the legislature takes any action around Rule 2200 Series, the subcommittee will revisit the plan and bring it back to the board.**

2200 Committee Members:

Bill Mathias- chair of the subcommittee

Bonnie Johnson-Aten

Peter Peltz  
John Carroll

\*Krista Huling will attend and only vote when needed to break a tie.