

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)
Phase 1: All the rest 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.
Phase 2: Financial Capacity 2222.1 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.
Phase 3: Non-discrimination 2222 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.
Phase 4: Special Education 2223, 2224, 2228 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.