

Public Comment for Feb SBE

1	<u>Summary of Requested Rule Change</u>	<u>Proposed SBE Response</u>	<u>Resolved?</u>	<u>Reject or Accept Commenter Request</u>
4	The enrollment rule is ambiguous, of questionable legality and is wrong (Rule 2223.3 and 2229).	With regard to the language of 2223.3, the SBE is constrained by statute with regard to approval of independent schools that are not additionally approved to receive public tuition. The State Board will amend 2223.3 only to remove the phrase "choosing not to enroll students requiring special education" to change the tone to better reflect intent. Finally, with the input and support of members of the Census Based Funding Advisory Group (CBFAG) the SBE will amend Rule 2229.	D	Accept in part
8	The rules on providing special education "assurances" is too weak (2229).	The SBE agrees with the CBFAG that the proposed language for 2229 (Assurances) is appropriate and will not be amended. The SBE notes that the language as proposed is taken directly from Act 173.	Y	Reject
9	The rule on out of district placement seems redundant and may conflict with federal and state law.	The proposal does not contain a rule on out of district placements; this process is governed by IDEA and Rule 2360. Rule 2229, as amended, is consistent with federal and state law, and the SBE accepts the recommendation of the CBFAG that the language should not be amended further.	D	Accept in part
16	Generally pleased with the direction that the rule changes have taken. Primary concern is the vague references to LEA's determination that a placement is "appropriate" (Rule 2229.4(b)). Suggests re-wording to help with consistency and readability.	With the input and support of members of the Census Based Funding Advisory Group (CBFAG) the SBE will amend Rule 2229.	D	Accept
19	Section 2229.4 subsection (d) should use the word "conditioned" instead of the word "based."	With the input and support of members of the Census Based Funding Advisory Group (CBFAG) the SBE will amend Rule 2229.	D	Accept

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22	Refers to definition of "approved independent school" and questions whether this means that a student eligible for special education can attend any independent school in Vermont. Questions how a student can receive their special education services.	The process laid out in Rule 2229, as amended, provides that a student eligible for special education can attend any approved independent school in Vermont and receive IEP services.	Y	Reject
25	Refers to Section 2223, Procedure for approval, which requires a review team of two people. Submits that the team should include one person who has knowledge and expertise in special education if the school is applying to be approved for special education.	The rule as proposed allows AOE to carry out its duties using staff deemed appropriate by the Secretary. AOE was comfortable with the rule as written and SBE accepts its recommendation that no change is required.	Y	Reject
28	Refers to 2226.3 which requires a "statement of how it is designed to serve children with disabilities." Questions whether all independent schools will be required to be approved for all disabilities, or no disabilities? Suggests that it makes no sense for all independent special education schools to be approved for all disabilities. States the schools will not have the capacity or expertise to cover all the disability categories.	The process laid out in Rule 2229, as amended, provides that a student eligible for special education can attend any approved independent school in Vermont and receive IEP services. The SBE finds that rule 2226.3 can be clarified. First, the SBE will amend 2226.3 to require a school to submit information about the school's "enrollment process." The SBE will also amend the rule to strike the reference to "how it is designed to serve students with disabilities." Second, in 2226.4 the SBE will replace the reference to "student body" with the words "a description of the student body, including demographics" Act 173 eliminated the process of approving schools for certain categories of disability.	D	Accept

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30	<p>Refers to Section 2229.1 "Enrollment: Requirements for Independent Schools, Students and LEAs." Questions whether this means that each of the academies must enroll all students who apply there. Asks how school choice will work. Suggests modifying language to be more clear.</p>	<p>Act 173 requires that all approved independent schools intending to accept publicly funded tuition must enroll all students eligible for special education services who enroll, subject to a process between the LEA and independent school to ensure the student's IEP can be carried out at the school. Rule 2229, as amended, dictates this process.</p>	Y	Reject
31	<p>Refers to 2229.1 in the second sentence. Questions whether this means that independent schools that are approved for IEP/504 students are not eligible for public funding. Questions whether the schools will be all special education funded.</p>	<p>Act 173 requires that all approved independent schools intending to accept publicly funded tuition must enroll all students eligible for special education services who enroll, subject to a process between the LEA and independent school to ensure the student's IEP can be carried out at the school. Rule 2229, as amended, dictates this process.</p>	Y	Reject
32	<p>Refers to 2229.2 in the first sentence. Questions whether the school is required to demonstrate that it has the special education staff to cover the disabilities they will be approved for. Suggests that the school should have to demonstrate they have sufficient staff to cover the disabilities they are being approved for.</p>	<p>Act 173 specifically requires that an approved independent school does not have to demonstrate that it employs staff to deliver every category of special education. Rule 2229, as amended, provides a process to ensure students will receive IEP services.</p>	Y	Reject

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33	Refers to Section 2229.2 in the second sentence. States that the minimum standards of services should be an IEP Team decision. Submits that if a school cannot provide the services outlined in the IEP, then the school should not admit the student. The Secretary should not be establishing the standards of services. Recommends eliminating the language.	Services will continue to be determined through the IEP team process. Rule 2229, as amended, provides a process to ensure students will receive IEP services.	Y	Reject
34	Refers to 2229.4(d). Suggests eliminating the language. Submits that it goes against IDEA.	2229.4 has been amended to ensure that first, a student will be admitted to the approved independent school, and then the IEP team and approved independent school will work together ensure services are delivered.	Y	Reject
35	Refers to 2229.4(e). Suggests eliminating the language. Questions the 30 days to figure out a solution. Submits that the solution should be that the student cannot attend the school if the school cannot provide the student services.	Services will continue to be determined through the IEP team process. Rule 2229, as amended, provides a process to ensure students will receive IEP services.	Y	Reject
36	Refers to 2229.4(f). Questions why the hearing officer process should be included. Suggests eliminating the language.	The SBE is bound by the provisions of Act 173.	Y	Reject
37	Refers to 2229.4(i). Questions why a student should go to a school that can't meet their needs. Suggests eliminating the language.	Act 173 requires that all approved independent schools intending to accept publicly funded tuition must enroll all students eligible for special education services who enroll, subject to a process between the LEA and independent school to ensure the student's IEP can be carried out at the school. Rule 2229, as amended, dictates this process.	Y	Reject

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38	Refers to 2229.7. Suggests that this process needs a timeframe. Recommends notification within 5 business days.	The SBE will amend the rule to require notification within a "reasonable time."	D	Accept
75	The current rules undermine inclusive intent by preserving the requirement that any student with disabilities meet other enrollment criteria. Cites 2229 "student meets the other requirements of the school's enrollment policies." Recommends adopting equitable enrollment policies, and consult CA charter school requirements as a model. Gives examples of practices that prevent equitable enrollment: fees, steering, capping enrollment of students with disabilities, messaging, using test scores for enrollment, requesting discipline records, dismissal of students based on student behavior, dismissal of students based on parent behavior, religious requirements and statements of faith, exclusion of students eligible for 504 plans.	The SBE has amended Rule 2229 in response to the concerns of this comment, after extensive consultation with members of the Act 173 Advisory Group. The amended rule prohibits enrollment requirements that disadvantage students based on protected class status, disability and socioeconomic status but preserves autonomy of independent schools over their enrollment procedures.	D	Accept
82	For a particular approved independent school, the school and parish received approximately \$362,000 in COVID relief dollars, but the school says it does not have the resources to accommodate a child with a mental health disability in the midst of a pandemic.	The SBE has amended Rule 2229 in response to the concerns of this comment, after extensive consultation with members of the Act 173 Advisory Group. The amended rule prohibits enrollment requirements that disadvantage students based on protected class status, disability and socioeconomic status but preserves autonomy of independent schools over their enrollment procedures.	D	Accept

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<p>83</p> <p>Many comments included requests that the rule should require nondiscriminatory practices at approved independent schools that receive public funds.</p>	<p>SBE will amend Rule 2229 to include the following requirement: "An independent school receiving public funds, shall not have, adopt or retain a name, symbol, or image that depicts or refers to a racial or ethnic group, individual, custom, or tradition and that is used as a mascot, nickname, logo, letterhead, or team name of the school."</p>	<p>D</p>	<p>Accept</p>
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