



STATE BOARD OF EDUCATION

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Vermont State Board of Education Manual of Rules and Practices

Series 2200 – Independent School Program Approval

2200 Evaluation of Private Education Programs.

2210 (reserved).

2220 Approval of Independent Elementary and Secondary Schools Statement of Purpose.

The purpose of independent school approval rules is to assure acceptable educational opportunities for students enrolled in Vermont's independent schools.

2221 Statutory Authority. 16 V.S.A., § 166 and 16 V.S.A., § 2958(e).

2222 Procedure.

Every person or entity desiring to operate an approved independent elementary or secondary school shall apply in writing to the Commissioner of Education. Independent schools which are recognized as provided for in 16 V.S.A., § 165a rather than approved are not required to comply with the procedures set forth in this section. An application shall meet the requirements § 2225 below.

Upon receipt of an application for initial approval or renewal of approval the commissioner shall appoint a review committee of at least two persons.

The process below (2222.1 to 2222.7) shall be followed.

2222.1 Visit.

The review committee shall visit the school. To the extent possible, the visit shall be coordinated by the commissioner with other agencies of state government which inspect such facilities.

2222.2 Report.

The committee shall present a written recommendation regarding approval to the Commissioner. A copy of their recommendation shall be provided at the same time to the applicant. The applicant shall be given 30 days to respond before a recommendation regarding approval is made by the Commissioner to the state board. The report shall contain the findings of other agencies of state government which inspect such facilities.

2222.3 Review.

The Commissioner shall designate a date for action by the board. Officials of the school shall be notified of this date.

2222.4 Renewal.

Not less than six months prior to expiration of a Schools approval, the Commissioner shall send an application packet and a letter notifying the school when the site visit will occur and that the completed application must be received. from the school not later than 30 days prior to the scheduled site visit.

2222.5 Extension.

Approval of a school completing timely, application for further approval shall extend until the board acts on further approval.

2222.6 Termination.

Approval of an independent school which fails to complete timely application for further approval shall terminate on the date specified in the most recent approval action.

2222.7 Denial, Revocation or Suspension of Approval.

Prior to recommending denial, revocation or suspension of approval the Commissioner shall obtain the written recommendation of the Council of Independent Schools. If after receiving the council's recommendation the commissioner determines that denial, revocation or suspension of approval is warranted s/he shall notify the school of the reasons for the proposed action and shall afford the school an opportunity to be heard by the board. Approval of an independent school shall be revoked or suspended by the board based on a finding that the school no longer meets the criteria for approval listed in section 2226.

2222.8 Investigations.

Reports or complaints to the commissioner concerning matters related to the approval standards shall be investigated if it appears such action is warranted. The school shall receive notification of the complaint unless contraindicated by the particular facts. A review team of at least two persons shall be appointed by the Commissioner including a member of the Council of Independent Schools. The team will conduct the investigation after initial inquiries and will inform the school of the results. Reports of drug or alcohol use shall be referred to the state's attorney for the county in which the school is located. Reports of child abuse or neglect shall be reported to the department of Social and Rehabilitation Services. Reports concerning the safety of facilities, water supply, electricity, plumbing or waste disposal systems shall be referred to the department to the appropriate.

2222.9 Corrections Education Program.

To the extent applicable, the commissioner shall conduct his or her review of the Corrections Education Program in accordance with the procedures and standards contained within Rules 2220 through 2228.8 as if it were an independent school.

2223 Reciprocity.

Approval may be granted without committee evaluation and the approval process in the case of any school accredited by a state or regional agency recognized by the State Board for accrediting purposes. Such accrediting agencies are listed in Rule 7320 of the Board Manual of Rules and Practices. Any accreditation from a recognized accrediting agency that is valid for more than five years must be supplemented with an interim report from the accrediting agency which should be submitted to the Department of Education by the accrediting agency or the school during the last year of its five-year approval. This interim report must provide such information as is necessary to assure the State Board that the school is meeting the approval standards. If such proof of compliance with approval standards cannot be shown the school must undergo the approval process.

2224 Tuition from Public Funds.

2224.1 Tuition may not be paid from public funds to any elementary or secondary school not approved by the board.

2224.2 Tuition for Independent Schools

Tuition shall not be paid from public funds to any independent elementary or secondary school in Vermont for any Vermont child who has been determined eligible for special education unless:

- (a) The school is approved for special education purposes pursuant to Rule 2228 et seq.;
- (b) There is an order from a court or from a due process hearing pursuant to Rule 2365.1.6 requiring such payment ,or
- (c) The Commissioner has approved an exception for a placement in an independent school pursuant to Rule 2228.2(2).

2224.3 In order for tuition to be paid to an independent school in another state, the school must be accredited or approved by the host state or by an accrediting agency recognized by the State Board reserves the right to refuse payment of tuition, if after review it determines any such school does not provide the minimum course of study, is unsafe, or does not have faculty qualified by training and experience in the instructional area in which they are assigned.

2225 Application.

An application for initial approval or renewal of approval shall contain the following:

2225.1 The name and address of the school.

2225.2 A statement of the school's philosophy and purpose.

2225.3 A description of the school enrollment including a statement of whether it is designed to serve children with a particular disability or with disabilities generally.

2225.4 A description of the plan of organization for the school including its governance, faculty, and student body, and the names and addresses of the governing board.

2225.5 A description of the curriculum, methods of instruction, evaluation procedures and special services which the school has designed to achieve its educational objectives and to provide a minimum course of study as defined in 16 V.S.A., Section 906.

2225.6 A description of physical facilities including plant, materials and equipment and assurances that the facilities meet all applicable state and federal requirements.

2225.7 Evidence of compliance with local, state and federal requirements pertaining to the health and safety of pupils.

2225.8 Statements regarding professional staff including:

2225.8.1 Professional Staff qualifications.

(1) A job description for each Position or a statement describing training, experience and degree(s) required for each position:

(2) A resume, vita or description of appropriate qualifications for each current staff member.

(3) Current assignment of each professional staff member.

2225.8.2 Professional Staff Development.

(1) A general statement of the institution's expectations for professional growth of staff.

(2) A statement describing the school's inservice training and financial and other support given to staff for professional development; and (3) A description of professional development in the prior two years.

2225-8.3 Professional Environment.

- (1) A list of staff and length of service.
- (2) A description of staff meetings.
- (3) A description of other staff duties that are not related to teaching or administration duties.

2225.9 Evidence of financial capacity may be shown by one of the following:

- (1) An audit letter by a certified accounting firm from the present or prior year describing financial capacity;
- (2) A notarized letter summarizing the financial status within the present or prior fiscal year signed by the board of directors or governing body;
- (3) An audit from the present or prior fiscal year performed by a certified accounting firm; or
- (4) A statement of financial capacity of a private, state, or regional agency recognized by the state board for accrediting purposes concerning the school's financial capacity.

2225.10 The school calendar.

2225.11 Copies of publications for distribution to applicants for admission including the statement required by 16 V.S.A., § 166(b)(3).

2226 Approval.

The board may approve an independent school if it finds that:

2226.1 The description of the school in the approval application is accurate.

2226.2 The course of study offered is adequate to meet the educational purposes of the school and to provide a minimum course of study that is age and ability appropriate.

2226.3 The school has available support services necessary to meet the requirements of a minimum course of study and its educational purposes, including but not limited to library services, administrative services, guidance and counseling services and a system of records by which pupil progress may be assessed.

2226.4 The school has classroom, laboratory, library and other facilities necessary to operate its program,

2226.5 The school employs professional staff who are qualified by training and experience in the areas in which they are assigned as measured by the following:

2226.5.1 For teachers, a minimum of a bachelor's degree in their field of instruction or substantially equivalent time in training and experience in their field of instruction.

2226.5.2 For all professional staff, relevant experience and/or training in other programs not related to teaching or administrative duties to which they are assigned.

2226.6 The school has an adequate program of continuing professional staff development as demonstrated in the application.

2226.7 The school employs a sufficient number of professional staff for the population served.

2226.8 The school satisfies lawful requirements relative to its facilities, fire drills, and the immunization of its pupils against disease.

2226.9 The school maintains a register of the daily attendance of each of its enrollment.

2226.10 The school maintains an operating schedule that includes a total number of instructional hours each year which is not less than that required of a public school serving the same grades.

2226.11 The school has the financial capacity to carry out its educational purposes for the period of approval.

2227 Length of Approval.

The board may grant initial approval for not more than two years, and renewal of approval for not more than five years.

2228 Special Education Approval of Independent Schools.

2228.1

(1) In order for an in-state independent school to receive approval for purposes of Rules 2224.2 and 2228.2 and 16 V.S.A. 2958(e), it shall obtain general independent school approval pursuant to Rule 2200, and also receive approval for special education purposes from the State Board of Education after a determination that its staff, programs and facilities meet state and federal special education standards.

(2) Limitation of Special Education Approval.

Each special education approval may be limited to one or more categories of disability, as defined in Rule 2362.1, according to the services the school provides.

(3) Out-of-State Programs.

Unless otherwise determined by the Vermont State Board of Education, in order for an out-of-state independent school to be approved for special education purposes by the Vermont State Board of Education, it shall be approved by the host state for the purpose of providing special education and related services to children with disabilities within that state. Any limitation by the host state on an independent school's special education approval, such as by category of disability served, or other comparable standard, shall also apply to the school's special education approval in Vermont.

2228.2 (1) Placement Prohibition.

No responsible agency, as defined by Rule 2360.3, shall make a special education placement in an independent school that has not been approved for special education purposes nor shall such a placement be made in an independent school that serves special education children who are in a category of disability different from that under which the child was determined to be eligible for special education unless the placement is pursuant to:

- (a) Subsection (2) of this rule,
- (b) A court order, or
- (c) A hearing officer order.

(2) Exceptional Circumstances - Approval Process

Upon application by a responsible LEA, the Commissioner may permit, in exceptional circumstances, a special education placement in an independent school that is approved pursuant to Rule 2200, but has not received approval for special education purposes pursuant to Rule 2228.1. Notwithstanding Rule 2366.2.2(7), in instances in which the Commissioner grants such approval, tuition and associated otherwise allowable costs shall be reimbursable under subchapter 2 of Chapter 101 of Title 16 of the Vermont Statutes Annotated. Any person aggrieved by the Commissioner's decision may file an appeal with the State Board of Education pursuant to 16 V.S.A. §828.

(a) Exceptional circumstances exist when:

- (i) After reasonable efforts, the LEA cannot locate an appropriate public or independent school approved for special education purposes pursuant to Rule 2228.1 to serve children with the category of disability under which the child was determined to be eligible for special education; and
- (ii) The proposed placement is deemed appropriate by the child's IEP team.

- (b) The Commissioner may specify conditions under which the placement is to be carried out.

2228.3 In order to obtain special education approval, an independent school shall meet standards that apply to state and local education agencies. This shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate, in at least the following areas:

- (1) Admissions;
- (2) Least restrictive environment;
- (3) Discipline;
- (4) Graduation;
- (5) Faculty qualifications; and
- (6) Faculty-child ratios, including ratios that meet the Vermont School Quality Standards for the direct provision of special education and related services or consultation regarding the provision of special education and related services to publicly-placed children on IEPs;

2228.3.1 In order to obtain special education approval, an independent school shall coordinate with sending responsible agencies, parents, public agencies, and other service providers serving a child by:

- (1) Maintaining educational records and disclosing them to the sending responsible agency and the child's parents;
- (2) Participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services;
- (3) Implementing IEPs; and
- (4) Providing prior notice to the sending LEA regarding the need for a change in a child's program or placement, including long-term suspension or expulsion.

These practices shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate.

2228.3.2 An independent school shall satisfy the state licensure requirements for personnel who are responsible for the provision or supervision of special education and related services.

2228.4 Written Agreements Required

2228.4.1 Agreement as to Costs

In order to obtain special education approval, an independent school shall assure the State Board of Education that prior to enrolling a publicly-placed child who is served pursuant to an IEP, it will enter into a written agreement with the sending responsible agency that outlines tuition, room, board and other costs associated with the child's attendance. For children on an IEP who are placed by a state agency or a designated community mental health agency, or any other agency defined by the Commissioner, in accordance with 16 V.S.A. §2948, the agreement shall be with the Commissioner of Education. In the instance of an emergency placement, such provisions may be agreed upon within thirty days of the child's enrollment.

2228.4.2 Agreement as to Non-Instructional Services

In order to obtain special education approval, an independent school shall assure the State Board of Education that within thirty days of enrolling a publicly-placed child who is served pursuant to an IEP, it will enter into written agreement with the sending responsible agency as to the division of responsibility for performance of non-instructional services, including compliance with special education procedural requirements. For children placed by a state agency or a designated community mental health agency, or another agency defined by the Commissioner, this agreement shall be with the local educational agency that has educational planning responsibility for the child.

2228.5 Special Education Approval Procedures

(1) Application for special education approval shall be made at the time of application under Rule 2200. An independent school that has already obtained independent school approval from the State Board of Education may at any time submit an application for special education approval to the Commissioner.

(2) Application for special education approval shall be submitted in writing to the Commissioner in accordance with the format prescribed by the Commissioner.

(3) The procedures for special education approval shall be the same as those for approval in accordance with Rules 2222.1 through 2222.7. To the extent possible, these procedures shall occur simultaneously.

2228.6 After receiving approval for special education purposes, an independent school shall notify the Commissioner of any significant changes to its special education program, professional staff, governance, financial capacity or facilities. The Commissioner may, upon such notification, gather additional information from the school, including by means of a site visit. As a result, the Commissioner may return to the State Board for a change in the school's approval for special education purposes. If the Commissioner petitions the State Board for a change to an independent school's approval for special education purposes, the Council of Independent Schools and the subject independent school shall be notified and have an opportunity to be heard by the State Board. If the school disagrees with the proposed change to its approval for special education purposes, the Board shall hear the matter in accordance with the requirements of Rule 1230, et seq.

2228.7 Independent schools that are approved for special education purposes shall be deemed to offer a minimum standard of service to a child, as required by 16 V.S.A. §2973, if those services are offered according to a written agreement with the sending responsible agency, as required by Rule 2228.4.

2228.8 Rate Approval for Independent Schools Approved for Special Education Purposes

(1) Each independent school approved for special education purposes by the State Board of Education shall annually report its rates for special education tuition, related services and room and board to the Commissioner on a form prescribed for that purpose.

(2) The rates that an independent facility approved for special education purposes charges for tuition, related services and room and board shall be no more than the costs that are reasonably related to the level of services provided to its publicly-placed special education children. Reasonable relationship shall be determined by utilizing generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(3) The Commissioner shall review each special education approved independent school's annual rate report. If the Commissioner concludes that a special education approved independent school's rates are not reasonably related to the level of services provided to publicly-placed special education children, the Commissioner shall make a determination as to the maximum rate that public schools and the State Department of Education would pay to the independent school for those services and offer the school an opportunity for explanation regarding why the maximum rate the Department would pay is not adequate. If the explanation is not satisfactory to the Commissioner, he or she shall notify the Council for Independent Schools and shall refer the matter to the State Board of Education.

(a) Upon such referral by the Commissioner, the Board shall conduct a formal proceeding in accordance with the requirements of Rule 1230, et seq.

(b) The State Board's determination shall be final.

(4) Time lines for rate approvals from the Department

(a) To have a new rate approved for the ensuing school year, an independent school shall submit a request for rate approval with supporting documentation to the Department prior to November 15. The Commissioner shall notify the independent school of the results of the review on or before January 15.

(b) If a request for a new rate approval is not submitted by November 15, the most recent approved rate will be in effect until the following November 15, when the next rate request is due.

2228.9 Standards and Regulations

The Vermont State Board of Education shall afford the opportunity for approved independent schools to participate in the development and revision of State standards that apply to independent schools.

2229 Corrections Education Program.

To the extent applicable, the Commissioner shall conduct his or her review of the Corrections Education Program in accordance with the procedures and standards contained within Rules 2220 through 2228.8, as if it were an independent school.

2230 Approval of Tutorial Programs

Statutory authority 16 V.S.A. 828

2230.1 "Tutorial program" means education provided to a pupil who is placed in a short-term program that is not administered by a LEA. The purpose of the program is to provide evaluation and/or treatment. This does not include home based tutorials, programs operated by a public school or collaborative, or a program of an independent school that has been approved under 16 V.S.A. §166. The average length of stay for children in a tutorial program shall be not more than six months. The Commissioner may waive the average length of stay time period for individual programs, based upon needs of the children served by the program

2230.2 Procedures for Approval

2230.2.1 Application shall include the following:

- (a) Name, address, telephone number of the tutorial program,
- (b) Name of the Chief Executive Officer or contact person,
- (c) A statement of the tutorial program's purpose and objectives,
- (d) A description of the tutorial program enrollment including a statement of who it is designed to serve,
- (e) A description of the plan of organization for the tutorial program and
- (f) A tutorial program calendar.

2230.2.2 Review

Upon receipt of an application for approval, the Commissioner shall appoint a committee of at least two persons to review the application and visit the tutorial program.

2230.2.3 Report to the Commissioner

The appointed committee shall present a written recommendation regarding possible approval to the Commissioner. A copy of the recommendation shall be sent to the tutorial program. The applicant shall be given at least 30 days to respond before a recommendation regarding approval or disapproval is made by the Commissioner to the State Board of Education.

2230.2.4 Board Action

The Commissioner shall recommend approval or disapproval for action by the State Board at their next meeting. Officials of the tutorial program shall be notified of this meeting date.

2230.2.5 Term of Approval

The State Board may grant approval for a term of not more than two years. The tutorial program shall be approved prior to receiving tuition payments from a public LEA.

2230.2.6 Renewal

Not less than three months prior to expiration of a tutorial program's approval, the Commissioner shall send an application packet and a letter notifying the program when the site visit will occur. The completed application shall be received from the tutorial program not later than 30 days prior to the scheduled site visit.

2230.2.7 Denial, Revocation or Suspension of Approval

Prior to recommending denial, revocation or suspension of approval to the State Board of Education, the Commissioner shall notify the tutorial program of the reasons for the proposed action and shall afford the tutorial program an opportunity to be heard by the Board. Approval of a tutorial program shall be revoked or suspended by the Board based on a finding that the tutorial program no longer meets the criteria for approval.

2230.2.8 Standards and Regulations

The Vermont State Board of Education shall afford the opportunity for approved tutorial programs to participate in the development and revision of State standards that apply to tutorial programs.

2230.3 Criteria for Approval

In order for a tutorial program to obtain approval from the State Board of Education, the program shall meet both the general and special education requirements in the following areas:

2230.3.1 The instruction and methods of instruction offered are age and ability appropriate for the child, and are coordinated with the child's responsible LEA as set forth in Rule 2230.3.10, below.

2230.3.2 The tutorial program has sufficient facilities and materials or access to other facilities and additional materials as necessary to provide an appropriate education.

2230.3.3 The tutorial program's facilities and operation comply with local, state and federal requirements pertaining to the health and safety of children.

2230.3.4 The tutorial program employs an adequate number of professional staff for the population served and these staff members are qualified by training and experience in the areas in which they are assigned.

2230.3.5 Teachers providing or supervising the provision of special education have licensure and endorsement as would be required for the equivalent work in a Vermont public school.

2230.3.6 All professional staff has relevant experience and/or training in the duties to which they are assigned.

2230.3.7 The tutorial program maintains a register of the daily attendance of each of its pupils and reports the attendance to the responsible LEA.

2230.3.8 The tutorial program maintains an operating schedule that includes instruction for no less than ten hours per week unless inconsistent with medical and/or educational recommendations. The operating schedule shall be sufficient to ensure that the instructional services address the individual needs of a child with disabilities and are consistent with the child's IEP.

2230.3.9 The tutorial program has the financial capacity to carry out its educational purposes for the period of approval.

2230.3.10 The tutorial program coordinates educational services with the responsible LEA, including credit for coursework for high school and coordinates with other responsible agencies such as Department of Children and Families, Community Mental Health Centers, and Family-Parent Child Centers by:

2230.3.10.1 Contacting the responsible LEA (s) (see 16 V.S.A. §1075) in order to access school records and determine the special education status of the child:

2230.3.10.2 Reviewing the IEP, the child's needs and its own ability to implement the IEP;

2230.3.10.3 Making a formal referral for a special education evaluation to the responsible LEA, if when receiving a child, he/she is suspected of having a disability;

2230.3.10.4 Maintaining educational records and disclosing them to the responsible LEA and the child's parents, unless restricted by statute, court order or other legally binding document specifically revoking those rights;

2230.3.10.5 Participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services;

2230.3.10.6 Implementing IEPs; and

2230.3.10.7 Providing prior notice to the responsible LEA regarding the need for a change in a child's program or placement, including long-term suspension or expulsion.

2230.3.11 In order to obtain approval, a tutorial program shall meet special education standards that apply to state and local education agencies. This shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate, in at least the following areas:

- (1) Admissions,
- (2) Discipline, and
- (3) Significant change in placement.

2230.4 Rate Approval for Tutorial Programs

2230.4.1 Each tutorial program shall annually report its rates for tuition, related services and room and board, if applicable, to the Commissioner on a form prescribed for that purpose.

2230.4.2 The rates that a tutorial program charges for tuition, related services and room and board shall be reasonably related to the actual costs of the services provided. Reasonable relationship shall be determined by utilizing generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

2230.4.3 The Commissioner shall review each tutorial program's annual rate report. If the Commissioner concludes that a tutorial program's rates are not reasonably related to the services provided, the Commissioner shall make a determination as to the maximum rate that public schools and the State Department of Education would pay to the tutorial program for those services and offer the tutorial program an opportunity for explanation regarding why the maximum rate the Department would pay is not adequate. If the explanation is not satisfactory, the Commissioner shall refer the matter to the State Board of Education.

2230.4.3.1 Upon such referral by the Commissioner, the State Board of Education shall conduct a formal proceeding in accordance with the requirements of Rule 1230, et seq.

2230.4.3.2 The State Board of Education's determination shall be final.

STATE BOARD OF EDUCATION RULES FOR DISTANCE LEARNING SCHOOLS

2231 Approval of Distance Learning School.

2232 Statutory Authority.16 V.S.A. Section 166 (b) (6).

2233 Definition.

A "Distance Learning School" means an independent school which offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication or other means and which, because of its structure, does not meet some or all the rules of the state board for approved independent schools.

2234 Procedures and Standards.

The distance learning school shall meet the procedures and standards set forth in rules 2220-2227, above, which because of its structure can be applied, and the following rules:

2234.1 The distance learning school's business and administrative offices are located in Vermont and are sufficient to meet the needs of the school.

2234.2 The distance learning school follows Vermont requirements for incorporation pursuant to Titles 11, 11A, and 11B of Vermont Statutes Annotated.

2234.3 The distance learning school offers an educational program which is developed and assessed by staff who are other than the parents of the students and who are either employed by the school or under contract with the school.

2234.4 The distance learning school has policies and procedures to:

- (1) Enroll students who reasonably can be expected to benefit from the instruction offered by the program, and,
- (2) Measure student progress to ensure that students continue to benefit from such instruction.

2234.5 The distance learning school has policies and procedures to answer student and parent inquiries about programs and services promptly and satisfactorily and to answer specific student academic inquiries in a timely and beneficial way.

2234.6 The distance learning school has policies and procedures for informing students and parents of academic progress on a regular basis.

2234.7 Tuition:

2234.7.1 Tuition policies, including tuition collection practices, are written, clear, and provided to parents in advance of enrollment.

2234.7.2 The distance learning school has clear written policies on refunds of tuition payments for circumstances in which students choose not to or are unable to complete the program of instruction.

2234.8 In the event that the school closes, the distance learning school has policies for:

- (1) Tuition adjustment or refund, and
- (2) Preservation and release of student records.

2240 Certification of Post-Secondary Schools.

2240.1 Definitions

2240.1.1 "Post-Secondary school" means any person who offers or operates a program of college or professional education for credit or degree. Significant changes to an existing post-secondary school such as changing from an associate to an undergraduate degree program, or an undergraduate to a graduate degree program, or adding a new graduate degree program shall be considered the operation of a post-secondary school for the purposes of registration and certification.

2240.1.2 "A post-secondary school whose primary operation is in, the state of Vermont" means a post-secondary school which offers the majority of its courses in an institution in Vermont or which maintains its principal administrative offices in Vermont and offers post-secondary courses in Vermont.

2240.1.3 "Confer a degree" and "degree-granting authority", for the purposes of these rules, mean the act of conferring and the authority to confer a degree to a student who has completed the requisite coursework and other requirements in a post-secondary school doing business in Vermont. An out-of-state post-secondary school which offers more than seventy-five percent of its credit hours toward a degree in its Vermont affiliate must obtain a certificate of degree-granting authority in Vermont before it may confer or offer to confer a degree.

2240.1.4 "Business organization", for the purposes of 16 V.S.A., § 176(d)(1), may include a corporation if the program of education is provided solely for the employees or invitees of the corporation.

2241 Certification of Vermont-Based Post-Secondary Schools.

2241.1 Statutory Authority 16 V.S.A., § 176

2241.2 Registration

Any person who desires to operate a post-secondary school in Vermont, which shall have its primary operation in Vermont, shall file with the commissioner prior to commencing operation a statement of intent to operate which shall include the following information:

- (a) Name, location and legal nature of the school including affiliations with other organizations, if any.
- (b) Name and title of the chief administrative official.
- (c) Operating calendar of the school.
- (d) A concise description of the program(s) to be offered.
- (e) A description of the proposed student body including a projection of the size and level of education at admission.
- (f) After July 1, 1991, assurance that each applicant for enrollment is notified, in writing, on an application, enrollment or registration form to be signed by the applicant, that credits earned at the school are transferable only at the discretion of the receiving school.
- (g) If the school is to offer credit or degree by correspondence, proof of a correspondence license.
- (h) A notice to applicants for enrollment that the school does not possess degree-granting authority.

2241.3 Application for Certification of Approval

A person desiring a certificate of approval from the State Board of Education shall file an application with the commissioner within eighteen months after admitting the first student. A person may file an application for a certification of degree granting authority at any time but may not operate beyond eighteen months after admitting the first student unless an application for a certificate of approval has been filed. The application shall indicate the certification sought and shall include a description of the school which contains the following:

- (a) The name, location and legal nature of the school including a copy of the articles of association or other documents descriptive of the legal nature of the school.
- (b) The credits or degree(s) which the school proposes to offer.
- (c) The time schedule by which the school intends to implement the program for which certification is sought.
- (d) The purpose and philosophy of education of the school.

- (e) The organization of the school including a description of its governance, administration and affiliation with other organizations for the provision of services or programs.
- (f) A description of the financial resources and policies of the school including its present and anticipated future assets, sources of funding and revenue, start-up costs for proposed programs and operating budget. Assets and income and expenditures for the school's prior fiscal year shall be presented in an audited financial statement prepared by a certified public accountant.
- (g) The school's policy regarding refund of tuition and fees collected in advance from students.
- (h) A description of the school's plant, library and equipment.
- (i) A description of academic programs including their level, site, and length. The application shall set forth, if any, the minimum credit requirements.
- (j) A statement regarding the school's professional staff including its policy regarding appointment, promotion, tenure, if applicable, dismissal, the qualifications of professional staff, teaching and student loads, and the numbers of full-time and part-time and adjunct staff and their non-teaching responsibilities.
- (k) A description of the student body including its size and level of education at admission, methods of recruitment, and available financial aid resources.
- (l) A copy of all catalogues or brochures publicly distributed by the school and a copy of advertisements sponsored by the school to recruit students or solicit funds.
- (m) If the school is to offer credit or degree(s) by correspondence, proof of a correspondence license.
- (n) After July 1, 1991, evidence that each applicant for enrollment is notified, in writing, on an application, enrollment or registration form to be signed by the applicant, that credits earned at the school are transferable only at the discretion of the receiving school.

2242 Certification of Post-Secondary Schools Doing Business in Vermont Whose Primary Operation Lies Outside of Vermont.

2242.1 Statutory Authority 16 V.S.A., § 176a

2242.2 Application for Certification of Approval

A person desiring a certificate of approval from the State Board shall file an application with the commissioner prior to admitting students. A person may file an application for a certification of degree granting authority at any time but may not admit students without having received a certification of approval and may not confer or offer to confer a degree without having received

a certificate of degree granting authority unless exempt under Rule 2240.1.3. The application shall indicate the certificate sought and shall include a description of the school which contains the following:

- (a) The name, location and legal nature of the school including a copy of articles of association or other documents descriptive of the legal nature of the school.
- (b) The credits or degree(s) which the school proposes to offer.
- (c) The time schedule by which the school intends to implement the program for which certification is sought.
- (d) The purpose and philosophy of education of the school.
- (e) The organization of the school including a description of its governance, administration and affiliation with other organizations for the provision of services or programs.
- (f) A description of the financial resources of the school including its present and anticipated future assets, sources of funding and revenue, start-up costs for proposed programs and operating budget. Assets and income and expenditures for the out-of-state school's prior fiscal year shall be presented in an audited, financial statement prepared by a certified public accountant.
- (g) The school's policy regarding refund of tuition and fees collected in advance from students.
- (h) A description of the school's plant, library and equipment.
- (i) A description of academic programs including their level, site and length. The application shall set forth, if any, the minimum credit requirements.
- (j) A statement regarding the school's professional staff including its policy regarding appointment, promotion, tenure, if applicable, dismissal, the qualifications of professional staff, teaching and student loads, and the numbers of full-time and part-time and adjunct staff and their non-teaching responsibilities.
- (k) A description of the student body including its size and level of education at admission, methods of recruitment and available financial aid resources.
- (l) A copy of all catalogues or brochures publicly distributed by the school and a copy of advertisements sponsored by the school to recruit students or solicit funds.
- (m) If the school is to offer credits or degree(s) by correspondence, proof of application for a correspondence license.

(n) After July 1, 1991, evidence that each applicant for enrollment is notified, in writing, on an application, enrollment or registration form to be signed by the applicant, that credits earned at the school are transferable only at the discretion of the receiving school.

(o) A statement of commitment to offer the full program for students to complete the program in a reasonable length of time.

(p) If the school is accredited, documentation of accreditation.

2243 Review Process-Schools Chartered in and Out of Vermont.

2243.1 Review of Application for Certificate of Approval

Upon receipt of an application for certificate of approval, the Commissioner shall appoint a review team of no fewer than two individuals. The Commissioner shall appoint persons to the review team who possess general knowledge of post-secondary school standards and, where applicable, persons with specialized knowledge in any particular programs offered by the school. At least one of the persons so appointed shall be from a Vermont post-secondary school or representative organization. The team shall review the application and shall verify its contents, if necessary, by visiting the school. The team shall present written recommendation regarding certification to the Commissioner within 90 days of the receipt of the completed application unless a longer period is required and explained in writing to the applicant. A copy of this recommendation shall be provided at the same time to the applicant. The applicant shall be given 30 days to respond, and, if requested, shall be afforded a hearing before the Commissioner or his or her designee before a recommendation regarding certification is made by the Commissioner to the State Board.

2243.2 Application for Certificate of Degree Granting Authority

Upon receipt of an application for degree granting authority, which shall contain all the information required by an application for certification of approval and information documenting that the requirements of Rule 2243.6.1 are met, the Commissioner shall contact the Vermont Higher Education Council which shall review the application and determine the accuracy of its contents, if necessary, by visiting the school. The Commissioner may also appoint independent reviewers to accompany representatives of the Higher Education Council reviewing the school. The Higher Education Council shall present written recommendations regarding certification to the Commissioner within 90 days of the receipt of the completed application unless a longer period is required and explained in writing to the applicant. The independent reviewers, if appointed by the Commissioner, may either join in the recommendations of the Higher Education Council or present independent recommendations. A copy of all recommendations shall be provided to the applicant at the same time they are provided to the Commissioner. The applicant shall be given 30 days to respond to the recommendations and, if requested, shall be afforded a hearing before the commissioner or his or her designee before a recommendation regarding certification is made by the Commissioner to the State Board. The State Board shall be provided with a copy of the recommendation of the

Higher Education Council and, if applicable, a copy of the recommendations of the independent reviewers.

2243.3 Renewal of Certification

A school seeking renewal of certification shall apply in writing to the Commissioner no later than six months prior to the end of any period of certification. Where appropriate, the school may incorporate by reference its prior application or any portion thereof. Certification of a school completing timely application shall extend until the State Board acts on further certification.

2243.4 Costs of Review

Post-secondary schools seeking a certificate of approval or renewal thereof shall be responsible for payment of up to \$ 1000.00 to the Vermont Department of Education to cover the actual costs of services related to the certification and, in addition, for payment of travel, food and lodging expenses associated with evaluation costs. Schools seeking a certificate of degree-granting authority shall be responsible for payment of \$ 1500.00 to the Department of Education for transfer to the Vermont Higher Education Council to cover the costs of certification and, in addition, for payment of travel, food and lodging expenses associated with evaluation costs. Payment of the costs of services related to the certification shall accompany the application and is non-refundable. An application shall not be deemed complete until the payment is made.

Transition provision. A post-secondary school which applied for a certificate of approval or degree-granting authority in Vermont after July 1, 1990 but before the effective date of these rules shall make payments as specified in the preceding paragraph except that such payments shall be made at any time prior to the determination by the State Board of Education on certification.

2243.5 Criteria for Issuance of a Certificate of Approval

To be issued a certificate of approval, an applicant shall demonstrate the following:

2243.5.1 Resources Required to Meet Stated Purposes

The school shall submit a clear and specific statement of purpose regarding the education which it intends to provide and shall demonstrate that it has the resources, including personnel, curriculum, finances, and facilities necessary to accomplish its stated purposes. All activities conducted by the school shall be consistent with its stated purpose.

2243.5.2 Stability

(a) Sources of Income. The school shall have a plan for financing each proposed degree eve or program. The plan shall specify the dollar amounts and proportions of income by source, including but not limited to:

(1) tuition and fees,

(2) other school generated funds,

(3) federal or state funds, and

(4) private funds.

(b) Financial Capability. The school shall demonstrate in its financial plan that it will have sufficient funds to maintain operation and shall clearly document its ability to fulfill contractual obligations to students.

(c) Management. The school shall operate under a governing structure which clearly delineates responsibility for all legal aspects of operations. The school shall demonstrate sound business and financial management by showing evidence of an internal organization for the administration of its financial resources and a school budget planning process. In addition, the school shall maintain adequate financial records audited annually by an independent certified public accountant.

2243.5.3 Disclosure

Information provided by the school to prospective students either directly or through advertisements shall not be false or misleading. The school shall be able to substantiate any claims regarding such matters as the likelihood of employment, graduate school admission or transfer of credit. The following information shall be disclosed in a general catalogue, bulletin or other public information document provided to prospective students prior to enrollment:

(a) Name and address of school.

(b) Date of publication of the document and the period of time to which it pertains.

(c) The school's calendar including beginning and ending dates of educational programs, holidays and other dates of importance.

(d) The purpose and philosophy of education of the school.

(e) A brief description of the school's physical facilities as related to the educational program.

(f) An accurate list of all educational activities.

(g) An indication of when specific required courses or other required learning experiences will normally be available.

(h) Educational content of each course, or of the program if separate courses do not exist.

- (i) The length of time in hours, weeks or months normally required for completion of the educational program.
- (j) An accurate listing of current educational providers.
- (k) An indication of the distinction, if any, between adjunct or part-time educational providers and full-time educational providers.
- (l) Policies and procedures regarding the extent to which educational experiences at other schools or other forms of learning will be counted toward meeting graduation requirements.
- (m) Requirements for graduation.
- (n) Statement of certificates or diplomas awarded upon graduation, if any.
- (o) Statement of degrees awarded upon graduation, if any. If a degree is to be conferred by an out-of-state post-secondary school as a result of credits earned both at a school doing business in Vermont and elsewhere as a condition of the degree, how the credits earned in Vermont are integrated into the overall degree requirements.
- (p) System of grading or evaluation.
- (q) The school's policy establishing standards for determining adequate progress.
- (r) Availability and extent of such student services as job placement service, counseling for Academic and personal problems, food service facilities, and parking facilities.
- (s) The availability of financial aid.
- (t) An accurate representation of, and the distinction between, school accreditation, institutional memberships in professional organizations, specialized or professional program accreditation, state VA-approving agency course approval and state certification.
- (u) The school's policy regarding refund of tuition and other fees collected in advance of enrollment or class attendance.
- (v) The schools "closing" policy establishing procedures which will be followed in the event that a determination is made to cease operation.
- (w) The school's student records policy with provisions regarding access, disclosure and the cost of copies.
- (x) After July 1, 1991, a statement that credits earned at the school are transferable only at the discretion of the receiving school.

2243.5.4 Facilities

The school's facilities shall meet all applicable state, federal and local fire, safety, health and access standards.

2243.5.5 Student Records

The school shall have adequate procedures for the safe keeping of student records and for complying with the requirements of 16 V.S.A., § 175.

2243.5.6 Waiver of Requirements for certification

A school which believes that one or more of the above requirements for certification should not be applied to it may request that such requirement be waived in its application for certification. The State Board may waive requirements and grant certification when it determines that the school is capable of providing its proposed program and that the students are adequately protected.

2243.6 Criteria for Issuance of a Certificate of Degree Granting Authority

To be issued a certificate of degree granting authority, a school shall show that it meets all of the criteria for issuance of a certificate of approval and in addition shall demonstrate the following:

2243.6.1 Degree Criteria

Schools desiring to offer post-secondary degrees including graduate degrees, shall clearly state their criteria for granting each degree and the procedure for determining that these criteria are met. Schools desiring to offer an associate degree shall provide and require completion of a minimum of 60 credit hours or equivalent learning experiences. Each educational program leading to a baccalaureate degree shall provide and require a minimum of 120 semester credit hours or equivalent learning experiences. Candidates for a degree shall be required to complete a coherent program of study.

2243.7 Certification Limitations

The State Board may grant a certificate of approval or degree granting authority, or renewal thereof, for a period of time the Board deems reasonable and appropriate not to exceed five years and upon such conditions, terms or limitations as the Board deems necessary. A school which has been granted a certificate shall notify the State Board prior to making substantive changes in or additions to the educational program described in its last application for certification. The State Board may require a school to reapply for certification following program changes which are inconsistent with the purposes and educational philosophy stated by the school in its most recent application for certification or prior to offering a new level or degree.

2243.8 Denial, Approval with Stipulations, Revocation or Suspension of Certification

2243.8.1 Process

Prior to recommending denial, approval with Stipulations, revocation or suspension of certification to the State Board, the commissioner shall notify in writing the school of the reasons for the proposed action. The school shall be given 30 days to respond, and, if requested, shall be afforded a hearing before the Commissioner or his or her designee. The school shall also be afforded an opportunity to be heard by the Board before any action is taken.

2243.8.2 Criteria for Revocation or Suspension

The Board may suspend or revoke certification for good cause. Good cause shall include, but not be limited to:

- (a) Failure of the school to continue to meet criteria for certification herein specified.
- (b) Failure of the school to meet terms and conditions or limitations of certification established by the Board.
- (c) Falsification of information provided to the Board.
- (d) False or deceptive advertising.
- (e) Judgment of bankruptcy in a liquidation proceeding.
- (f) Ceasing of operation; or
- (g) Refusal to permit team evaluation or other investigations provided for under these regulations.

2243.8.3 Investigations

The Commissioner may conduct any investigations of a school deemed necessary and appropriate in order to insure compliance with the terms of these regulations. A school shall permit any authorized representative of the Commissioner to visit its facilities and secure relevant information during the normal course of business. The school shall be notified prior to such a visit.

2250 Preservation of Post-Secondary Institutions' Student Records.

2250.1 Statutory Authority: 16 V.S.A., § 175

Institutions of higher education are required to maintain their student academic records in a form prescribed by the State Board of Education. The State Department of Education, Division of Adult Education Services, is authorized to insure that the student academic records are in appropriate form. The institution of higher education is required to inform the State Board in the event it intends to close and to surrender its student academic records to a repository designated by the Board for storage. The repository is authorized to make verified copies available to students and former students.

2250.2 Maintenance of Academic Records. Each institution of higher education operating in this state shall maintain its permanent records in such a manner that they could be delivered to the State Board of Education in a satisfactory form should the institution discontinue operation. At a minimum, the records shall be kept current and preserved against damage or loss.

Monitoring. Upon reasonable notice, every institution shall make available to a representative of the State Board of Education its student records for the purpose of ensuring compliance with this regulation. Examination of the records under this section shall take place in a manner that will not permit identification of individual students.

Return of Records. A repository may duplicate the records of an institution and then return the original records to the institution.

Institutions Discontinued Prior to April 25, 1979. The custodian of records of institutions discontinued prior to April 25, 1979, shall be subject to the requirements of 16 V.S.A., § 175 and these regulations.

2250.3 Form and Contents of Academic Records. The permanent academic record of each student registered for credit at an institution of higher education which operates in this state, whether or not such institution is chartered in this state, shall contain at a minimum:

- * the identification of the institution;
- * the identification of the student;
- * the record of courses satisfactorily completed and evaluation of the student's work therein, or, if records are not kept in this form, other records of the student's studies and academic progress;
- * periods of enrollment covered by the third item above;
- * the student's status at the close of the last period of enrollment;
- * degree and/or certificates awarded.

A key to, or explanation of, the student's permanent academic record shall be available to accompany this record.

2260 Correspondence School Licensing.

2261 Statutory Authority. 16 V.S.A. § § 2751-2760

Licenses for correspondence schools are issued by the Secretary of State based upon application available from the Commissioner of Education. The Commissioner of Education has designated the Director of the Division of Adult Education Services to act in regard to the filing and approval of applications.

2262 Application.

The applicant shall file the following information with the Commissioner of Education.

2262.1 Contract. A copy of the contract he or she will use in enrolling students.

2262.2 Cost. The total cost to the student; the initial payment at the time of registration; and the amount of subsequent payments and a statement specifying when payments are due.

2262.3 Supplies. A list of the books, supplies and equipment to be furnished by the school, and a list of the books, supplies and equipment to be supplied by the student.

2262.4 Fees. All other charges which the school may make, such as fees for a diploma or for graduation.

2262.5 Settlement. The terms of the settlement for the student who is rejected or dropped by the school, or decides to discontinue his or her enrollment in the school due to death or disability, or who requests cancellation before his or her enrollment is received, accepted and recorded or who requests cancellation within 30, 60 or 90 days from the date of enrollment.

2262.6 Publications. A copy of school catalogue and advertising brochures.

2262.7 Admission Procedures. The policy of the private correspondence or trade school with reference to the acceptance of students currently enrolled in a Vermont secondary school.

2263 Revocation.

The Secretary of State may revoke a license under 16 V.S.A., § 2755 upon motion of the Commissioner of Education and after 10 days notice to the licensee and a hearing, upon finding that the holder of the license solicits or enrolls students through fraud, deception or misrepresentation, or demonstrates unprofessional conduct, or that the school has not complied with or is not complying with the terms of any of its contracts.

2264 Status Change.

The school represented by the licensee will immediately notify the Secretary of State in Vermont of any change in the name or ownership of the school. The school will immediately notify the Secretary of State should the licensee's employment with the school be terminated for any reason.

2265 Renewal.

2265.1 Procedure. A person licensed or holding an expired license pursuant to 16 V.S.A., § 2751 may apply for renewal of the license on a form supplied by the Secretary of State as approved by the Commissioner of Education, enclosing a check payable to the Secretary of State for the renewal fee of \$ 5.00.

2265.2 Content. The application shall state that all the information furnished with the original license application is correct and up to date, that the information submitted to the Commissioner in connection with the original application is correct and up to date, and that any written material previously submitted constitutes the material currently used by the applicant; or the applicant shall state the particulars in which there have been changes of fact, and current materials that are required shall be submitted.

2265.3 Action. The Commissioner may request such further information as deemed necessary. Within 15 days of the receipt of an application for renewal, the Commissioner of Education will advise the Secretary of State of the determination, or issue a temporary renewal pending a final determination.

2266 Post-Secondary Correspondence Schools.

A correspondence school which offers post-secondary credits or degree(s) shall also meet the applicable requirements of sections 176 and 176a of Title 16.

2270 Private Kindergarten Approval. Statutory Authority: 16 V.S.A. Section 166(b)

2271 Procedure For Approval.

2271.1 Application:

Every person or entity seeking to operate as an approved kindergarten shall apply in writing to the Commissioner of Education.

* An application for approval shall contain the following:

* Name and address of the school; A description of the school's curriculum and methods of instruction;

* A description of the school's physical facilities;

* A list of the school's staff and their qualifications;

* The operating schedule of the school; and A statement certifying that the school is in compliance with the Kindergarten Nursery School provisions in the Regulations for Day Care of the Social and Rehabilitation Services Department. (hereinafter "S.R.S. Kindergarten Regulations").

2271.2 Appointment of Reviewer:

Upon receipt of an application for approval, the Commissioner shall appoint an educator to review the application and visit the school. In addition, the commissioner shall contact S.R.S. to determine on his or her behalf whether the school meets the "S.R.S. Kindergarten Regulations." First priority for review shall be given to private kindergartens that are located in the vicinity of towns where the local school board or town has taken a formal vote to provide public supported kindergarten.

2271.3 Review:

The appointed educator shall review the application and visit the school.

2271.4 Report to Commissioner:

The appointed educator shall present a written recommendation regarding approval to the Commissioner. The report of the appointed educator shall incorporate the determination of S.R.S. concerning compliance with the "S.R.S. Kindergarten Regulations". A copy of the recommendation shall be provided at the same time to the applicant.

2271.5 Board Recommendation

The commissioner shall recommend approval or disapproval for action by the State Board at their next meeting. Officials of the kindergarten shall be notified of this meeting date.

Section 2272 Criteria for Approval.

The State Board shall approve a private kindergarten if it finds that:

2272.1 The curriculum embodies a minimum course of study, as defined in 16 V.S.A. Section 906, Courses of Study, with learning experiences adapted to a pupil's age and ability.

2272.2 The school is in compliance with state requirements pertaining to the health and safety of pupils adopted by the Department of Labor and Industry and the Department of Health. In regards to health requirements, private kindergartens located in elementary or 'secondary school buildings shall comply with the Environmental Health Regulations for School Houses (Chapter 5, Subchapter 3, Vermont Health Regulations). All other private kindergartens shall

comply with the Environmental Health Regulations for Day Care Facilities (Chapter 5, Subchapter 14, Vermont Health Regulations.)

2272.3 The director and teachers in the kindergarten are qualified through training or experience in:

- structuring kindergarten learning environments which enhance cognitive and social development;
- teaching skills and concepts in mathematics, language arts, science, the arts, and health which are consistent with principles of child development;
- planning and leading activities that foster social and emotional growth in young children;
- dealing with parents and family of children to ensure home support and to promote learning outside of the school or center; and
- identifying developmental delays in young children.

2272.4 The kindergarten maintains an operating schedule that, exclusive of time allowed for meals and recess periods, includes a total number of instructional hours which is not less than that required of a public school kindergarten. (State Board of Education Policy Manual, 1981, Section 2311.4).

2272.5 The facility and program meet the "S.R.S. Kindergarten Regulations."

2273 Additional Requirements.

2273.1 Approved private kindergartens shall maintain records of attendance, health, and progress for public tuition students, in a form required by the school district and in accordance with state and federal law. These records shall be transferred to the public schools no later than July 15 after the end of the school year.

2273.2 The director and teachers in an approved private kindergarten shall participate in professional development activities provided by the public school district.

2274 Term of Approval.

The State Board may grant approval for a term of not more than two years. A private kindergarten must be approved prior to receiving tuition payments from a public school district.

2275 Denial, Revocation or Suspension of Approval.

Prior to recommending denial, revocation or suspension of approval to the State Board, the commissioner shall notify the kindergarten of the reasons for the proposed action and shall afford the kindergarten an opportunity to be heard by the Board. Approval of a kindergarten shall be revoked or suspended by the Board based on a finding that the kindergarten no longer meets the criteria for approval.

HISTORY: STATUTORY AUTHORITY: 16 VSA §§ 166, 175, 176, 176a, 828, 2751 to 2760, 2958

EFFECTIVE DATE: August 15, 1994 Secretary of State Rule Log #94-60

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