

AGENCY OF EDUCATION

Barre, Vermont

TEAM: School Finance Team

ITEM: Will the State Board of Education grant renewal of general education and special education independent school approval to serve students in grades K-12 in the disability categories of autism spectrum disorder (ASD), developmental delay (DD), intellectual disability (ID), multiple disabilities (MD), speech or language impairment (SLI), other health impairment (OHI), and traumatic brain injury (TBI) to Foundations in Windsor, Vermont?

ACTING SECRETARY'S RECOMMENDED ACTION:

- 1. That the State Board of Education grant renewal of general education and special education independent school approval to serve student in grades K-12 in the disability categories of autism spectrum disorder (ASD), developmental delay (DD), intellectual disability (ID), multiple disabilities (MD), speech or language impairment (SLI), other health impairment (OHI), and traumatic brain injury (TBI) to Foundations in Windsor, Vermont for a term ending on June 30, 2021.**
- 2. That the school must report to the Agency of Education within five business days any change in enrollment, programs, policies, facilities, financial capacity, staffing, or administration during the approval period.**

STATUTORY AUTHORITY: 16 V.S.A. § 166

REGULATORY AUTHORITY: State Board of Education Rule 2228

BACKGROUND INFORMATION:

1. An independent school may operate and provide elementary education or secondary education if it is approved by the State Board of Education.
2. The State Board of Education shall approve an independent school if it substantially complies with the Board's rules for independent schools, promulgated as Series 2200 (Independent School Program Approval). Only private schools that are approved by the Board may receive public tuition dollars.
3. Foundations is seeking renewal of general and special education approval.
4. The Secretary appointed a Review Team to visit the school and make a recommendation as required by SBE Rule 2222. Because Foundations is seeking approval to provide both

general education and special education services, the Review Team's recommendation consists of two parts.

5. Foundations is an applied behavior analysis program. It serves students aged five through 21 with developmental disabilities. Students are referred to Foundations when their levels of challenging behavior and intensity of their instructional needs precludes inclusion.
6. Foundations has capacity for 25 students. At the time of inspection, Foundations was serving nine Vermont students.
7. Foundations is a component program in a larger behavioral services company, SD Associations, LLC.

GENERAL EDUCATION REPORT

Brian Morgan performed the general education portion of the review. He recommended approval for five years through June 30, 2022 *based on a report date of May 3, 2017*. In summary, Mr. Morgan found that: the facility meets all state and federal health and safety regulations and is handicapped accessible; the school provides a minimum course of study as required by 16 V.S.A § 906 and adapts it to the ages and abilities of the students; when possible, the school implements specific academic learning programs shared by the sending districts; the school has the resources, including financial capacity and staff, to meet its objectives; the health safety attendance and assessment records are in good order; the operating schedule meets public school requirements; and the school has a policy on prevention of harassment as stringent as the agency's model policy. Mr. Morgan's report is attached hereto.

SPECIAL EDUCATION REPORT

The Agency of Education's Special Education Review Team performed the special education review. The report found that Foundation's students receive strong evidence-based services from appropriately trained direct staff under the supervision of a licensed special educator and board certified behavior analyst. However, it also found that it had enrolled and was serving a student with a primary diagnosis of emotional disturbance, a category for which it was not approved to provide services. The school acknowledged this and explained that the student's admission was inadvertent and arose from fairly unique circumstances. The report recommends that the school adopt and use an updated application process to ensure that Foundations does not accept students outside of those whom it is approved to serve. The school has done this. The report also found that one student's schedule did not reflect all IEP services. In response, the school met with the IEP team and it was determined that the appropriate services were being provided and the IEP was revised to reflect that. The Team received appropriate documentation from the school. In other respects, the school meets the requirements of the Board's rules, e.g., appropriate policies, procedures and staff training, educational records, coordination with LEAs and parent, participation in IEP review and progress reporting. The report recommends approval in all areas requested, but for a one-year period. The special education report together with a letter from Foundations is attached hereto.

ACTING SECRETARY'S RECOMMENDATION AND RATIONALE:

Recommendation The Acting Secretary recommends that the State Board of Education approve Foundation’s application for renewal of approval for general and the requested special education categories for a term expiring June 30, 2021.

Rationale Under SBE rules a supervisory union may not place a special education student in an independent school that serves special education students who are “in a category of disability different from that under which the student was determined to be eligible” for special education services SBE 2228.2(1). That is what occurred in this case, but the Secretary finds the school’s explanation credible that resulted from relatively complex circumstances that make it unlikely to reoccur. In addition, the school has apparently followed up on the special education team’s recommendation and put into place an updated application process to prevent a reoccurrence. Approval for less than the maximum five years is appropriate. However, a one-year approval would require the school to begin a new application process in six months. That seems excessively burdensome given the contemporaneous steps taken by the school to address the findings.

STAFF AVAILABLE:

Molly Bachman, General Counsel

Cassandra Ryan, Fiscal and Regulatory Compliance Coordinator