

VT State Board of Education Rules for Independent Schools Receiving Public Tuition

Purpose

On July 1, 2023, the new State Board of Education (SBE) rules for independent schools go into effect causing a series of new requirements related to the provision of special education for approved independent schools in order to be eligible for publicly funded tuition. As part of implementing these changes, prior to July 1, 2023, the AOE will request a formal commitment through the completion of a separate set of assurances from each approved independent school.

This document is intended to provide an explanation of some of the [Rule 2200 Independent School Program Approval](#) rules, including section 2229 Approval to Receive Public Tuition, Special Education Approval. Additional information about approved independent schools in Vermont can be found on the AOE's [Independent Schools webpage](#). Please submit questions to the independent school email: aoe.independentschools@vermont.gov.

Affirmations

On May 10, 2022, the State Board of Education's (SBE) Rule Series 2200, Independent School Program Approval, changes were finalized through the rulemaking process. Four sections of the rules took effect immediately on that date. Each entity seeking initial approval or renewal of approval after May 10, 2022, was required to affirm compliance with these provisions that were not in effect at the time of application. Compliance affirmation was provided in the form of an addendum needing a signature from the school's administrator, or in the case of an initial approval request from the prospective school's administrator. This addendum document contained the four (4) additional assurances that went into effect on May 10, 2022, and needed to be signed by the Head of the School. Those areas in which affirmation of compliance were being sought were the following:

- Compliance with the Vermont Public Accommodations Act (Title 9 Vermont Statutes Annotated, Chapter 141) in all aspects of the school's admissions and operations,
- The school's facilities meeting all applicable state and federal requirements,
- The school's meeting the requirements of [16 V.S.A. § 255](#) relating to criminal record checks and checks of the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry, and
- The school has adopted a record maintenance and retention policy that, at minimum, provides for the timely and confidential disposition of student records in the event of the school's closure.

Section 2222 Definitions

The definition section of the rules describes the four types of independent schools that will take effect on July 1, 2023.

Contact Information:

If you have questions about this document or would like additional information, please contact: Deborah Ormsbee or Pat Pallas-Gray at aoe.independentschools@vermont.gov.

- **Approved Independent School:** an independent school that meets the requirements in Rule 2223.3 as well as the requirements in SBE Rule 2225 (tuition from public funds) and SBE Rule 2226 (Application). This is an independent school eligible to receive public funds. [2229.1-2229.3](#)
- **Approved Independent School Ineligible to Receive Public Funds:** an independent school that meets the requirements in SBE Rules 2226 (Application) and 2227 (Approval) but does not meet the requirements of rules concerning the delivery of special education services in SBE Rule 2229. [2226-2228](#)
- **Therapeutic Approved Independent School (or Therapeutic Independent School or Therapeutic School):** an approved independent school that limits enrollment to students who are on an IEP or plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and who are enrolled pursuant to a written agreement between an LEA (Local Education Association) and the school. These schools are eligible to receive public tuition, which is inclusive of both general and special education services and is at a rate approved by the Agency of Education. [2226-2228](#); [2229.6-2229.8](#), [2232](#)
- **Recognized Independent School:** an independent school meeting the requirements in 16 V.S.A. § 166.(c). A recognized independent school is not eligible to receive public tuition. [16 V.S.A. § 828](#).

This section also defines key topics related to special education services as well as students who require additional support.

- **Special Education Fees:** means funds paid by a school district or supervisory union to an approved independent school for special education services beyond those covered by general education tuition, as defined in 16 V.S.A. § 2973(b)(2)(B).
- **Special Education Services:** means specially designated instruction at no cost to the parent, to meet the unique needs of an eligible student with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings; and instruction in physical education. Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability and to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the State that apply to all children. This definition is intended to be consistent with the term "Special Education Services" as used in SBE Rule 2360.2.12.
- **Student who requires additional support:** means a student who meets the criteria defined in 16 V.S.A. § 2942(8).

- **Tuition:** means funds paid by a school district to an approved independent school for general education in accordance with SBE Rule 2225.

Section 2223 Procedures for Approved Independent Schools and Approved Independent Schools Ineligible to Receive Public Funds

Starting July 1, 2023, the changes to the rules for approved independent schools include the ability to meet the requirements of SBE Rule 2229. The other requirements for approval including section 2226 (Application) and 2227 (Approval) went into effect on May 10, 2022 and remain unchanged.

Section 2229 Approval to Receive Public Tuition, Special Education Approval

2229.1 provides the rules guiding enrollment requirements for approved independent schools, students, and LEAs (Local Education Associations). The rules for enrollment require each approved independent school to “publish, maintain, and follow a written enrollment policy” that includes or provides the following:

- 1) An application that is voluntarily submitted by a student or parent;
- 2) A prospective student’s status as a member of a protected class, a actual or suspected disability, or the student’s socioeconomic status may not be factors in a school’s special considerations or requirements for enrollment;
- 3) The decision-making process for when the number of applicants is greater than the number of open spots;
- 4) A non-discriminatory enrollment policy that ensures students will not be denied acceptance based on special education status (whether a student is eligible for special education services or is currently on an Individualized Education Plan (IEP) or is undergoing evaluation for services), race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity or any other classification protected by federal or State law.

When a student with an IEP is accepted to attend an Approved Independent School, the student’s IEP team will meet to determine how the student’s services will be provided. The approved independent school and the student’s LEA will follow the procedures in section 2229.4 (addressed below). There are two general outcomes of these procedures: the student is enrolled in the approved independent school, or the IEP team will consider an alternative enrollment for the student.

2229.3 Assurances

Approved independent schools need to demonstrate the ability to serve all students with disabilities. The list below is taken directly from section 2229.3 Assurances.

- a) Demonstrating an understanding of special education requirements, including:

- (1) Provision of a free and appropriate public education in accordance with federal and State law.
 - (2) Provision of education in the least restrictive environment in accordance with federal and State law.
 - (3) Characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law.
 - (4) Procedural safeguards and parental rights, including discipline procedures, specified in federal and State law.
- (b) Committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress.
- (c) Employing or contracting with staff who have the required licensure to provide special education services.
- (d) Agreeing to communicate with the responsible LEA concerning:
- (1) Development of, and any changes to, the IEP.
 - (2) Services provided under the IEP and recommendations for a change in the services provided.
 - (3) The student's progress.
 - (4) Maintenance of the student's enrollment in the independent school.
 - (5) Identification of students with suspected disabilities.
- (e) Committing to participate in dispute resolution as provided under federal and State law.

The AOE will be publishing additional information to guide approved independent schools' implementation of the new rules. Note that prior to the start of the 2023-2024 school year, the AOE will require all approved independent schools to provide assurances regarding their readiness and ability to follow the rules in order for a school to be eligible to accept publicly funded tuition. Please submit questions to the independent school email: aoe.independentschools@vermont.gov.